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ACTS
AND
RESOLVES

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

2008

VOLUME II

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH



Chapter 226. AN ACT PROVIDING A PENALTY FOR MAKING, STEALING, ALTERING, FORGING OR COUNTERFEITING SPECIAL PARKING IDENTIFICATION PLACARDS.

Be it enacted, etc., as follows:

Section 24B of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “eight E”, in line 4 and lines 13 and 14, the following words:- , a special parking identification disability placard.

Approved July 31, 2008.

Chapter 227. AN ACT AUTHORIZING THE TOWN OF WALPOLE TO RELEASE A CERTAIN RESTRICTION.

Be it enacted, etc., as follows:

SECTION 1. The town of Walpole, acting by and through its board of selectmen, may release 1.80 acres of the open space buffer zone use restriction on the area of the property zoned for residential use, contained in a deed dated November 30, 2006, recorded in the Norfolk county registry of deeds in Book 24348, at Page 563. The portion of land is shown as parking on a plan entitled “Study Plan of Land in Walpole, MA” dated January 26, 2007, by Merrikin Engineering, LLP and revised on April 17 and June 3, 2008. The release will allow the parcel to be used for the following purposes only: commercial parking, lighting, fencing, underground utilities, above ground utilities, driveways, drainage facilities, water and sewer, landscaping, and filling and grading as required to perform the foregoing items. All other provisions of the restriction shall remain in effect for 99 years.

SECTION 2. As a condition of the release authorized in section 1, the owner shall transfer a parcel of land to the town of Walpole and a parcel of land to the town of Sharon dedicated to open space or shall grant a conservation restriction, as defined in section 31 of chapter 184 of the General Laws, to each town upon 2 parcels of private land in the towns of Walpole and Sharon. The parcels are more particularly described as “Proposed Open Space 2” and “Proposed Open Space 3” on the plan referenced in section 1 and consist of .21 acres and 1.59 acres respectively and shall be under the jurisdiction of the conservation commission of the town in which they are located.

In the alternative, the town of Walpole shall transfer a parcel of land totaling 1.80 acres under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission to be dedicated for conservation purposes or the town shall acquire a parcel of land or a conservation easement, as defined in said section 31 of said chapter 184. Such land or easement shall be dedicated to conservation purposes and under the jurisdiction of the conservation commission of the town. The parcel or parcels dedicated pursuant to this section shall be of equal or greater size and value to the 1.80 acre parcel described in section 1, as determined by the conserva-

tion commission as herein provided.

SECTION 3. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1, the land shall revert back to the town of Walpole for open space buffer zone use.

Approved July 31, 2008

Chapter 228. AN ACT RELATIVE TO VEHICLE LICENSE COSTS RECOVERY FEES.

Be it enacted, etc., as follows:

SECTION 1. Section 32E½ of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “section”, in line 1, the following words:- and section 32E¾.

SECTION 2. Said section 32E½ of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of the “Rental company” the following definition:-

“Vehicle license cost recovery fee”, a charge to recover costs incurred by a rental company to license, title, register, plate, inspect or pay excise tax on its rental fleet in the commonwealth which shall be separately stated and assessed on a rental agreement in a private passenger motor vehicle rental transaction originated in the commonwealth.

SECTION 3. Said chapter 90 is hereby further amended by inserting after section 32E½ the following section:-

Section 32E¾. A rental company may include separately stated surcharges, fees or charges in a rental agreement, which may include, but shall not be limited to, vehicle license cost recovery fees, airport access fees, airport concession fees, convention center surcharges and all applicable taxes; provided, however, that: (i) these surcharges, fees or charges shall not be included in the base cost of the vehicle rental; (ii) these surcharges, fees or charges shall be disclosed in a manner that is readily noticable in the rental agreement; and (iii) the rental company shall include a statement in any price advertisement it makes in the commonwealth about the existence of these surcharges, fees or charges that a consumer must pay and which may be separately stated on a rental transaction.

If a rental company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the rental company’s good faith estimate of the daily charge necessary for the rental company to recover its actual total annual costs to license, title, register, plate, inspect or pay excise tax costs on its rental fleet in the commonwealth. If the total amount of the vehicle license cost recovery fees collected by a rental company pursuant to this section in a calendar year exceeds the rental company’s actual costs to license, title, register, plate, inspect or pay excise tax costs on its rental fleet in the commonwealth for that calendar year, the rental company shall: (i) retain the excess

amount; and (ii) adjust the estimated average per vehicle charge to recover the costs to license, title, register, plate, inspect or pay excise tax for the following calendar year by a corresponding amount.

This section shall not prohibit a rental company from adjusting the vehicle license cost recovery fee during a calendar year as it determines to be necessary.

Approved July 31, 2008.

Chapter 229. AN ACT FURTHER REGULATING THE ESSEX REGIONAL RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Upon acceptance of this section by majority vote of the Essex regional retirement board, subject to the approval of the regional retirement board advisory council, the board shall, notwithstanding paragraph (a) of section 103 of chapter 32 of the General Laws, establish a cost-of-living adjustment calculation. To effectuate the funding for the change in the base amount, the board shall prepare a supplemental funding schedule which shall be designed to reduce the actuarial unfunded liability attributable to the increased base amount to zero not later than June 30, 2038. The base amount upon which the cost-of-living adjustment shall be calculated shall be established by the board and approved by the advisory council. The board may increase the base amount by \$2,000 over the amount provided in said section 103 of said chapter 32 in the first year after the effective date of this section and by increments of \$1,000 in the following years, subject to approval by the advisory council. Acceptance of this section shall take effect when the council files its certification of the votes with the public employees retirement administration commission. A decision to accept this section shall not be revoked.

SECTION 2. Notwithstanding paragraph (g) of section 19 of chapter 34B of the General Laws, there shall be an Essex regional retirement board advisory council which shall consist of all the full-time treasurers, elected or appointed, of each city, town, unit or district in the Essex regional retirement system. If a city, town, unit or district does not employ a full-time treasurer, the highest ranking, full-time executive employee shall be a member of the Essex regional retirement board advisory council. The members of the advisory council shall elect a chair from among the members. The council shall meet twice annually and at the call of the chair. The council shall supervise and certify the procedures involved in the election of members to the retirement board, as provided in paragraphs (b) and (h) of said section 19 of said chapter 34B. Upon certification by the retirement board and the council, the actuary shall be furnished with an estimate of the expenses and costs of administration of the system for the ensuing year. The actuary shall annually, not later than December 15, specify by written notice to the council and the board the amounts required to be paid from the Pension Fund, the Annuity Reserve Fund, the Special Fund for Military Service Credit

and the Expense Fund, as provided in subdivision (7) of section 22 of chapter 32 of the General Laws. The regional retirement board advisory council, at a meeting specifically called for the purpose, shall elect 1 of its members, who shall be a member in service in the retirement system, as a member of the regional retirement board at the expiration of the current member's term, as provided in clause (2) of paragraph (b) of said section 19 of said chapter 34B.

Approved July 31, 2008.

Chapter 230. AN ACT RELATIVE TO EQUITABLE COVERAGE FOR ANNUITY POLICIES.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 175 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “commissioner”, in line 112, the following words:- ; provided, however, that for any contract issued on or after January 1, 2009, a mortality table shall only be applied to an individual or group annuity or pure endowment contract on a gender-neutral or gender-blended so-called basis in accordance with regulations promulgated by the commissioner.

SECTION 2. Said section 9 of said chapter 175, as so appearing, is hereby further amended by inserting after the word “contracts”, in line 118, the following words:— ; provided, however, that for any contract issued on or after January 1, 2009, a mortality table shall only be applied to an individual or group annuity or pure endowment contract on a gender-neutral or gender-blended so-called basis in accordance with regulations promulgated by the commissioner.

SECTION 3. Said section 9 of said chapter 175, as so appearing, is hereby further amended by inserting after the word “specified”, in line 163, the following words:- ; provided, however, that for any contract issued on or after January 1, 2009, a mortality table shall only be applied to an individual or group annuity or pure endowment contract on a gender-neutral or gender-blended so-called basis in accordance with regulations promulgated by the commissioner.

SECTION 4. Said chapter 175 is hereby further amended by inserting after section 120E the following section:—

Section 120F. No company, officer or agent thereof shall make or permit a distinction, classification or discrimination, or otherwise recognize a difference in life expectancy, on the basis of race, color, religion, sex, marital status or national origin in the terms or conditions of a group or individual annuity, pure endowment contract or certificate covering residents of the commonwealth which is issued or delivered within or without the commonwealth on or after January 1, 2009, including, but not limited to, the amount or method of payment of premiums or rate charges or in the benefits payable. A violation of

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this section shall constitute an unfair method of competition or an unfair or deceptive act or practice in violation of chapter 176D.

SECTION 5. Section 132B of said chapter 175, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 25, the word “sex.”

Approved July 31, 2008.

Chapter 231. AN ACT ESTABLISHING AND FUNDING THE MASSACHUSETTS BROADBAND INSTITUTE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish and fund the Massachusetts Broadband Institute, 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 achieve the deployment of affordable and ubiquitous broadband access for every citizen of the commonwealth, 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 FOR ADMINISTRATION AND FINANCE

1599-7060 For a reserve to provide funds to the Massachusetts Broadband
Incentive Fund established by section 6C of chapter 40J of the
General Laws \$40,000,000

SECTION 3. Section 3 of chapter 23A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 24, the words “wireless broadband development council” and inserting in place thereof the following words:- Massachusetts Broadband Institute.

SECTION 4. Said section 3 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 62 and 63, the words “wireless broadband development council, established pursuant to section 6A” and inserting in place thereof the following words:- Massachusetts Broadband Institute, established by section 6B.

SECTION 5. Said section 3 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 87 and 88, the words “wireless broadband development council established pursuant to section 6A” and inserting in place thereof the following words:- Massachusetts Broadband Institute, established by section 6B.

SECTION 6. Chapter 40J of the General Laws is hereby amended by striking out sections 6B and 6C, as so appearing, and inserting in place thereof the following 2 sections:-

Section 6B. (a) As used in this section and in section 6C, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Board”, the board of the Massachusetts Broadband Institute established by subsection (c)).

“Broadband”, high-speed internet access, including wireless internet access, and as may be further defined by the board.

“Fund”, the Massachusetts Broadband Incentive Fund established by section 6C.

“Institute”, the Massachusetts Broadband Institute established by subsection (b).

(b) The corporation shall establish an institute for investment in broadband infrastructure in the commonwealth, to be known as the Massachusetts Broadband Institute. The executive director of the corporation, subject to the approval of the board, shall appoint a qualified individual as director to manage the affairs of the institute. The purpose of the institute shall be to achieve the deployment of affordable and ubiquitous broadband access across the commonwealth. The objectives of the institute shall include: (i) assessing and improving broadband access conditions in communities that have no access or have limited or insufficient access to broadband; (ii) promoting robust broadband access for essential state and local governmental services including, without limitation, public safety, health and education; (iii) promoting increased availability of, and competition for, broadband access and related services; and (iv) creating conditions that will encourage economic competitiveness and growth. The first priority of the institute shall be to assess and improve conditions in the commonwealth’s communities that have no broadband access.

(c) The institute shall be governed and its corporate powers exercised by a board of directors, which shall consist of the following 9 members: the secretary of administration and finance or his designee; the secretary of housing and economic development or his designee; the commissioner of telecommunications and cable or his designee; the executive director of the corporation or his designee; and the chairman of the governing board of the John Adams Innovation Institute or his designee; and 4 members to be appointed by the governor, all of whom shall have knowledge and experience in 1 or more of the following areas: telecommunications, broadband infrastructure, public-private partnership development, information technology or other fields of experience consistent with the mission of the institute. The governor shall, from time to time, designate 1 member to chair the board. Each member appointed by the governor shall serve a term of 4 years and thereafter until his successor is appointed. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term of such member. Any appointed member shall be eligible for reappointment. An appointed member may be removed by the governor for cause. Five members of the board shall constitute a quorum, and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the board. The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and

necessary expenses incurred in the performance of his official duties. The board shall meet at least 4 times annually.

(d) The board shall leverage private sector and federal investment by financing the construction and acquisition of broadband infrastructure to promote the development of broadband access. This broadband infrastructure shall include, but not be limited to, conduit, fiber and towers. Any equipment or other property financed by the institute shall be owned by the corporation, the commonwealth or 1 or more other public entities, but may be leased or licensed by the institute, for a fee or otherwise, for use by nonprofit or for-profit private-sector entities. Any such transaction shall constitute a transaction with the commonwealth for the purpose of chapter 30B. The lessee or licensee shall pay any lease or license fees to the corporation, which shall credit them to the fund. The institute may provide and pay for advisory services and technical assistance as may be necessary or desired to carry out its purposes.

The board may work in collaboration with the corporation and other quasi-public and nonprofit entities and state agencies, and may provide advisory assistance to local entities, local authorities, public bodies and private corporations for the purposes of maximizing opportunities for the expansion of broadband access in the commonwealth and fostering innovative approaches to broadband access in the commonwealth.

(e) The board shall collect information from reasonably available sources including, but not limited to: municipalities and other public entities and agencies of the commonwealth, local and regional nonprofit entities and telecommunications and broadband service providers to develop and maintain an inventory of: (i) locations where telecommunications and broadband services are not available in the commonwealth; (ii) locations where telecommunications and broadband infrastructure is available or is likely to be available to support the provision of services to unserved and underserved areas; (iii) locations where new infrastructure may be necessary to support the provision of services to unserved and underserved areas; (iv) the quality of such services, including, but not limited to, speed of data transmission and cost of such services; and (v) any other relevant information as the board may deem necessary.

(f) The board shall establish a detailed long-term plan for the operation of the institute and the administration of the fund and shall consult with the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies on the plan. The plan, and any amendments thereto, shall be subject to the approval of the secretary of housing and economic development and the secretary of administration and finance and shall be filed 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 telecommunications, utilities and energy and the joint committee on economic development and emerging technologies.

(g) The board shall annually adopt an operating plan governing disbursements from the fund and, to the extent the plan provides for disbursement of appropriations or other moneys authorized by the general court, the plan shall be subject to the approval of the secre-

tary of housing and economic development and the secretary of administration and finance. The board shall file the plan, and any amendments thereto, 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 telecommunications, utilities and energy and the joint committee on economic development and emerging technologies.

(h) The board shall promulgate rules and regulations for the administration and enforcement of this section and section 6C.

(i) The board shall review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further financing, infrastructure and development for broadband access in the commonwealth.

(j) The board shall prepare, publish and distribute, with or without charge, as the institute may determine, any studies, reports and bulletins and other material as the institute deems appropriate.

(k) The institute shall file an annual report of its activities with the governor and the clerks of the house of representatives and the senate who shall forward the same to the joint committee on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies, and the house and senate committees on ways and means.

(l) Actions of the board may take effect immediately and notice thereof shall be published and posted. Meetings of the board shall be subject to section 11A½ of chapter 30A. Records pertaining to the activities of the institute shall be subject to section 10 of chapter 66, unless exempted under subsection (h) of section 12. The operations of the institute shall be subject to chapters 268A and 268B; provided, however, that the members of the board shall be considered directors for the purposes of the fourth, fifth and seventh paragraphs of section 3.

(m) Sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30, subject to the provisions of subsection (c) of section 4A and sections 44A to 44J, inclusive, of chapter 149 shall apply to the operations of the institute.

Section 6C. The corporation shall establish a fund to be known as the Massachusetts Broadband Incentive Fund. The corporation shall hold the fund separate and apart from its other funds, to finance the activities of the institute. The corporation shall credit to the fund any appropriations, bond proceeds or other moneys authorized by the general court and specifically designated to be credited to the fund, and any other moneys legally available to the corporation which the board of the corporation may determine to deposit in the fund.

SECTION 7. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary to carry 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, \$40,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Massachusetts Broadband Incentive Fund 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. All such bonds shall be payable not later than June 30, 2043. No authorization shall be expended unless expressly authorized by the secretary of administration and finance. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds issued under the authority of this section shall be general obligations of the commonwealth.

SECTION 8. Notwithstanding any general or special law to the contrary, in making the initial appointments pursuant to subsection (c) of section 6B of chapter 40J of the General Laws, the governor shall appoint 1 member to serve for a term of 1 year, 1 member to serve for a term of 2 years, 1 member to serve for a term of 3 years and 1 member to serve for a term of 4 years.

SECTION 9. Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the Massachusetts Technology Park Corporation, established by section 3 of chapter 40J of the General Laws, shall transfer the balance of the Wireless and Broadband Development Fund established by section 6C of chapter 40J of the General Laws to the Massachusetts Broadband Incentive Fund, established by said section 6C.

Approved August 4, 2008.

Chapter 232. AN ACT RELATIVE TO THE LICENSING OF SHEET METAL WORKERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following 2 sections:-

Section 101. (a) There shall be within the division of professional licensure a board of examiners of sheet metal workers to consist of the commissioner of public safety or his designee, the director of professional licensure or his designee and 5 persons, residents of the commonwealth, to be appointed by the governor for terms of 3 years, 2 of whom shall be journey person sheet metal workers with at least 10 years of practical experience and who are wage earners, 2 of whom shall be master sheet metal workers with at least 10 years of practical experience in sheet metal work and 1 of whom shall be a representative of the public and subject to section 9B.

(b) No member shall serve for more than 2 consecutive and complete 3-year terms. As the term of the office of a member expires, a successor shall be appointed in like manner for a term of 3 years. The governor may fill a vacancy in the board for the unexpired portion of the term.

(c) The board shall annually elect from among its members a chairman and vice-chairman. The board shall meet at least 4 times annually and may hold additional meetings as necessary to discharge its duties. Members shall serve without compensation

but shall be entitled to reasonable travel expenses. The members of the board shall be public employees for the purposes of chapter 258 for all acts or omissions within the scope of their duties as board members.

Section 102. The board shall have the following powers and duties: (i) to administer and enforce sections 237 to 251, inclusive, of chapter 112; (ii) to adopt rules and regulations governing the licensure of master, journeyperson and apprentice sheet metal workers, and business entities and schools teaching sheet metal work; (iii) to establish standards of professional and ethical conduct; (iv) to establish standards for continuing education reflecting acceptable national standards; and (v) in conjunction with the division of professional licensure, to investigate complaints, conduct inspections, request and review business records of licensees, and set and administer penalties as defined in sections 61 to 65E, inclusive, of said chapter 112 and sections 237 to 251, inclusive, of said chapter 112 for fraudulent, deceptive or professionally incompetent and unsafe practices and for violations of rules and regulations promulgated by the board.

SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the following 15 sections:-

Section 237. As used in this section and sections 237 to 251, inclusive, the following words shall have the following meanings unless the context requires otherwise:

“Apprentice” or “apprentice sheet metal worker”, a person at least 16 years of age who is learning or working at the business of sheet metal work under the direct supervision of a master sheet metal worker or a journeyperson sheet metal worker in the employ of a master.

“Board”, the board of examiners of sheet metal workers, established in section 101 of chapter 13.

“Certificate of a sheet metal corporation, partnership, LLP, LLC or other entity”, a certificate of registration issued by the board to a master sheet metal worker authorizing him to conduct a sheet metal business as a corporation, partnership, LLP, LLC or other such entity, as the case may be.

“Inspector”, the inspector of buildings, building commissioner or other local inspector charged with enforcing the state building code under section 3 of chapter 143.

“Journeyperson” or “journeyperson sheet metal worker”, a person who performs sheet metal work or who, through an apprentice in the employ of a master, employs the journeyperson and who has passed an examination and been issued a license as provided in this chapter.

“Master” or “master sheet metal worker”, a person having a regular place of business and who, by himself or through journeypersons in his employ, performs sheet metal work, subject to inspection and in compliance with any law, rule or regulation pertaining to sheet metal work. The master sheet metal worker may be in the employ of another master sheet metal worker, but shall not be in the employ of a journeyperson or apprentice.

“Sheet metal work”, the manufacturing, fabrication, assembling, handling, erection, installation, dismantling, alteration and repairing of all commercial duct or air exhaust sys-

tems, except for refrigeration and combustion units; installation of commercial fans, sheaves, belt guards, dampers, louvers, screens, registers, grilles, diffusers, sound traps, attenuators, mixing boxes and access doors in connection with duct or air exhaust systems, commercial and industrial architectural sheet metal watershed roof systems, except for roof coverings and associated metal flashing; the testing, adjusting and air-balancing of all air-handling equipment and ductwork installed during new or remodeling construction, the installation of commercial and industrial kitchen hoods, kitchen vents, bathroom exhaust vents and fans; provided, however, that sheet metal work shall not include the work conducted by a licensed pipe fitter, oil burning technician, refrigeration technician, plumber or gasfitter as determined by the laws and regulations relating to those professions; and provided further, that nothing in this section shall be construed to supercede chapters 142 and 146.

“Veteran”, as that term is defined in clause Forty-third of section 7 of chapter 4.

Section 238. (a) No person shall engage in work as a master, journeyperson or apprentice nor shall any person advertise or represent that he is a master, journeyperson or apprentice unless that person holds a valid license issued by the board as provided in this chapter.

(b) The license or certificate of a master, journeyperson or apprentice shall be displayed when required by an inspector of buildings or an inspector acting on behalf of the board. The inspectors may enforce this section by entering into an establishment where the licensees are performing their work.

(c) A sign, listing or advertisement of a sheet metal business, master or that of a journeyperson sheet metal worker shall contain his designation and license number.

Section 239. (a) A person licensed in the commonwealth as a master sheet metal worker may apply to the board for a certificate of a sheet metal corporation, partnership, LLC, LLP or other such entity upon payment of a fee or a biennial renewal fee, the amounts of which shall be determined annually by the secretary of administration and finance pursuant to section 3B of chapter 7. A certificate of a sheet metal corporation shall authorize a master to conduct the sheet metal business as a corporation; provided, however, that in the corporation the master sheet metal worker shall be designated as an officer of the corporation organized under the laws of the commonwealth. A certificate of sheet metal partnership or LLP shall authorize a master sheet metal worker to conduct the sheet metal business as a partnership or LLP; provided, however, that all partners in such a partnership or LLP shall be master sheet metal workers. A certificate of a sheet metal LLC shall require, as a prerequisite, that a master sheet metal worker be designated as a manager of that LLC. The board shall determine the appropriate requirements for any other business entities not so designated.

(b) No corporation, partnership, LLC, LLP or other entity shall engage in business, advertise the provision of sheet metal work, make application for and take out permits for sheet metal work, bid for sheet metal work, permit its employees to perform sheet metal work or represent that it holds a license or certificate issued by the board unless the entity and all employees who performing such work hold a license or certificate, issued by the board, as further described in chapter 13 and this chapter.

(c) The certificate of a sheet metal corporation, partnership, LLP, LLC, or other entity shall only be issued to a master sheet metal worker who shall be responsible for all sheet metal work performed by that entity and its duly licensed employees.

Section 240. The board shall make such rules as they deem proper for the performance of their duties and governing the qualifications of applicants for examination. The board shall examine each person who applies for a license as a journey person sheet metal worker or a master sheet metal worker, as to his practical knowledge of sheet metal work. The board shall hold frequent examinations in the greater Boston area, and at such other convenient locations as it deems necessary. The board shall make every effort to accommodate veterans, including the crediting of relevant military experience and the waiver of other requirements for individuals who demonstrate competence in the field of sheet metal work.

Section 241. An apprentice, before starting an apprenticeship, shall file an application with the board, accompanied by the appropriate fee, requesting that an apprentice license be issued. The application shall be made on a form to be furnished by the board and shall require the applicant to state his age, the employer's name and address and such other information as the board may require. A master sheet metal worker may employ more than 1 apprentices but not more than 1 apprentice may work under the direct supervision of a master or a journey person in the employ of the master. The board may, by regulation, establish a maximum length of time for apprentice training.

Notwithstanding this section, students in a vocational school accredited by the department of education, under the direct personal supervision of a master or journey person sheet metal worker who is certified as an instructor by the division of occupational education, may engage in an on-the-job training program on installations approved by the examiners and conducted in cooperation with such a vocational school. The examiners shall adopt rules and regulations relative to the on-the-job training program and may accept such training as fulfillment, in whole or in part, of the necessary prerequisites for journey person licensure.

Section 242. Upon payment of a fee and the submission of an application provided by the board, the board may issue a license without examination to an applicant who is legally registered as a journey person or master sheet metal worker in any other state or country whose requirements for obtaining and maintaining registration, in the opinion of the board, are at least substantially equivalent to the requirements in the commonwealth, provided such other state or country has a reciprocal privilege to licensees registered by the board. The board may require additional education if it determines that the standards required for sheet metal work in another state or country are inconsistent with the standards in effect in the commonwealth.

Section 243. The fees for a license as a journey person, master and apprentice sheet metal worker, or for any biennial renewal thereof, shall be determined annually by the secretary of administration pursuant to section 3B of chapter 7.

Section 244. The board may adopt rules and regulations for a system of continuing education, compliance with which shall be a condition precedent to the renewal of licenses issued by the board.

Section 245. (a) The board may investigate all complaints filed relating to the proper practice of sheet metal work, any violation of this chapter pertaining to the practice of sheet metal work or any rule or regulation of the board. Such complaints may be brought by any person or the board.

(b) The board shall be under the supervision of the division of professional licensure and shall have all the authority conferred under sections 61 to 65E, inclusive. For the purposes of this section and said sections 61 to 65E, inclusive, conduct which places into question the holder's competence to practice sheet metal work shall include, but not be limited to: (1) committing fraud or misrepresentation in obtaining a license; (2) criminal conduct which the board determines to be of such a nature as to render the person unfit to practice sheet metal work, as evidenced by criminal proceedings which resulted in a conviction, guilty plea, plea of nolo contendere or an admission of sufficient facts; (3) violating a rule or regulation of the board; (4) failing to cooperate with the board or its agents in the conduct of an inspection or investigation; (5) failing to fulfill any continuing education requirements required by the board; (6) aiding or abetting an unlicensed person to practice sheet metal work; or (7) negligence in the course of professional practice.

(c) The board may issue an order to a licensee directing him to cease and desist from unethical or unprofessional conduct if the board finds, after notice and the opportunity for a hearing, that the licensee has engaged in such conduct.

(d) Nothing in this section shall limit the board's authority to impose, by agreement, sanctions that are considered reasonable and appropriate by the board. Any person aggrieved by a disciplinary action taken by the board pursuant to this section or for violation of any other law, rule or regulations may, pursuant to section 64, file a petition for judicial review.

Section 246. Whoever, not being licensed to practice sheet metal work pursuant to this chapter, practices or attempts to practice sheet metal work or holds himself out as being licensed to practice sheet metal work or uses any of the licensed titles of that profession, or whoever practices sheet metal work under a false or assumed name or under a name other than that by which he is licensed or whoever impersonates another practitioner of sheet metal work, or whoever buys, sells or fraudulently obtains a diploma, license, license renewal certificate or record or registration to practice sheet metal work or aids or abets in such selling or fraudulent obtaining or whoever practices sheet metal work under cover of any diploma, license, license renewal certificate, record or registration to practice sheet metal work shall be punished by a fine of not less than \$100 nor more than \$1,000. A city or town that fails to comply with any of its provisions shall forfeit \$50 to the commonwealth for each month during which such neglect continues. Nothing in this section shall affect, restrict, diminish or limit any other penalty or remedy provided by law, including those penalties provided under sections 61 to 65E of chapter 112.

Section 247. The board shall adopt reasonable and uniform rules and regulations for cities and towns relative to the practice of sheet metal work. The rules and regulations shall be enforced by the local inspector of buildings or a like official. The board shall adopt a regulation requiring all cities and towns to use a uniform application for a permit to perform sheet metal work or to make special reference to the work on permits issued by an inspector operating pursuant to chapter 143 and any other applicable laws. Any fees for these permits shall be established by the city or town. Notwithstanding any general or special law to the contrary, no licensed journeyman or master sheet metal worker shall be issued a permit for the performance of sheet metal work pursuant to this chapter unless the licensee has a current liability insurance policy, including completed operations coverage, which has been issued by an insurance company licensed to do business within the commonwealth, or other type of indemnity against liability providing substantially equivalent coverage, or a bond.

(b) A person aggrieved by a ruling interpreting the rules and regulations made under this section, may appeal to the board in writing within 10 days after such ruling and the board shall hear and decide such appeal, subject to chapter 30A relative to adjudicatory proceedings. Such decision shall be final and binding upon all parties in interest.

Section 248. If in the opinion of an inspector of buildings or other official, the holder of a license or certificate violates any law or rule or regulation relative to sheet metal work and has not resolved the violation to the satisfaction of the inspector, the inspector or other official shall give notice thereof to the board.

Section 249. No person shall install sheet metal work without first obtaining a permit from the local inspector of buildings or other official. The permit shall be obtained by mailing or delivering a permit application form approved by the board to the inspector or other official. A person failing to obtain the permit shall be punished by a fine to be determined by the board. This section shall be enforced by inspectors of buildings or other officials designated by the local building authority and the board. Nothing in this section shall affect, restrict, diminish or limit any other penalty or remedy provided by law, nor shall any enforcement action taken by a local inspector or other official limit the board from taking any action within the scope of its jurisdiction.

Section 250. The director of professional licensure shall determine the renewal cycle and renewal period for all licenses issued by the board. Persons licensed in accordance with these sections shall apply to the board for renewal of their licenses on or before the expiration date, as determined by the director, unless such license was earlier revoked, suspended or canceled as a result of a disciplinary proceeding instituted pursuant to this chapter. Applications for renewal shall be made on forms approved by the board and accompanied by payment of a renewal fee, as determined by the secretary of administration pursuant to section 3B of chapter 7. All licensing and application fees and civil administrative penalties collected pursuant to sections 237 to 250, inclusive, of chapter 112, shall be deposited into the trust fund established in section 35V of chapter 10.

Section 251. The board shall adopt rules relative to the construction, alteration, repair and inspection of all sheet metal work on property and buildings owned, used or constructed

by the commonwealth and in property and buildings owned, used or constructed by a public instrumentality of the commonwealth which is not subject to the supervision and control of either the legislative, executive or judicial departments. Such instrumentalities shall include, but not be limited to, the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority and the Massachusetts Water Resources Authority, and all plans for sheet metal work in such buildings shall be subject to the approval of the board.

SECTION 3. Section 96 of chapter 143 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:-

For the purposes of this section, "specialized codes" shall include, but not be limited to, the state plumbing code, electrical code, architectural barriers regulations, fire safety code, fire prevention regulations, sheet metal regulations and elevator regulations.

SECTION 4. Notwithstanding section 238 of chapter 112 of the General Laws, for a period of 1 year after the effective date of the initial regulations adopted by the board of examiners of sheet metal workers, an individual shall not be required to be licensed to practice sheet metal work pursuant to sections 237 to 251, inclusive, of said chapter 112 if he is of good moral character and can document that he has been engaged in the practice of sheet metal work for such period of time as may be determined by the board.

SECTION 5. (a) Notwithstanding any general or special law to the contrary, the board may issue a license to practice as a journeyman sheet metal worker, without examination, to an applicant who otherwise meets the requirements of sections 237 to 251 of chapter 112 of the General Laws and the board's regulations and provides, to the board's satisfaction, proof that he has been in the paid professional practice in the field of sheet metal work, prior to the effective date of the board's regulations for such period of time as may be determined by the board.

(b) In addition, the board may issue a license to practice as a master sheet metal worker, without examination, to an applicant who meets the requirements of subsection (a) for a journeyman sheet metal license and has employed individuals engaged in sheet metal work.

(c) For the purposes of this section the board, in its discretion, may waive any educational requirements for an applicant if it determines that the applicant's combined professional and educational credentials are adequate to protect public welfare and safety. An individual denied a license as a journeyman or master sheet metal worker under this section shall be entitled to a hearing to dispute the factual grounds for which the denial was based. Unless the board has substantial evidence related to moral character, business acumen, or public safety, a license shall be granted.

(d) This section shall expire 1 year after the effective date of the board's initial regulations.

Approved August 4, 2008

Chapter 233. AN ACT FINANCING AN ACCELERATED STRUCTURALLY-DEFICIENT BRIDGE IMPROVEMENT PROGRAM.

Be it enacted, etc., as follows:

SECTION 1. To provide for an accelerated structurally deficient bridge improvement program, the sums set forth in sections 2 and 2A 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, which sums are in addition to amounts previously appropriated for these purposes.

SECTION 2.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS.

Department of Highways.

6033-0800 For the design, construction, reconstruction and repair of or improvements to bridges and approaches; provided, that expenditures from this item may include the costs of engineering, design, permitting and other services essential to these projects rendered by department employees or by consultants; provided further, that amounts expended for department employees may include salary and salary related expenses of these employees to the extent that they work on or in support of these projects; and provided further that no amounts appropriated under this item shall be expended for bridges or approaches owned by or under the control of the Massachusetts Turnpike Authority or the Massachusetts Bay Transportation Authority \$2,078,000,000

SECTION 2A.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.

Department of Conservation and Recreation.

2890-0800 For the design, construction, reconstruction and repair of or improvements to bridges and approaches under the control of the department of conservation and recreation; provided, that expenditures from this item may include the costs of engineering, design, permitting and other services essential to these projects rendered by department employees or by consultants; provided further, that amounts expended for department employees may include salary and salary related expenses of these employees to the extent that they work on or in support of these projects; and provided further that no amounts appropriated under this item shall be expended for bridges or approaches owned by or under the control of the

Massachusetts Turnpike Authority or the Massachusetts Bay
Transportation Authority \$906,000,000

SECTION 3. The first paragraph of section 20 of chapter 29 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:- There shall be credited to the Infrastructure Fund 47.69 per cent of the receipts paid into the treasury of the commonwealth and directed to be credited to the Highway Fund under clause (a) of section 13 of chapter 64A. This amount, together with investments earnings thereon, shall be referred to as “special receipts” and shall be used in accordance with this section.

SECTION 4. Chapter 64A of the General Laws is hereby amended by striking out section 13, as so appearing, and inserting in place thereof the following section:—

Section 13. All sums received from the excise imposed on aviation fuel, and related penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under sections 7 and 7A, shall be credited to the Highway Fund and may be used for airport development projects approved and carried out at airports and landing facilities under 49 U.S.C. App. s 2210; and all other sums received under the excise imposed in section 4, and relative penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under said sections 7 and 7A, shall be credited as follows:— (i) 99.85 per cent shall be credited to the Highway Fund to be used for transportation-related purposes; and (ii) 0.15 per cent shall be credited to the Inland Fisheries and Game Fund, established by section 2C of chapter 131.

SECTION 5. Section 20 of chapter 86 of the acts of 2008 is hereby repealed.

SECTION 6. Chapter 6A of the General Laws is hereby amended by inserting after section 8B the following new section:-

Section 8C. (a) There shall be established a structurally deficient bridge improvement program coordination and oversight council. The council shall consist of a chair appointed by the governor, the secretary of administration and finance, or his designee, the secretary of transportation and public works, the secretary of energy and environmental affairs, the commissioner of highways, the commissioner of the department of conservation and recreation and the commissioner of capital asset management and maintenance.

(b) the council shall coordinate and oversee the accelerated structurally deficient bridge improvement program including, without limitation:- (i) ensuring regular communication and coordination between the department of highways and the department of conservation and recreation as to their bridge development projects, programs and plans and any regulations or guidelines promulgated pursuant thereto; (ii) establishing and implementing project controls to ensure adequate tracking and reporting of program progress, cost and schedules; (iii) establishing an annual structurally deficient bridge improvement plan which shall include the number and location of bridges which shall be replaced or rehabilitated in the preceding year and the cost estimates of said replacement or rehabilitation; provided, however, that the council shall annually submit a report pursuant to this clause (iii) of subsection (b) not later than December 31st to the chairs of the house

and senate committees on ways and means, the chairs of the joint committee on bonding, capital expenditures and state assets and the chairs of the joint committee on transportation; (iv) directing appropriate agencies to provide technical assistance as necessary to accomplish the objectives of the structurally deficient bridge improvement program; (v) coordinating and resolving any inconsistencies between capital investments made pursuant to the bridge improvement program and capital improvements made pursuant to the commonwealth's capital plan; and (vi) establish criteria for project selection relative to funding from the structurally deficient bridge improvement program.

(c) The council shall annually, not later than December 31st, submit a report of its activities to the chairs and ranking members of the house and senate committees on ways and means, the chairs and ranking members of the joint committee on bonding, capital expenditures and state assets and the chairs and ranking members of the joint committee on transportation.

(d) The council shall meet at least quarterly. The secretary of executive office of transportation shall provide personnel necessary to coordinate the activities of the council and to provide administrative support to the council, as requested.

SECTION 7. Notwithstanding any general or special law to the contrary and to meet a portion of the expenditures necessary in carrying out sections 2 and 2A, the state treasurer shall, upon request of the governor, issue and sell federal grant anticipation notes of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$1,108,000,000. Notes issued under this section shall be in addition to those notes previously issued under section 9 of chapter 11 of the acts of 1997 and under section 53A of chapter 29 of the General Laws to refund, in part, such previously issued notes. The notes authorized under this section shall be issued and may be renewed for such maximum terms as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that the final maturity of such notes, whether original or renewal, shall be not later than June 30, 2027.

Notwithstanding any general or special law to the contrary, notes issued under this section and the interest thereon shall be special obligations of the commonwealth secured by the Federal Highway Grant Anticipation Note Trust Fund established in section 10 of said chapter 11 of the acts of 1997. Sections 10, 10A and 10B of said chapter 11 shall apply to the notes issued under this section in the same manner and with the same effect as set forth in said sections 10, 10A and 10B with respect to the notes previously issued under said section 9 of said chapter 11 of the acts of 1997 and said section 53A of said chapter 29 of the General Laws, except as otherwise provided in a trust agreement pertaining to the notes authorized under this section; provided, however, that any pledge of federal highway construction funds and other funds to secure the notes issued under this section, to the extent that those funds are subject to a prior pledge, shall be subordinate to the pledge of those funds to secure the outstanding notes issued under said section 9 of said chapter 11 and said section 53A of said chapter 29.

A trust agreement entered into with respect to notes authorized under this section shall be considered to be a trust agreement under said section 10B of said chapter 11 of the acts of 1997. The principal or purchase price of, redemption premium, if any, and interest on notes issued hereunder, fees and expenses related to those notes, deposits to reserves, if any, under such trust agreement or such credit enhancement agreement and any reimbursement amounts shall be considered to be trust agreement obligations for purposes of said sections 10A and 10B.

Notwithstanding any general or special law to the contrary, the commonwealth shall covenant with the purchasers and all subsequent owners and transferees of any notes issued under this section that while any note shall remain outstanding and any trust agreement obligation remains unpaid, federal highway construction trust funds shall not be diverted from the purposes identified in said section 10B, except as provided in the trust agreement or credit enhancement agreement relating thereto, nor shall the trusts with which they are impressed be broken, and the pledge and dedication in trust of these funds shall continue unimpaired and unabrogated.

Notwithstanding any general or special law to the contrary, the trust and the Federal Highway Grant Anticipation Note Trust Fund, each established in accordance with said section 10 of said chapter 11, shall terminate on the date of the final payment or defeasance in full by the commonwealth of all trust agreement obligations under said section 10 and this act.

SECTION 8. To meet a portion of the expenditures necessary in carrying out sections 2 and 2A, the state treasurer shall, upon request of the governor, issue and sell special obligation bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$1,876,000,000. Bonds issued by the state treasurer under this section shall be issued as special obligation bonds under section 20 of chapter 29 of the General Laws. All special obligation bonds issued under this section shall be designated on their face, Special Obligation Commonwealth Accelerated Structurally-Deficient Bridge 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. All bonds issued under this section shall be payable not later than June 30, 2046. All principal and interest on special obligation bonds issued under this section shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29 and shall be payable solely in accordance with said section 20 of said chapter 29.

SECTION 9. Notwithstanding any provision of section 7 or 8 to the contrary, the state treasurer shall, upon the request of the governor: (a) issue any portion of the amount authorized to be issued as federal grant anticipation notes under said section 7 as special obligation bonds in addition to the amount authorized in said section 8 and otherwise under said section 8; or (b) issue any portion of the amount authorized to be issued as special obligation bonds under said section 8 as federal grant anticipation notes in addition to the amount authorized in said section 7 and otherwise pursuant to said section 7; provided, however, that

the aggregate amount issued under said sections 7, 8 and this section shall not exceed \$2,984,000,000; and provided further, that no bonds shall be issued under this section unless the governor and the state treasurer jointly determine that issuing bonds or notes under this section instead of as authorized under said section 7 8, as applicable, is necessary or is in the best financial interests of the commonwealth based on their consideration of: (i) the commonwealth's authority under federal law to issue federal grant anticipation notes pursuant to said section 7; (ii) generally prevailing financial market conditions; (iii) the impact of each financing approach on the overall capital financing plans and needs of the commonwealth; (iv) 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 or notes proposed to be issued; and (v) any applicable provisions of chapter 29 of the General Laws.

SECTION 10. Notwithstanding any general or special law to the contrary, bonds or notes issued under sections 7 to 9, inclusive, shall not be included in the computation of outstanding bonds for purposes of the limit imposed by the second paragraph of section 60A of chapter 29 of the General Laws, nor shall debt service with respect to these bonds and notes be included in the computation of the limit imposed by section 60B of said chapter 29.

SECTION 11. (a) In implementing sections 2 and 2A, the executive office of transportation and public works, the department of highways and the department of conservation and recreation, hereinafter referred to as the agencies, may enter into such contracts or agreements as may be necessary or appropriate for the implementation of this act, including without limitation contracts or agreements with cities and towns or such other political subdivisions as may be necessary or appropriate to mitigate the effects of projects undertaken pursuant to this act or to otherwise carry out projects pursuant to this act. Such contracts or agreements shall contain minority business enterprise and women business enterprise participation goals and minority and women work force goals as determined by the secretary of administration and finance and the secretary of transportation and public works in accordance with state and federal law. Said contracts and agreements may relate to such matters as the agencies shall determine including, without limitation, the design, layout, permitting, bidding, procurement, construction, reconstruction or management of all or any portion of the projects to be funded in whole or in part with funds made available by this act and the extent to which management and oversight of the projects shall be coordinated between and among the agencies; provided, however, that nothing in this act shall relieve any party to such agreement from compliance with the procurement laws; provided further, that no integrated project organization or management structure shall be authorized pursuant to this act; and provided further, that no person employed by the commonwealth as a consultant pursuant to this act shall directly or indirectly set program policy or supervise a temporary or permanent employee of the commonwealth. Said agreements may also include provisions for the sharing of services between and among the agencies, and such other reforms, efficiency initiatives or actions related to the projects that the agencies determines could result in operating cost savings or other benefits for the commonwealth and

the agencies including, without limitation, eliminating or consolidating duplicative functions and facilities, sharing or coordinating equipment, expertise, personnel, bidding and procurement, and sharing resources, including administrative, financial, payroll, information technology, legal, engineering, human resources and other services; provided, however, that all such measures and agreements shall be submitted to the inspector general and state auditor no later than 14 days prior to the date of implementation or execution. Said agreements shall provide that all work undertaken on or with respect to any bridge or approach under the control of the department of conservation and recreation shall be carried out according to standards developed by the department of conservation and recreation to protect the scenic and historic integrity of the bridges and related infrastructure under its control. Said agreements shall also provide that the commissioner of conservation and recreation shall review and approve preliminary and final design plans to determine whether the plans are consistent with these standards. In relation to any agreements with cities, towns or other political subdivisions, the agencies may advance to such entities, without prior expenditure by such entities, monies necessary to carry out such agreements; provided, however, that the agencies shall certify to the comptroller the amount so advanced; and provided further, that all monies not expended under such agreement shall be credited to the account of the department from which they were advanced. The agencies shall report to the house and senate committees on ways and means on any transfers completed pursuant to this subsection.

(b) Subject to the contracts and agreements executed in accordance with this section and the other requirements of this act, the agencies shall adopt such consolidated bidding, procurement and permitting practices as may be convenient or necessary in carrying out this act; provided, however, that notwithstanding any general or special law to the contrary, the selection of engineering services shall be conducted pursuant to the procurement laws including, but not limited to, chapters 7, 30, 149 and 149A of the General Laws, and any other general or special law, regulation, ordinance or bylaw providing for the advertising, bidding or awarding of contracts for design, construction or improvement to property shall also apply; provided further, that such consolidated bidding, procurement and permitting practices shall not diminish or otherwise inhibit the participation goals for minority business enterprises or women business enterprises. Design build project delivery may be utilized for any such projects or multiple projects taken together without regard to the minimum cost of any project as provided in section 14 of said chapter 149A; provided, however, that if an agency utilizes design build project delivery for any project that falls below such minimum cost, the agency shall submit additional procedures governing such procurement to the inspector general for approval under subsection (d) of section 16 of said chapter 149A. The contracts for these services may also provide for the use of performance-based design, extended work hours, procurement that considers the value of accelerated project delivery in a manner consistent with this act and with procurement procedures that consider the value of accelerated project delivery but only after such procurement procedures have received the written approval of the inspector general and, in the case of federally-aided projects, the

written approval of the Federal Highway Administration, lane rental costs, bonus payments and penalties for performance and other measures aimed at accelerating project delivery.

(c) The secretary of the transportation and public works shall establish an interagency working group which shall consist of the assistant secretary for access and opportunity, the executive director of the state office of minority and women business assistance, the executive director of the affirmative market program, the director of labor, the director of civil rights within the executive office of transportation and public works, the director of affirmative action within the executive office of transportation and public works, a representative of the affirmative market program within the division of capital asset management and maintenance and, in consultation with the commissioner of conservation and recreation, a representative of said department, the inspector general, the state treasurer and the state auditor. The interagency working group shall develop and oversee efforts to ensure minority business enterprise and women business enterprise participation and the minority and women work force participation goals established pursuant to the contracts or agreements of subsection (a) and adherence to state advertising, bidding and procurement laws.

SECTION 12. Notwithstanding any general or special law to the contrary, any appropriated amounts funded from the proceeds of bonds that are to be expended for the general purpose of designing, constructing, maintaining and repairing highways, roadways, boulevards, parkways bridges and approaches other than those monies authorized by this act shall be transferred to the Transportation Deferred Maintenance Trust Fund established in section 69A of chapter 10 of the General Laws and expended in accordance with that section. The comptroller shall make the transfers required by this section from the accounts, in the amounts and at the times directed by the secretary of administration and finance. To the extent sufficient appropriations exist therefor, the governor shall make every effort to provide for at least 20 per cent of the total bond-funded expenditures in each fiscal year for the department of highways' statewide road and bridge program and for improvements to the department of conservation and recreation's roadways, boulevards, parkways and bridges exclusive of bond-funded expenditures under sections 2 and 2A, to be applied to the general purpose of designing, constructing, maintaining and repairing of highways, roadways, boulevards, parkways bridges and approaches in accordance with this section.

SECTION 13. Section 61 to 62I, 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 the repair, reconstruction, replacement or demolition by the department of highways, pursuant to section 2, of existing state highway or municipally-owned bridges, including the immediate approaches necessary to connect the bridges to the existing adjacent highway or rail system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, however, that the provisions of said section 61 and said sections 62 to 62I, inclusive, of said chapter 30 shall apply to the repair, reconstruction, replacement or demolition project where such project requires a mandatory environmental impact report pursuant to 301 CMR 11.00; provided further, that all such work shall be subject to the requirements of the then current edition of

the department of highways' Stormwater Handbook as approved by the department of environmental protection in accordance with applicable law, that notice shall be published in the Environmental Monitor of any application to the department of environmental protection for a water quality certification, and that said work shall be subject to performance standards prescribed by the department of environmental protection pursuant to section 401 of the Federal Clean Water Act, if applicable; and provided further, that notwithstanding the foregoing, the said section 61 and said sections 62 to 62I, 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.

If a state highway or municipal bridge crosses over a railroad right-of-way or railroad tracks, the department of highways 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 bridge; provided, however, that the department of highways and their 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 of highways may consider necessary or convenient for the administration of this section. If a flagman is needed to administer this section, the railroad company or its assigns shall provide the flagman.

For the purposes of this section, "bridge" shall include, but not be limited to, any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility or other area.

Any project exempt from said section 61 and said sections 62 to 62I, inclusive, of said chapter 30, said chapter 91 or said section 40 of said chapter 131 pursuant to this section shall be subject to the public consultation process required by the then current version of the Project Development and Design Guidebook of the department of highways.

SECTION 14. Nothing in this act shall be construed to transfer any lands, roadways, boulevards, bridges, approaches or other facilities under the care, custody or control of the department of conservation and recreation.

SECTION 15. 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 16. The council shall submit a report on the progress and all expenditures related to the bridge projects specified to be completed in this act and any other department of highways bridge projects that may not be authorized through 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 and the joint committee on bonding, capital expenditures and state assets. 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 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; and whether, in the opinion of the council with consultation from the commissioner of highways, design build was an effective procurement method for each project; 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 and the current anticipated completion date of each project. This report shall also include the total number of employees and outside contractors and amount expended on salaries and benefits for employees and outside contractors that are specifically working on projects to be carried out as part of the accelerated bridge repair program. The report shall be submitted on June 30 and December 31 of each year for a period of 8 years after the effective date of this act.

SECTION 17. The council shall establish and implement project controls to ensure that projects carried out under this act shall be done in the most efficient possible manner. The council shall create an internal project controls function to oversee all such work. Section 29A of chapter 29 of the General Laws shall be complied with in all respects. In connection with such oversight, the council shall file a report with the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on transportation and the house and senate chairs of the joint committee on bonding, capital expenditures and state assets a report not later than December 15, 2008 and every 2 years for the life of the authorizations within this bill detailing the internal project controls referred to above. In addition, the financing of and expenditures under the program shall be subject to a joint public oversight hearing conducted by the joint committee on transportation and the joint committee on bonding, capital expenditures and state assets not less than two times per year.

SECTION 18. The following reforms contained in chapter 86 of the acts of 2008 shall apply to the projects performed with funds made available pursuant this act: a reporting system to track periodic and substantial completion estimates pursuant to section 12, expedited notices to proceed pursuant to section 13 and provisions pertaining to contracts or agreements between agencies.

SECTION 19. (a) Not later than November 30, 2008, the council shall file with the clerks of the house of representatives and the senate, the joint committee on transportation, the joint committee on bonding, capital expenditures and state assets and the house and senate committees on ways and means a bridge preservation and repair plan for calendar years 2009 to 2011, inclusive. The plan shall include the cost estimates and the scope of

work to be performed on specific bridges for each year, as well as the key annual milestones, cost estimates and work to be performed for all bridges for which funds will be allocated but for which completion will require multiple years.

(b) Not later than October 31, 2011, the council shall submit to the clerks of the house of representatives and the senate, the joint committee on transportation and the joint committee on bonding, capital expenditures and state assets a report documenting whether: (i) based on the bridge preservation and repair plan submitted pursuant to subsection (a), at least 90 per cent of those bridges expected to be completed in 2009, 2010 and 2011 have been completed on time and on budget; and (ii) based on the bridge preservation and repair plan submitted pursuant to said subsection (a), at least 90 per cent of the milestones for each bridge for which funds have been allocated in 2009, 2010 and 2011, but for which completion requires multiple years, have been achieved on time and on budget.

SECTION 20. The secretary of administration and finance, in consultation with the state treasurer and the commissioner of revenue, shall submit, not later than October 31 of each year during which projects funded under this act are ongoing, to the clerks of the house of representatives and the senate the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets a report establishing that the commonwealth's current fiscal condition, debt structure and bond ratings will not be adversely affected by commencement of projects to be funded by bonds authorized in section 8. The report shall contain an analysis by the department of revenue, based on a semi-annual review, of gas tax revenue collections.

Approved August 4, 2008.

Chapter 234. AN ACT RELATIVE TO CERTAIN ROADS ON NANTUCKET ISLAND.

Be it enacted, etc., as follows:

SECTION 1. Chapter 434 of the acts of 1975 is hereby amended by adding the following section:-

Section 2. The ways listed in section 1 shall include the entire width of the layout as approved by the board of selectmen and voted by the town of Nantucket under Article 17 of the annual town meeting in 1975. For Bartlett road, Beach walk, Cambridge street (north of Madaket road), Cato lane, Coffin way, Cornish street, Eel Point road, Henry street, James street, Johnson street, Low Beach road, Macy lane, Somerset road, Vestal street extension, Washington avenue, Washington street extension, and Wesco place (plus 40), any reference in the article to "paved sections" shall be only for the purpose of identifying the length of those ways, as each existed in 1975, which were to have the benefit of this act to correct any failure to comply with final recording requirements. If the paved sections of those ways differed in width from the layout plans of record at that time, the article and this act shall not

alter any street layout as to width. If a paved section, as it existed in 1975, was not paved to the full width of the corresponding dimensional plan of record laying out the street, the article and this act shall not exclude the unpaved shoulders of that way, if it were included in the corresponding layout plan.

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

Approved August 4, 2008.

**Chapter 235. AN ACT AUTHORIZING THE STATE SECRETARY TO PLACE
THE OFFICE OF SELECTMEN ON THE STATE ELECTION
BALLOT IN THE TOWN OF TOPSFIELD.**

Be it enacted, etc., as follows:

SECTION 1. The state secretary shall print on the official state election ballot for the town of Topsfield the office of selectmen to fill a vacancy.

SECTION 2. Notwithstanding section 7 of chapter 53 of the General Laws or any other general or special law to the contrary, nomination papers for the office of selectmen to fill the vacancy shall be filed with the board of registrars of the town of Topsfield for certification of signatures on or before 5:00 P.M. on August 27, 2008.

SECTION 3. Notwithstanding any general or special law to the contrary, said board of registrars shall complete certification of signatures on such nomination on or before 5:00 P.M. on August 28, 2008.

SECTION 4. Notwithstanding section 10 of chapter 53 of the General Laws or any other general or special law to the contrary, certified nomination papers shall be filed with the town clerk on or before 5:00 P.M. on August 29, 2008.

SECTION 5. Notwithstanding section 13 of chapter 53 of the General Laws or any other general or special law to the contrary, candidates who have filed nomination papers to fill the vacancy in the office of board of selectmen may withdraw their nomination by filing a notarized withdrawal not later than 5:00 P.M. on September 2, 2008.

SECTION 6. The town clerk shall on or before 5:00 P.M. on September 5, 2008 certify to the state secretary a list of candidates, with addresses, in the order in which they are to appear on the ballot, to fill the vacancy in the board of selectmen.

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

Approved August 4, 2008

**Chapter 236. AN ACT AUTHORIZING THE TOWN OF HARWICH TO ACQUIRE
CERTAIN REAL PROPERTY.**

Be it enacted, etc., as follows:

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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 a certain unnumbered parcel of land adjoining Kelley Cemetery in the town for cemetery purposes. The parcel is shown on Assessor's Map No. 48 as parcel T1-3.

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

Approved August 4, 2008.

Chapter 237. AN ACT DESIGNATING MITOCHONDRIAL DISEASE AWARENESS WEEK.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith Mitochondrial Disease Awareness Week, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

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

Section 15 GGGGG. The governor shall annually issue a proclamation setting apart the third full week in September as Mitochondrial Disease Awareness Week , in recognition of the number of residents of the commonwealth affected by mitochondrial diseases, and the need for increased public awareness, research and support for victims and their families, and recommending that the week be observed in an appropriate manner by the people.

Approved August 4, 2008.

Chapter 238. AN ACT RELATIVE TO THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.

Be it enacted, etc., as follows:

Subsection (a) of section 80A of chapter 171 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 3 sentences:- A credit union insured by the Massachusetts Credit Union Share Insurance Corporation shall file notification of its intent to convert with said corporation at least 90 days before the date of the proposed special meeting of the members of the credit union. No credit union may convert pursuant to this section so long as any financial assistance provided by said

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corporation to such credit union remains unpaid or has not been compromised or settled. Any such repayment, compromise or settlement shall be approved by the commissioner.

Approved August 4, 2008.

Chapter 239. AN ACT AUTHORIZING THE CONSOLIDATION OF CERTAIN PUBLIC HEARINGS.

Be it enacted, etc., as follows:

SECTION 1. Section 11 of chapter 40A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:—

When a planning board or department is also the special permit granting authority for a special permit applicable to a subdivision plan, the planning board or department may hold the special permit public hearing together with a public hearing required by sections 81K to 81GG inclusive of chapter 41 and allow for the publication of a single advertisement giving notice of the consolidated hearing.

SECTION 2. The last sentence of section 81T of chapter 41 of the General Laws, as so appearing, is hereby amended by adding the following words:— ; provided, however, that when the planning board is also the special permit granting authority for a special permit applicable to the plan, the planning board may hold the definitive plan public hearing together with the public hearing required by section 9 of chapter 40A and allow for the publication of a single advertisement giving notice of the consolidated hearing.

Approved August 4, 2008.

Chapter 240. AN ACT DESIGNATING STATE HIGHWAY ROUTE 116 IN CERTAIN TOWNS AS A SCENIC BYWAY CORRIDOR.

Be it enacted, etc., as follows:

State highway route 116 located in the towns of Deerfield, Conway, Ashfield, Plainfield, Savoy and Adams is hereby designated a scenic byway corridor in order to recognize, interpret, preserve and promote its unique scenic, cultural, archeological, natural and recreational resources in the counties of Franklin, Hampshire and Berkshire through the development of a corridor management plan and an accompanying public participation process.

Approved August 4, 2008.

Chapter 241. AN ACT DESIGNATING A CERTAIN STREET IN THE CITY OF BOSTON AS REVEREND PAUL A. PHINN WAY.

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Be it enacted, etc., as follows:

The state-owned street running between Washington street and the Enneking parkway in the West Roxbury section of the city of Boston shall be designated and known as the Reverend Paul A. Phinn way, in recognition of his many years of community service. The department of conservation and recreation shall erect and maintain a suitable marker bearing such designation in compliance with the standards of the department.

Approved August 4, 2008.

Chapter 242. AN ACT RELATIVE TO THE SOUTH GRAFTON AND GRAFTON WATER DISTRICTS.

Be it enacted, etc., as follows:

Section 1 of chapter 485 of the acts of 1948, is hereby amended by inserting after the word "beginning," in line 18, the following words:- and including within said boundary lines the area described as follows: Beginning at the point of intersection of the above-described boundary and the boundary of the Grafton Water District, established by chapter 135 of the acts of 1984, said point being two hundred feet east of Providence road, fifteen hundred feet north of the intersection of Cross street and Providence Road and located along the southern boundary of property now or formerly of New England Power Company as described in a deed recorded with the Worcester district registry of deeds (the "registry") in book 4483, page 111, and the northern boundary of property now or formerly of New England Power Company as described in a deed recorded with the registry in book 4707, page 239, and located in the centerline of an easement held now or formerly by Massachusetts Electric Company in, over and through both properties; thence easterly through property now or formerly of Primo Borelli, III and Laura A. Borelli, as described in a deed recorded with the registry in book 10979, page 29 and along the southern sideline of a 375 foot-wide easement held now or formerly by New England Power Company (the "N.E.P. Co. Easement") as said easement crosses over and through said property; thence easterly through property now or formerly of Robert Huchowski and Stephen A. Huchowski, as described in a deed recorded with the registry in book 18522, page 19, and along the southern sideline of the N.E.P. Co. Easement as it crosses over and through said property; thence easterly through property now or formerly of Edna R. Sinclair, as described in a deed recorded with the registry in book 2796, page 246, and along the southern sideline of the N.E.P. Co. Easement as it crosses over and through said property; thence easterly through property now or formerly of Susan Wright, et al., as trustees, as described in a deed recorded with the registry in book 18507, page 193, and continuing along the southern sideline of the N.E.P. Co. Easement as it crosses over and through said property; thence easterly through property now or formerly of Raymond S. Slanda and Evelyn M. Slanda, as described in a deed recorded with the registry in book 4310, page 325, and along the southern sideline of the N.E.P. Co. Easement as it

crosses over and through said property; thence easterly through property now or formerly of Susan Wright, et al., as trustees, as described in a deed recorded with the registry in book 18507, page 171, and along the southern sideline of the N.E.P. Co. Easement as it crosses over and through said property; thence easterly through property now or formerly of David Mason and Karen E. Mason, as described in a deed recorded with the registry in book 26418, page 188, and along the southern sideline of N.E.P. Co. Easement as it crosses over and through said property; thence turning in a southeasterly direction, traveling through said property of David Mason and Karen E. Mason and along the western sideline of an easement held now or formerly by New England Telephone and Telegraph ("NE T&T Easement") as it crosses over and through said property; thence southeasterly through property now or formerly of Henry J. McNamara Jr. and Margaret A. McNamara, as described in a deed recorded with the registry in book 4580, page 123, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through said property now or formerly of David Mason and Karen E. Mason and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through property now or formerly of William J. Mahoney, as described in a deed recorded with the registry in book 22615, page 283, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through property now or formerly of Adam Sidman and Kristen Sidman, as described in a deed recorded with the registry in book 22598, page 124, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly across Keith Hill road; thence southeasterly through property now or formerly of Neil John Howard and Elizabeth P. Howard, as described in a deed recorded with the registry in book 4903, page 175, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through land now or formerly of the Grafton Land Trust, Inc., as described in a deed recorded with the registry in book 4670, page 379, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through land now or formerly of the Grafton Land Trust, Inc., as described in a deed recorded with the registry in book 14655, page 283, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly through property now or formerly of Brookmeadow Village, LLC, as described in a deed recorded with the registry in book 32454, page 99, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence southeasterly along the eastern boundary of property now or formerly of Brookmeadow Village, LLC, as described in a deed recorded with the registry in book 31870, page 63, and along the western sideline of the NE T&T Easement as it crosses over and through said property; thence turning in a westerly direction and traveling along the southern property line of said property of Brookmeadow Village, LLC and the northern property line of a parcel of land now or formerly of the town of Grafton, as described in a deed recorded with the registry in book 21834, page 150; thence along the northern property line of a parcel of land now or formerly of the town of Grafton, as described in a deed recorded with the registry in book 2824, page 255; thence southerly along the western boundary of said parcel of the town

of Grafton to Milford road; thence southerly across Milford road; thence turning westerly and traveling along the southern sideline of Milford road as it bounds the northern property line of property now or formerly of Ultra Development Corporation, described as “Parcel 1” in a deed recorded with the registry in book 8868, page 67; thence westerly along the southern sideline of Milford road as it bounds the northern property line of property now or formerly of Oak Knoll Estates Condominium as described in a Master Deed recorded with the registry in book 11670, page 210; thence westerly approximately 300 feet along the southern sideline of Milford road as it bounds property now or formerly of Richard S. Guyette and Dawne Guyette, as described in a deed recorded with the registry in book 7661, page 297; thence turning southerly and traveling approximately 175 feet along the western property line of said property of Richard S. Guyette and Dawne Guyette and the eastern boundary of property now of formerly of Susan M. Boutiette, as trustee of the Boutiette Family Trust, as described in a deed recorded with said registry in book 23679, page 207; thence turning southeasterly and traveling approximately 72.24 feet along the eastern property line of property now or formerly of Ultra Development Corporation, as described in a master deed recorded with the registry in book 9488, page 229; thence turning southwesterly and traveling approximately 52.38 feet along the southern property line of said property of Ultra Development Corporation; thence turning southeasterly and traveling approximately 181.14 feet along the eastern property line of property now or formerly of A. Malcolm Mager, Jr., as trustee of Mager Realty Trust, as described in a deed recorded with the registry in book 9009, page 239; thence turning southwesterly and traveling approximately 124.87 feet along the southern property line of said property of A. Malcolm Mager, Jr., as trustee of Mager Realty Trust; thence turning southeasterly and traveling approximately 66.4 feet along the eastern property line of land now or formerly of Amelia Gendron, as described in a deed recorded with the registry in book 12705, page 340; thence southeasterly approximately 170.3 feet along the eastern property line of land now or formerly of William Blair and Sarah Blair and Janet B. Keay, as described in a master deed recorded with the registry in book 9950, page 94; thence southeasterly through land now or formerly of Patrick H. Mahoney and Kathleen M. Michniewicz, as further described in a deed recorded with said registry in book 13068, page 293, and southeasterly through an easement over said land held now or formerly by Tenneco to a stone bound located at the southeasterly corner of the boundary with the Grafton Water District and along the Grafton-Northbridge town line, said land area being shown on a plan entitled, “Boundary Plan, Grafton Water District”, dated April 24, 2003, and on file with the South Grafton Water District.

Approved August 4, 2008.

**Chapter 243. AN ACT DESIGNATING ROLLING ROCK AS THE OFFICIAL
GLACIAL ROCK OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

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

Section 59. Rolling Rock, located in the city of Fall River, shall be the glacial rock of the commonwealth.

Approved August 4, 2008.

Chapter 244. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF GRAFTON AS THE PRIVATE WALTER ERMAK BRIDGE.

Be it enacted, etc., as follows:

The bridge #G-08-012 on Depot street, spanning the Providence and Worcester railroad in the South Grafton section of the town of Grafton shall be designated and known as the Private Walter Ermak Bridge, in honor of United States Army Private Walter Ermak, who served in the armed forces from June 21, 1918 through December 7, 1918. The department of highways shall erect and maintain a suitable marker bearing that designation in compliance with the standards of the department.

Approved August 4, 2008.

Chapter 245. AN ACT PROVIDING EMPLOYEES AT STATE COLLEGES, UNIVERSITIES AND COMMUNITY COLLEGES HOLDING SPECIAL STATE POLICE OFFICER POWERS WITH LINE OF DUTY DEATH BENEFITS.

Be it enacted, etc., as follows:

Section 100A of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "officer", in line 17, in line 25, the first time it appears, and in lines 26 and 27, the following words:- , employee of a state college, university or community college holding special state police officer powers.

Approved August 4, 2008.

Chapter 246. AN ACT RELATIVE TO DISTRICT COURT CLERKS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 10 of chapter 218 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the line reading "district court of Greenfield;"

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SECTION 2. Said first paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading “district court of Franklin;”.

SECTION 3. The second paragraph of said section 10 of said chapter 218, as so appearing, is hereby amended by inserting after the line reading “district court of central Berkshire;” the following line:- district court of Franklin at Greenfield;.

Approved August 4, 2008.

Chapter 247. AN ACT RELATIVE TO SAFETY AT THE JOHN ADAMS COURTHOUSE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 221 of the General Laws is hereby amended by striking out section 69, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

Section 69. Not more than 4 deputy sheriffs or court officers shall receive compensation for attendance upon a sitting of the superior court for civil business or for both civil and criminal business unless the presiding justice or the district attorney requests, in writing, that the chief justice for administration and management procure the attendance for the whole or a portion of any such sitting of an additional number. Not more than 6 deputy sheriffs, court officers or constables shall receive compensation for attendance upon a sitting of the superior court for criminal business unless the district attorney requests, in writing, that the chief justice for administration and management procure the attendance for the whole or a portion of any such sitting of an additional number.

Section 69A. (a) The chief justice of the supreme judicial court shall appoint, and may remove for cause, the chief court officer, the assistant chief court officer and the court officers of the supreme judicial court, who shall be responsible for security in all areas of the John Adams courthouse occupied by the supreme judicial court and in all areas of any other building occupied permanently by the supreme judicial court. The chief justice shall provide for the discipline, assignment and supervision of those court officers and define their duties.

(b) The chief justice of the appeals court shall appoint, and may remove for cause, the chief court officer, the assistant chief court officer and the court officers of the appeals court, who shall be responsible for security in all areas of the John Adams courthouse occupied by the appeals court and in all areas of any other building occupied permanently by the appeals court. The chief justice shall provide for the discipline, assignment and supervision of those court officers and define their duties.

(c) The chief justice for administration and management shall assign such associate court officers to the John Adams courthouse as are sufficient to meet the security needs of the John Adams courthouse, including those spaces not occupied permanently by the supreme judicial court or the appeals court.

(d) The chief court officer of the supreme judicial court shall be the senior person in charge of security for the John Adams courthouse. The chief court officer of the supreme judicial court shall coordinate the security of the John Adams courthouse with the chief court officer of the appeals court and the director of security of the administrative office of the trial court or other representative as the chief justice for administration and management may designate.

SECTION 2. Section 70 of said chapter 221, as so appearing, is hereby amended by adding the following paragraph:-

If a trial court department shall locate to the John Adams courthouse, the chief justice for administration and management shall assign such security personnel, who may be court officers or associate court officers, as are sufficient to meet the security needs in the areas of the John Adams courthouse occupied by any such trial court department.

SECTION 3. Said chapter 221 is hereby further amended by striking out section 70A, as so appearing, and inserting in place thereof the following section:-

Section 70A. Court officers and those authorized to act as court officers within the judicial branch may perform police duties and have police powers in or about the areas of the court to which they have been assigned when so designated by the chief justice for administration and management, the chief justice of the supreme judicial court or the chief justice of the appeals court, as appropriate.

SECTION 4. Section 71 of said chapter 221, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "and one such court officer shall be designated to act as chief deputy sheriff for attendance on the appeals court in Suffolk county".

SECTION 5. Said section 71 of said chapter 221, as so appearing, is hereby further amended by striking out, in line 8, the words "supreme judicial and superior courts" and inserting in place thereof the following words:- superior court.

SECTION 6. Section 71A of said chapter 221, as so appearing, is hereby amended by striking out the third sentence.

SECTION 7. Section 72 of said chapter 221, as so appearing, is hereby amended by inserting after the word "justice", in line 5, the following words:- or, with respect to court officers of the supreme judicial court and the appeals court, their respective chief justices.

SECTION 8. Said section 72 of said chapter 221, as so appearing, is hereby further amended by striking out the second sentence.

Approved August 4, 2008.

Chapter 248. AN ACT RELATIVE TO THE POST RETIREMENT LIABILITY FUND IN THE TOWN OF NEEDHAM.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 10 of the acts of 2002 is hereby amended by striking out, in lines 10 and 11, the words “in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth” and inserting in place thereof the following words:- with the care, skill, prudence, and diligence that a prudent person, acting in a like capacity and familiar with such matters, under the circumstances then prevailing, would use in the conduct of an enterprise of a like character and with like aims.

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

Approved August 5, 2008.

**Chapter 249. AN ACT RELATIVE TO ADMINISTRATIVE OVERSIGHT OF THE
HIRING PROCESS IN THE TOWN OF WEST BOYLSTON.**

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 23 of the acts of 1995 is hereby amended by adding the following paragraph :—

A commission, board or officer appointed by the board of selectmen may appoint such employees as it deems necessary, but such appointments shall be subject to the approval of the board of selectmen in the manner provided in this section. The commission, board or officer shall inform the board of selectmen, in writing, of its intent to post an opening for an available position. If the board of selectmen approves the notice of intent to post an opening, the commission, board or officer may then proceed to fill the position in accordance with general and special laws, town by-laws and personnel policies. Once the commission, board or officer has selected a candidate to fill the position, it shall inform the board of selectmen, in writing. The board of selectmen may, within 15 days after receipt of the notice, disapprove the appointment by a $\frac{2}{3}$ vote of its membership, otherwise the appointment shall take effect. The board of selectmen may consolidate or abolish any employee position described in this section, subject to the limitations of the General Laws.

SECTION 2. Section 6 of said chapter 23 is hereby amended by adding the following paragraph :—

A commission, board or officer appointed by the town administrator may appoint such employees as it deems necessary, but such appointments shall be subject to the approval of the town administrator in the manner provided in this section. The commission, board or officer shall inform the town administrator, in writing, of its intent to post an opening for a position. If the town administrator approves the notice of intent to post an opening, the commission, board or officer may then proceed to fill the position in accordance with general and special laws, town by-laws and personnel policies. Once the commission, board or officer has selected a candidate to fill the position, it shall inform the town administrator, in writing. The town administrator may, within 15 days after receipt of the notice, disapprove the appointment, otherwise the appointment shall take effect. The town administrator may, subject

to the approval of the board of selectmen, consolidate or abolish any employee position described in this section, subject only to the limitations of the General Laws.

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

Approved August 5, 2008.

Chapter 250. AN ACT AUTHORIZING THE PARTIAL RELEASE OF CERTAIN LAND IN EASTHAMPTON FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

Be it enacted, etc., as follows:

SECTION 1. Pursuant to section 40E of chapter 7 and section 32 of chapter 184 of the General Laws and notwithstanding any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of agricultural resources, the latter referred to in this act as the department, may execute a certificate of partial release, releasing a certain parcel of land, approximately 1.07 acres in size, located on the southerly side of Oliver street in the city of Easthampton, that is part of a larger tract of land of approximately 40 acres that is subject to a certain agricultural preservation restriction, hereinafter referred to as APR, granted for compensation under section 23 of chapter 20 of the General Laws, by Gabrielle B. Chicoine of Easthampton, in this act referred to as the "original APR owner", to the commonwealth of Massachusetts, acting through the department, dated February 10, 1984, recorded in Book 2463, Page 348, at the Hampshire county registry of deeds. The city of Easthampton, in this act referred to as "the city", is co-holder of the APR. The parcel of land to be released from the APR is more particularly described as follows:

One certain parcel of land, located on the southerly side of Oliver Street in Easthampton, Hampshire County, Massachusetts, shown as Lot 1 on a plan of land entitled: "Plan of Land in Easthampton, Massachusetts, Prepared for William H. Chicoine, Final Date: 9/27/2000; Almar Huntley, Jr. & Associates, Inc., Northampton, MA", recorded at Hampshire county registry of deeds in Plan Book 0187, Page 0158. Lot 1 contains 46,260 square feet, plus or minus, according to the plan.

SECTION 2. (a) The total land subject to the APR of approximately 40 acres, in this act referred to as the APR land, is currently owned by William H. Chicoine, in this act referred to as the APR owner, which term shall include his successors and assigns. The APR owner took title to the APR Land by deed from the original APR owner, dated March 3, 1986, recorded in Book 2685, Page 303, at Hampshire county registry of deeds.

(b) The proposed release of Lot 1 from the APR is part of and pursuant to the agreed settlement of a civil complaint filed against the APR owner in Hampshire county superior court, civil docket number HSCV2002-00177, entitled "Commonwealth of Massachusetts, Commissioner of Food and Agriculture, and the City of Easthampton vs. William Chicoine".

Release of Lot 1 is a condition and requirement pursuant to the terms of settlement of the complaint agreed upon by the parties to the complaint. The complaint filed by the department and the city of Easthampton sought to nullify and abrogate the plan, as recorded at the Hampshire county registry of deeds by the APR owner, or in his behalf, by reason of the fact that it created two lots, Lot 1 and Lot 2, in a portion of the APR land and was a division of APR land not authorized nor permitted by the terms of the APR without approval of the department as grantee of the APR, which approval was not given. Superior Court case number HSCV2002-00177 included a counterclaim regarding compensation paid in 1984 in connection with grant of the APR.

(c) In the event that actions and conditions required to effectuate the agreed settlement of case number HSCV2002-00177 are not performed and satisfied as required of and agreed to by the parties to the complaint, including without limitation, that the APR owner shall release claims arising out of or related to the facts alleged by or against the APR owner in case number HSCV2002-00177, whether or not the claims were alleged by him in case number HSCV2002-00177, the APR shall be reimposed on Lot 1 as described in section 1, unless in the interim the APR is released or discharged by the commonwealth.

SECTION 3. Except as partially released by the recording of an executed certificate of partial release covering Lot 1 as described in section 1, as authorized by this act, the APR shall remain in full force and effect.

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

Approved August 5, 2008

Chapter 251. AN ACT RELATIVE TO NURSING HOME TRANSFERS AND DISCHARGES.

Be it enacted, etc., as follows:

Section 70E of chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the thirteenth paragraph the following paragraph:-

A resident, who requests a hearing pursuant to section 48 of chapter 118E, shall not be discharged or transferred from a nursing facility licensed under section 71 of this chapter, unless a referee determines that the nursing facility has provided sufficient preparation and orientation to the resident to ensure safe and orderly transfer or discharge from the facility to another safe and appropriate place.

Approved August 5, 2008.

Chapter 252. AN ACT CLARIFYING CERTAIN BANKING LAWS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 168 of the General Laws is hereby amended by striking out section 9A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 9A. The annual meeting of the corporators of the corporation shall be held at a time as the by-laws direct. Special meetings may be held by order of the trustees or upon written request of the 10 corporators addressed to the clerk who shall give notice of special meetings upon that order or request. In the absence or inability of the clerk to serve, the president or a vice president may give the notice required by this section. At least 7 days before the date of the meeting, written notice of the meeting shall be mailed to each corporator. The names of those present at a meeting shall be entered in the records of the corporation. A quorum shall consist of not less than 13 incorporators or 25 per cent of the total number of corporators, whichever is the greater; but, not more than 50 corporators shall be necessary to constitute a quorum.

SECTION 2. Section 11 of said chapter 168, as so appearing, is hereby amended by striking out paragraph 3 and inserting in place thereof the following paragraph:-

3. Report of Payments. — The treasurer shall report at each regular meeting, in detail, amounts paid by the corporation since the last regular meeting for services, fees or otherwise, to any member of the board of trustees and increases in salaries of officers granted since the last regular meeting; and shall report annually, at the first regular meeting of the trustees, following the annual meeting, the salaries, including bonuses if any, of officers.

SECTION 3. Said chapter 168 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. (a) The corporation shall have a board of investment of not less than 5 members, who shall be trustees of the corporation. Only 1 of the persons holding the office or performing the duties of president, executive vice president, senior vice president or treasurer shall at the same time be a member of the board of investment. The board shall elect a clerk who may, but need not be a member of the board. The board of investment may invite 1 or more trustees who are not members of the board to attend its meetings during the monthly, quarterly or semi-annual periods as the board may determine.

(b) At least quarterly, the treasurer or other officer designated by the board of investment shall submit to the board of investment, a written report, over his signature, covering the period for which the report has not yet been submitted. The report shall be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting. The report shall include the following transactions:

(1) changes in investments;

(2) changes in reserve or contingency accounts;

(3) lists of the following loans, setting forth the total liabilities of the borrower to the corporation, both secured and unsecured:

(i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, loans reportable shall be those in excess of \$1,000,000;

(ii) real estate mortgage loans on which interest is more than 6 months in arrears;

(iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to the corporations; and

(iv) loans secured and unsecured, and discounts of any borrower including both direct and indirect liabilities made during which the period which brings aggregate liabilities of the borrower to an amount in excess of \$100,000, with annotation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of undistributed capital and surplus.

(c) Upon application in writing by the corporation, the commissioner in his discretion may waive or modify the list of transactions to be included in the report.

(d) Meetings of the board of investment shall be held at least once in each month. A record shall be made at each meeting of the transactions of the board and of the names of those present.

SECTION 4. Section 13 of said chapter 168, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

The president shall be a trustee. A vice president may perform the duties of the president to the extent authorized in the by-laws. The treasurer may at the same time be a vice president. A vice treasurer or an assistant treasurer may perform all the duties of the treasurer. The clerk shall be the clerk of the corporation and clerk of the trustees.

An operating officer of the corporation shall not hold the office or perform the duties of president, vice president, cashier or treasurer of a national banking association or a trust company, and the operating officer shall be governed by section 10 with respect to holding office in another savings bank or in a co-operative bank or federal savings and loan association.

SECTION 5. Said chapter 168 is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. Each person elected to office at the annual meeting or at any other meeting of the corporators or trustees, who is not present at the meeting at which he was elected shall be notified, in writing, of his election by the clerk of the corporation. The notice shall be sent within 10 days after the meeting to the last known address of that person. Within 60 days after the annual meeting, the clerk shall cause to be filed with the records of the corporation a list containing the following information: (1) the names of the corporators

indicating those who are trustees; and (2) the names of the president, vice presidents, treasurer, members of the board of investment, and members of the auditing committee referred to in section 16. A copy of the list shall be furnished to the commissioner within 10 days after filing with the records of the corporation.

SECTION 6. Section 11 of chapter 170 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following 2 paragraphs:-

The security committee shall perform other duties as may be required by law, and exercise other powers as delegated to it by the board of directors. At each meeting of the board of directors, the security committee or an officer designated by it shall submit a report consisting of a detailed written statement containing the following information for the reporting period running from the closing date of the last report through the end of the calendar month immediately before the date of the meeting at which the report is submitted, the report to be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting. The report shall include the following:

- (1) changes in reserve or contingency accounts;
- (2) a list of all loans completed pursuant to power delegated by the board of directors;
- (3) lists of the following loans, setting forth the total liabilities of the borrower to the corporation, both secured and unsecured:

(i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, any loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, any loans reportable shall be those in excess of \$1,000,000;

(ii) real estate mortgage loans on which interest is more than 6 months in arrears;

(iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to the corporation; and

(iv) loans secured and unsecured, and discounts of a borrower including both direct and indirect liabilities made during the reporting period which brings aggregate liabilities of the borrower to an amount in excess of \$100,000, with annotation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of undistributed capital and surplus.

Upon application in writing by the corporation the commissioner may waive or modify the information in subparagraphs (1), (2) and (3) to be included in the report.

SECTION 7. Said chapter 170 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. (a) The commissioner shall have the same powers and duties in respect to co-operative banks which he has in respect to savings banks. At least once during each 12 months following their election, and more often if required by the commissioner, the audit

committee, referred to in section 11, shall have an audit made of the balance sheet of the corporation and other financial statements as it may prescribe.

(b) The audit shall be made by an independent certified public accountant as set forth in the last paragraph of section 33 of chapter 13 in accordance with generally accepted auditing standards and in the form and manner and at the time within the 12 months as the audit committee may prescribe. Within 30 days after its election, the audit committee shall appoint an accountant and written notice thereof shall be given to the commissioner.

(c) The accountant shall report in writing to the audit committee the results of the audit. At the next meeting of the directors thereafter, the audit committee shall render a report, which shall be read and be signed by the committee, stating the nature, extent and results of the audit and whether it accepts the accountant's report.

(d) The audit committee shall file with the commissioner a copy of the accountant's report within 30 days after its receipt and maintain another copy with the records of the corporation. If the audit committee fails to have an audit as herein provided, the commissioner shall have an audit made by an independent certified public accountant as set forth in the last paragraph of section 33 of chapter 13 in the form and manner as the commissioner may prescribe, and the expense thereof shall be paid by the corporation.

SECTION 8. The last paragraph of section 13 of chapter 172 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- An executive committee may take any action that could be taken by the board of directors except that an executive committee may not: (1) authorize dividends or other distributions to shareholders; (2) approve or propose to the corporation's shareholders actions that require the approval of the corporation's shareholders; (3) change the number of members of the board of directors, remove directors from office or fill vacancies on the board of directors; (4) amend the corporation's articles of organization; (5) adopt, amend or repeal the corporation's by-laws; (6) authorize or approve reacquisition of shares of capital stock, except according to a formula or method prescribed by the board of directors; (7) take any action specifically required by law or regulation to be taken by the entire board of directors, or (8) approve a transaction described in section 38 of chapter 172.

SECTION 9. Said chapter 172 is hereby amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. (a) The board of directors shall meet at intervals, that shall not be less frequent than quarterly, but, upon application in writing by the corporation, the commissioner may waive or modify this requirement. Unless the articles of organization or the by-laws otherwise provide, members of the board of directors or a committee designated thereby may participate in a meeting of the board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other, and participation by those means shall constitute presence in person at a meeting. Members may transmit written authorizations that may be required during the meeting by electronic facsimile or other commercially acceptable transmission. At intervals that shall not be less frequent than quarterly, the treasurer or other

officer designated by the board of directors shall submit to a meeting of the board of directors, or to a meeting of its executive committee, if the receipt of the reports has been delegated by the board of directors to that committee, a written report, over his signature, for the period running from the closing date of the last report to a date not more than 18 days before the date of the meeting at which the report is submitted. The report shall be filed with the records of the meeting and shall be retained for a period of 6 years from the date of the meeting. The report shall provide a summary of the following transactions:

(1) changes in investments;

(2) changes in reserve or contingency accounts;

(3) lists of the following loans, setting forth total liabilities of the borrower to the corporation, both secured and unsecured:

(i) loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans, but for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, loans reportable in this category shall be those in excess of \$100,000, and for a bank with total assets in excess of \$10,000,000,000 as of its most recent call report, loans reportable shall be those in excess of \$1,000,000;

(ii) real estate mortgage loans on which interest is more than 6 months in arrears;

(iii) real estate mortgage loans concerning which any tax upon the underlying security has been paid by the corporation and not repaid to the corporation;

(iv) all loans secured and unsecured, and discounts of any borrower including both direct and indirect liabilities made during the period which brings aggregate liabilities of such borrower to an amount in excess of \$100,000, with a notation of any line of credit possessed by the borrower, but, for a bank with total assets in excess of \$1,000,000,000 as of its most recent call report, the reportable threshold amount of aggregate liabilities outstanding to a single borrower shall be the greater of \$500,000 or 1 per cent of capital and surplus.

(b) Upon application in writing by a corporation the commissioner, in his discretion, may waive or modify the list of transactions to be included in the report.

Approved August 5, 2008.

Chapter 253. AN ACT PROHIBITING THE RENTAL OF CERTAIN PETS.

Be it enacted, etc., as follows:

Chapter 272 of the General Laws is hereby amended by inserting after section 80H the following section:-

Section 80I. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:-

“Assistance and service dog”, a canine specifically trained to help persons with disabilities or a canine trained to help a person with a disability in life; provided, however,

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that “assistance and service dog” shall also include a canine trained for search and rescue and a medical response dog.

“Canine foster care”, an organization that places canines in a temporary home while awaiting pet adoption.

“Earth dog”, a canine breed used as a hunting dog to track game above and below ground.

“Farm dog”, a canine that works on a farm to assist humans or other animals.

“Pet adoption”, the permanent ownership of and responsibility for a pet that a previous owner has abandoned or otherwise abdicated its responsibility.

“Renting and leasing”, the practice of renting a dog for a fee or a cost which will knowingly result in a temporary possession of the animal by another party.

“Therapy dog”, a canine that is used under the ownership and care of its handler that visits people for educational, medical or mental purposes.

(b) No person shall engage in the business of leasing or renting a dog. A dog held for such leasing or renting may be seized or impounded by an organization or agent thereof that is authorized to seize or impound animals under the General Laws. A violation of this section shall be punished by a fine of not less than \$100 for the first violation, not less than \$500 for the second violation and \$1,000 for subsequent violations. Fines may be levied on both the business that is leasing a dog and the person that has entered into a rental agreement. Nothing in this section shall prohibit service animal businesses or organizations, pet adoption and foster care services, and working animals for the following purposes including, but not limited to: service animal businesses or organizations, pet adoption and foster care services, farming and agriculture, working dog activities, dogs working in entertainment and shows which are authorized to do so under the General Laws, dogs participating in performance sports or activities including, but not limited to, sporting, hunting, earth dog and racing dog activities and people engaged in breeding, training and showing dog, and dogs used for medical or scientific purposes so long as such use is lawful. This section shall not prohibit a pet store, kennel, pet adoption service or other entity authorized to sell pets under the General Laws for a fee or a cost from taking back a pet that it may have sold if the owner is unable to keep or handle that pet.

Approved August 5, 2008.

Chapter 254. AN ACT PROVIDING FOR THE MERGER OF THE TURNERS FALLS FIRE DISTRICT AND THE LAKE PLEASANT WATER SUPPLY DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 449 of the acts of 1908 is hereby amended by striking out, in lines 17 and 18, the words “made a body corporate by the name of the Lake

Pleasant Water Supply District” and inserting in place thereof the following:- to be included as part of the body corporate by the name of the Turners Falls Fire District.

SECTION 2. Section 2 of said chapter 449 is hereby amended by striking out the first sentence.

SECTION 3. Said section 2 of said chapter 449 is hereby further amended by striking out, in lines 8 and 9, the words “water supply” and inserting in place thereof the following word:- fire.

SECTION 4. Section 3 of said chapter 449 is hereby amended by striking out, in line 1, the words “water supply” and inserting in place thereof the following word:- fire.

SECTION 5. Said section 3 of said chapter 449 is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- The title to all land taken, purchased or acquired in any way under the provisions of this act shall vest in the Turners Falls Fire District and the land so taken may be managed, improved and controlled by the Turners Falls Fire District board of water commissioners in such manner as they shall deem to be in the best interest of said district.

SECTION 6. Sections 5, 6 and 7 of said chapter 449 are hereby repealed.

SECTION 7. Said chapter 449 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. Said district shall hold meetings from time to time at the call of the Turners Falls Fire District prudential committee and notice of such meetings shall be provided by said prudential committee as may be required by law.

SECTION 8. Said chapter 449 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. All authority granted to said district by this act and not otherwise specifically provided for shall be vested in the board of water commissioners, who shall be subject to such instructions, rules and regulations as the district may impose by its vote.

SECTION 9. Said chapter 449 is hereby further amended by striking out section 10 and inserting in place thereof the following section:-

Section 10. Said board of water commissioners shall fix just and equitable prices and rates for the use of water, and shall prescribe the time and manner of payment.

SECTION 10. Section 11 of said chapter 449 is hereby repealed.

SECTION 11. Section 13 of said chapter 449 is hereby repealed.

SECTION 12. Upon the effective date of this act, the terms of office of the Lake Pleasant Water Supply District board of water commissioners and all other elected officials of the district shall be abolished and the terms of the elected officials holding such offices shall be terminated. No contracts or liabilities then in force shall be affected by such abolition or termination, but the Turners Falls Fire District, its prudential committee, and its board of water commissioners shall in all respects be the lawful successor of the Lake Pleasant Water Supply District, its board of water commissioners and all other elected officials of said district.

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SECTION 13. All equipment, real and personal property, infrastructure, water pipes, hydrants, and monetary assets and obligations owned or held by the Lake Pleasant Water Supply District, upon the effective date of this act, shall be transferred to and be under the custody, control and direction of the Turners Falls Fire District through its board of water commissioners.

SECTION 14. Notwithstanding any other provisions of this act, no fire protection service shall be offered or provided by the Turners Falls Fire District to the Lake Pleasant Water Supply District as that district existed before the effective date of this act, except at the request of the Montague Center Fire District.

Approved August 5, 2008.

Chapter 255. AN ACT RELATIVE TO THE USE OF A CERTAIN BUILDING IN THE TOWN OF WHITMAN.

Be it enacted, etc., as follows:

Section 1 of chapter 183 of the acts of 2004 is hereby amended by striking out, in line 6, the words “public safety” and inserting in place thereof the following word:- municipal.

Approved August 5, 2008.

Chapter 256. AN ACT RELATIVE TO MENTAL HEALTH PARITY.

Be it enacted, etc., as follows:

SECTION 1. Section 22 of chapter 32A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage on a nondiscriminatory basis for the diagnosis and treatment of the following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, referred to in this section as the DSM: (1) schizophrenia; (2) schizoaffective disorder; (3) major depressive disorder; (4) bipolar disorder; (5) paranoia and other psychotic disorders; (6) obsessive-compulsive disorder; (7) panic disorder; (8) delirium and dementia; (9) affective disorders; (10) eating disorders; (11) post traumatic stress disorders; (12) substance abuse disorders; and (13) autism.

The commission shall also provide to any active and retired employee of the commonwealth who is insured under the group insurance commission coverage on a nondiscriminatory basis for the diagnosis and medically necessary and active treatment of any mental disorder, as described in the most recent edition of the DSM, that is approved by the commissioner of mental health.

SECTION 2. Said section 22 of said chapter 32A, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 3. Section 47B of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) An individual policy of accident and sickness insurance issued pursuant to section 108, which provides hospital expense and surgical expense insurance, and a group blanket or general policy of accident and sickness insurance issued pursuant to section 110, which provides hospital expense and surgical expense insurance, which is issued or renewed within or without the commonwealth, shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of the following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, referred to in this section as the DSM: (1) schizophrenia; (2) schizoaffective disorder; (3) major depressive disorder; (4) bipolar disorder; (5) paranoia and other psychotic disorders; (6) obsessive-compulsive disorder; (7) panic disorder; (8) delirium and dementia; (9) affective disorders; (10) eating disorders; (11) post traumatic stress disorder; (12) substance abuse disorders; and (13) autism.

An individual policy of accident and sickness insurance issued pursuant to section 108, which provides hospital expense and surgical expense insurance, and a group blanket or general policy of accident and sickness insurance issued pursuant to section 110, which provides hospital expense and surgical expense insurance, which is issued or renewed within or without the commonwealth, shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and medically necessary and active treatment of any mental disorder, as described in the most recent edition of the DSM, that is approved by the commissioner of mental health.

SECTION 4. Said section 47B of said chapter 175, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 5. Said section 47B of said chapter 175, as so appearing, is hereby further amended by adding the following subsection:-

(j) The coverage of mental disorders required under this section shall apply to small group health benefit plans subject to chapter 176J and nongroup health benefit plans subject to chapter 176M.

SECTION 6. Section 110 of said chapter 175, as amended by section 32 of chapter 205 of the acts of 2007, is hereby further amended by striking out subdivision (H).

SECTION 7. Section 8A of chapter 176A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A contract between a subscriber and the corporation under an individual or group hospital service plan which is issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and members and group members having a principal place of employment in the commonwealth for the diagnosis and treatment of the following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, referred to in this section as the DSM: (1) schizophrenia; (2) schizoaffective disorder; (3) major depressive disorder; (4) bipolar disorder; (5) paranoia and other psychotic disorders; (6) obsessive-compulsive disorder; (7) panic disorder; (8) delirium and dementia; (9) affective disorders; (10) eating disorders; (11) post traumatic stress disorder; (12) substance abuse disorders; and (13) autism.

A contract between a subscriber and the corporation under an individual or group hospital service plan which is issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and members and group members having a principal place of employment in the commonwealth for the diagnosis and medically necessary and active treatment of any mental disorder, as described in the most recent edition of the DSM, that is approved by the commissioner of mental health.

SECTION 8. Said section 8A of said chapter 176A, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 9. Section 10 of said chapter 176A, as so appearing, is hereby further amended by striking out the fourth paragraph.

SECTION 10. Section 4A of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A subscription certificate under an individual or group medical service agreement which is issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment in the commonwealth for the diagnosis and treatment of the following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, referred to in this section as the DSM: (1) schizophrenia; (2) schizoaffective disorder; (3) major depressive disorder; (4) bipolar disorder; (5) paranoia and other psychotic disorders; (6) obsessive-compulsive disorder; (7) panic disorder; (8) delirium

and dementia; (9) affective disorders; (10) eating disorders; (11) post traumatic stress disorder; (12) substance abuse disorders; and (13) autism.

A subscription certificate under an individual or group medical service agreement which is issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment in the commonwealth for the diagnosis and medically necessary and active treatment of any mental disorder, as described in the most recent edition of the DSM, that is approved by the commissioner of mental health.

SECTION 11. Said section 4A of said chapter 176B, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 12. Section 4A½ of said chapter 176B is hereby repealed.

SECTION 13. Section 4 of chapter 176G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A health maintenance contract shall provide coverage for:

- (a) pregnant women, infants and children as set forth in section 47C of chapter 175;
 - (b) cardiac rehabilitation as set forth in section 47D of chapter 175;
 - (c) prenatal care, childbirth and postpartum care as set forth in section 47F of chapter 175;
 - (d) cytologic screening and mammographic examination as set forth in section 47G of chapter 175;
 - (e) diagnosis and treatment of infertility as set forth in section 47H of chapter 175;
- and

(f) services rendered by a certified registered nurse anesthetist or nurse practitioner as set forth in section 47Q of chapter 175, subject to the terms of a negotiated agreement between the health maintenance organization and the provider of health care services.

SECTION 14. Section 4M of said chapter 176G, as so appearing, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) A health maintenance contract issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all members or enrollees having a principal place of employment in the commonwealth for the diagnosis and treatment of the following biologically-based mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, referred to in this section as the DSM: (1) schizophrenia; (2) schizoaffective disorder; (3) major depressive disorder; (4) bipolar disorder; (5) paranoia and other psychotic disorders; (6) obsessive-compulsive disorder; (7) panic disorder; (8) delirium and dementia; (9) affective disorders; (10) eating disorders; (11) post traumatic stress disorder; (12) substance abuse disorders; and (13) autism.

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A health maintenance contract issued or renewed within or without the commonwealth shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all members or enrollees having a principal place of employment in the commonwealth for the diagnosis and medically necessary and active treatment of any mental disorder, as described in the most recent edition of the DSM, that is approved by the commissioner of mental health.

SECTION 15. Said section 4M of said chapter 176G, as so appearing, is hereby further amended by striking out subsection (f).

SECTION 16. All policies, contracts and certificates of health insurance subject to section 22 of chapter 32A, section 47B of chapter 175, section 8A of chapter 176A, section 4A of chapter 176B, or section 4M of chapter 176G of the General Laws that are delivered, issued or renewed on or after July 1, 2009 shall conform with this act. Form filings implementing this act shall be subject to the approval of the commissioner of insurance.

SECTION 17. This act shall take effect on July 1, 2009.

Approved August 5, 2008.

Chapter 257. AN ACT RELATIVE TO RATES FOR HUMAN AND SOCIAL SERVICE PROGRAMS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by inserting after section 22M the following section:-

Section 22N. The operational services division shall include a bureau of purchased services, hereinafter known as the bureau. The bureau shall have primary responsibility for the implementation and coordination of an efficient and accountable system of procurement, selection, special education pricing, contract administration, program monitoring and evaluation, contract compliance and post audit for any department, agency, board or commission of the commonwealth which procures or pays for social service programs from providers. Pricing for social service programs, other than special education programs, shall be set by the executive office of health and human services under chapter 118G.

For the purposes of this section, "social service program" shall mean any social, special educational, mental health, mental retardation, habilitative, rehabilitative, vocational, employment and training, or elder services program or accommodations, purchased by a governmental unit, including any program provided pursuant to chapter 71B, but excluding any program or service which is reimbursable under Title XIX of the Social Security Act. "Governmental unit" shall mean the commonwealth and any school district or other political subdivision of the commonwealth.

The bureau shall be headed by an assistant commissioner, who shall be appointed by and serve at the pleasure of the secretary of administration and finance, and who shall have

administrative responsibility for the bureau. The position shall be classified in accordance with section 45 of chapter 30, and the salary therefor shall be determined in accordance with section 46C of said chapter 30.

The bureau shall be comprised of such offices as may be necessary to carry out the mission of the bureau, which may include an audit office and a unit for special education pricing.

The bureau shall have the responsibility for prescribing the methods to be used in determining the prices to be reimbursed to providers of special education programs by governmental units. The methods prescribed by the division in determining prices shall incorporate cost containment standards and shall be fair to both governmental units and providers. All governmental units shall pay the prices developed in accordance with the methods prescribed by the bureau. Pricing for social service programs, other than special education programs, shall be set by the executive office of health and human services under chapter 118G.

The prices determined by the bureau of purchased services, or pursuant to its methods, for programs pursuant to chapter 71B shall be set annually by the first Wednesday in February for the next fiscal year. If the bureau fails to determine the final annual prices on or before the first Wednesday in February, the prices in effect at that time shall continue to be in effect for the next fiscal year. Program prices for programs approved under said chapter 71B which are located outside of the commonwealth may be adjusted prospectively to account for rate or price adjustments authorized by the host state's rate setting body. Program prices may also be adjusted prospectively to account for unanticipated emergencies beyond the reasonable control of the provider, or to reflect costs attributable to extraordinary changes in volume, or to account for compliance with federal or state statutory or local regulatory requirements as determined by the bureau and pursuant to standards developed by the bureau. No such price may be adjusted retroactively to its effective date except to account for the results of administrative reviews, if any, as provided in the regulations of the bureau. Nothing herein shall preclude the bureau from setting a price for a new program established for the first time under said chapter 71B, or individual or sole source prices as provided in the regulations of the bureau after the first Wednesday in February of any fiscal year.

The bureau shall submit an estimated rate of inflation for social service programs to the secretary of administration and finance annually by December 1 for consideration in the preparation of the governor's annual budget recommendation. The bureau shall also notify superintendents of this estimated rate of inflation by December 1.

A provider or governmental unit aggrieved by the bureau's action or failure to act with respect to the determination of a price pursuant to the bureau's pricing methods, and desiring a review thereof, may file, pursuant to regulations promulgated by the bureau, an appeal with the division of administrative law appeals in accordance with section 4H of chapter 7. The question on appeal of the decision of the bureau of purchased services shall be whether the bureau, in taking the action challenged by the aggrieved party, has properly

applied its regulations. This paragraph shall not be construed to confer a right upon an aggrieved party to challenge, in a proceeding before the division of administrative law appeals, the procedural or substantive validity of a regulation of general applicability promulgated by the bureau of purchased services. Any such challenges shall be brought exclusively in the superior courts of the commonwealth in accordance with the provisions of chapter 30A.

The bureau shall establish guidelines and standards, consistent with generally accepted governmental auditing standards, for independent financial and performance audits of providers of social service programs and governmental units purchasing programs. The bureau shall coordinate or conduct audits of providers as needed to monitor compliance with applicable fiscal policies. The bureau shall develop and administer a uniform system of financial accounting, allocation, reporting and auditing of providers which conforms to generally accepted governmental auditing standards. The bureau may conduct quality assurance reviews of provider financial statements and their auditors' reports and work papers. The disclosure of client records by providers to auditors, including independent auditors as defined by federal Office of Management and Budget Circular A-133, as amended, as necessary to comply with state and federal audit requirements shall not constitute an invasion of privacy, or otherwise be grounds for civil or criminal penalty.

The assistant commissioner may, in accordance with said chapter 30A, promulgate rules and regulations required to develop, implement, administer and monitor the programs and functions of the bureau. These regulations shall provide for right of appeal to the bureau or other appropriate bodies for a procuring governmental unit or provider aggrieved by an action or failure to act under this section or the regulations.

All proposed regulations of the department of early education and care and the department of elementary and secondary education, and any other licensing or certification standards proposed by a department having an impact on chapter 71B Special Education programs, shall be forwarded to the bureau of purchased services with a statement describing the anticipated financial impact of the regulations 14 days prior to publication of the notice of rulemaking required under chapter 30A.

The bureau shall adopt regulations limiting the reimbursement to providers for the salaries of their officers or managers to the maximum salary of Job Group M-XII in the management salary schedule in section 46C of chapter 30.

The bureau shall adopt rules and regulations governing contracts between governmental units and social service program providers which shall include, but not be limited to: a provision requiring that all transactions between the providers and related parties shall be disclosed in writing in advance to the bureau and to such governmental units; a provision requiring a complete inventory of equipment which is to be used by a provider and to which a governmental unit has title, and requiring the return of such equipment to the proper governmental unit upon the completion or termination of the contract; and a provision requiring that any contracts for which funds expended by the commonwealth thereunder reimburse or compensate the providers for the amortization of mortgages for the ownership

of any real property, whether owned directly or indirectly by a provider, shall contain provisions for the recoupment of such reimbursement or compensation by the commonwealth in the event the property is sold and may, if necessary, allow for the execution of liens to ensure such recoupment; provided, however, that any such lien shall be subordinated to a statutory lien, to the lien of a first mortgagee who has provided a purchase-money mortgage for such property and to the interest of a banking institution, as defined in section 1 of chapter 167A, holding a security interest in such property in an amount not exceeding 10 per cent of the appraised value of such property as determined and provided by such banking institution; and provided further, that any such recoupment shall be net of any outstanding balance due pursuant to any such superior security interest. If after a hearing the bureau finds a violation of a regulation adopted under this paragraph, the bureau may order that the contract be terminated, or may assess a civil penalty of not more than \$2,000 or 10 per cent of the amount payable under the contract, whichever is greater, which the agency shall withhold from payments otherwise due under the contract. Notwithstanding the foregoing, a provider aggrieved under this paragraph may exercise any legal remedies or cause of action available to such provider under law. If the bureau determines after a hearing that a provider has committed repeated willful violations of this paragraph, it may debar the provider from further state contracts but such debarment shall not be for a period longer than 5 years.

SECTION 2. Section 1 of chapter 118G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of "General health supplies, care or rehabilitative services and accommodations" the following definition:-

"Governmental mandate", a state or federal statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that directly or indirectly imposes an obligation and associated compliance cost upon a provider to take an action or to refrain from taking an action in order to fulfill the provider's contractual duty to a procuring governmental unit.

SECTION 3. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Small business" the following 2 definitions:-

"Social service program", a social, mental health, mental retardation, habilitative, rehabilitative, substance abuse, residential care, adult or adolescent day care, vocational, employment and training, or elder service program or accommodations, purchased by a governmental unit or political subdivision of the executive office of health and human services, but excluding any program, service or accommodation that: (a) is reimbursable under a Medicaid waiver granted under section 1115 of Title XI of the Social Security Act; or (b) is funded exclusively by a federal grant.

"Social service program providers", providers of social service programs in the commonwealth.

SECTION 4. Section 2A of said chapter 118G, as so appearing, is hereby amended by adding the following paragraph:-

The secretary shall have the sole responsibility for establishing rates of payment for

social service programs which are reasonable and adequate to meet the costs which are incurred by efficiently and economically operated social service program providers in providing social service programs in conformity with federal and state law, regulations, and quality and safety standards. When establishing rates of payment for social service programs, the secretary shall adjust rates to take into account factors, including, but not limited to: (a) the reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority; (b) a cost adjustment factor to reflect changes in reasonable costs of goods and services of social service programs including those attributed to inflation; and (c) geographic differences in wages, benefits, housing and real estate costs in each metropolitan statistical area of the commonwealth, and in any city or town therein where such costs are substantially higher than the average cost within that area as a whole. The secretary shall not consider any of the resources specified in section 12 when establishing, reviewing or approving rates of payment for social service programs.

SECTION 5. Section 7 of said chapter 118G, as so appearing, is hereby amended by inserting after the word “services”, in line 4, the following:- and social service programs; provided, however, that for the purposes of this section, social service program providers shall be treated as non-institutional providers.

SECTION 6. Said chapter 118G is hereby further amended by inserting after section 24 the following section:-

Section 24A. Every 6 months, the secretary of health and human services shall submit a report to the governor, the secretary of administration and finance, the clerks of the house and senate, who shall forward the same to the joint committee on children, families and persons with disabilities, the joint committee on health care financing, the senate and house committees on ways and means, and the clerks of the senate and the house of representatives, regarding the status and evidence of the implementation of the prospective rate system set forth in section 7. The reports shall include, but not be limited to, information regarding the percentage of social service program providers reimbursed at the time of reporting by the secretary of health and human services through a rate setting process and the percentage of such providers reimbursed through a contract with another state agency and initiatives undertaken to promote efficiency or reduce or control costs and the results thereof.

SECTION 7. Section 99 of chapter 138 of the acts of 1991 is hereby repealed.

SECTION 8. Section 274 of chapter 110 of the acts of 1993 is hereby repealed.

SECTION 9. Section 113 of chapter 151 of the acts of 1993 is hereby repealed.

SECTION 10. Section 3 of chapter 296 of the acts of 1993 is hereby repealed.

SECTION 11. Section 99 of chapter 495 of the acts of 1993 is hereby repealed.

SECTION 12. Section 153 of chapter 184 of the acts of 2002 is hereby repealed.

SECTION 13. Notwithstanding any special or general law to the contrary, on or before December 1, 2008, the secretary of health and human services shall submit a report

to the governor, the secretary of administration and finance, the joint committee on children, families and persons with disabilities, the joint committee on health care financing, the senate and house committees on ways and means, and the clerks of the senate and the house of representatives, regarding available resources and a plan for resource allocation within the executive office of health and human services. This report shall include a plan for the reassignment of resources from other state agencies and authorities to the executive office of health and human services as may be necessary to satisfy the requirements of section 7 of chapter 118G of the General Laws, and shall identify potential efficiencies and cost savings and any legislative action necessary to facilitate realizing such efficiencies and savings.

SECTION 14. On or before March 1, 2009, the secretary of health and human services shall submit a report to the governor, the secretary of administration and finance, the joint committee on children, families and persons with disabilities, the joint committee on health care financing, the senate and house committees on ways and means, and the clerks of the senate and the house of representatives, setting forth a plan for the implementation of section 7 of chapter 118G of the General Laws consistent with the requirements of sections 8 to 12, inclusive, of this act. The report shall include information regarding resource allocation within the executive office of health and human services and any reassignment of resources from other state agencies and authorities which were implemented during the preceding year or were needed prospectively to satisfy the requirements of this act, and a timetable for implementation for the prospective rate system set forth in said section 7 of said chapter 118G.

SECTION 15. On or before October 1, 2009, a prospective rate setting process as required by section 7 of chapter 118G of the General Laws shall have been implemented and rates shall have been set under this prospective rate setting process for not less than 10 per cent of the contracts with social service providers by any governmental unit or political subdivision of the executive office of health and human services.

SECTION 16. On or before October 1, 2010, a prospective rate setting process as required by section 7 of chapter 118G of the General Laws shall have been implemented and rates shall have been set under this prospective rate setting process for not less than 40 per cent of the contracts with social service providers by any governmental unit or political subdivision of the executive office of health and human services.

SECTION 17. On or before October 1, 2011, a prospective rate setting process as required by section 7 of chapter 118G of the General Laws shall have been implemented and rates shall have been set under this prospective rate setting process for not less than 70 per cent of the contracts with social service providers by any governmental unit or political subdivision of the executive office of health and human services.

SECTION 18. On or before October 1, 2012, a prospective rate setting process as required by section 7 of chapter 118G of the General Laws shall have been implemented and rates shall have been set under this prospective rate setting process for all contracts with social service providers by any governmental unit or political subdivision of the executive

office of health and human services.

SECTION 19. Section 29 of chapter 60 of the acts of 1994 is hereby repealed.

SECTION 20. The first report under section 24A of chapter 118G of the General Laws shall be filed on or before July 1, 2009.

Approved August 5, 2008.

Chapter 258. AN ACT PROVIDING FOR THE PUBLIC HIGHER EDUCATION CAPITAL IMPROVEMENT NEEDS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the public higher education 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:

SECTION 1. To provide for a program of capital improvements to public higher education institutions to provide support for these institutions in carrying out their educational missions and to enhance regional economic development through their educational initiatives, 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, which sums shall be in addition to any other amounts previously appropriated for these purposes.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Division of Capital Asset Management and Maintenance

7066-8000 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase or by eminent domain under chapter 79 of the General Laws and for the preparation of plans and specifications, repairs, construction, renovations, improvements, maintenance and repair, asset management and demolition at state and community college campus facilities and grounds; provided, that all projects approved for design and construction by the division of capital asset management and maintenance shall be consistent in priority and need with regional capital master plans developed by the division of capital asset management and maintenance, in consultation

with the presidents of the state and community colleges and approved by the board of higher education; provided further, that all maintenance and repair work funded by this item shall be included in the capital asset management information system administered by the division of capital asset management and maintenance; provided further, that not less than \$1,000,000 shall be expended for the sealing of building envelopes at Berkshire Community College; provided further, that not less than \$23,000,000 shall be expended for the renovation of Hawthorne and Melville Halls and the renovation and modernization of academic classrooms at Berkshire Community College; provided further, that not less than \$46,525,548 shall be expended for a new technology learning center and the modernization of Science Building "E" for the modernization of the Siegel Health Technologies Building "C" and for the development of new academic space at Bristol Community College; provided further, that not less than \$4,500,000 shall be expended for the renovation of Building 2 of the former Texas Instruments campus in the city of Attleboro for the Bristol Community College campus in said city of Attleboro; provided further, that not less than \$20,000,000 shall be expended for the acquisition, construction, renovation, design, and development of a full service consolidated campus, which shall be comprised of no less than 40,000 square feet; provided further than such a consolidated campus shall be located in downtown New Bedford; and provided further that such a campus shall incorporate education, workforce development and training and community development in downtown New Bedford at Bristol Community College; provided further, that not less than \$29,152,560 shall be expended for a new learning and resource center at Bunker Hill Community College, including Building "B" renovations and a new campus entrance; provided further, that not less than \$14,120,342 shall be expended for the campus connections and high priority major renovation and modernization projects, including Buildings "D" and "E", and completing the original campus design at Bunker Hill Community College; provided further, that not less than \$300,000 shall be expended for an accessibility, traffic and parking study at Cape Cod Community College; provided further, that not less than \$36,000,000 shall be ex-

pended for a new science building and renovation to the existing Science Center, and modernization and renovation of existing facilities at Cape Cod Community College; provided further, that not less than \$31,000,000 shall be expended for the renovation and modernization of the Campus Core Building, construction of a new maintenance building and renovation and modernization of existing capacity in the East Building at Greenfield Community College; provided further, that not less than \$4,750,000 shall be expended for renovation of existing academic and student support spaces at Holyoke Community College; provided further, that not less than \$20,300,000 shall be expended for the renovation of Building "G" and academic addition at Holyoke Community College; provided further, that not less than \$22,100,000 shall be expended for a new allied health academic facility at Massachusetts Bay Community College; provided further, that not less than \$27,399,907 shall be expended for improvements to the campus including, but not limited to, a new allied health and sciences building at Massasoit Community College; provided further, that not less than \$10,124,335 shall be expended for new general academic buildings and renovations of existing facilities at Middlesex Community College in the city of Lowell; provided further, that not less than \$11,017,100 shall be expended for a new performing arts center at Middlesex Community College in the city of Lowell; provided further that not less than \$24,000,000 shall be expended for new general academic buildings and renovations of existing facilities at Middlesex Community College in the city of Bedford; provided further, that not less than \$37,900,000 shall be expended for a new auto tech garage facility and receiving area, for the modernization of the Haley Academic Center and campus modernizations at Mount Wachusett Community College; provided further, that not less than \$31,936,120 shall be expended for a new allied health building, backfill and renovations to Ferncroft at North Shore Community College in the town of Danvers; provided further, that not less than \$20,715,600 shall be expended for the expansion of the North Shore Community College in the city of Lynn; provided further, that not less than \$31,718,123 shall be expended for

a new allied health building at Northern Essex Community College in the city of Lawrence and for the renovation of the Spurk Building at Northern Essex Community College in the city of Haverhill; provided further, that not less than \$23,106,943 shall be expended for a new academic, science and technology building at Quinsigamond Community College; provided further, that not less than \$2,341,324 shall be expended for a new maintenance and receiving facility at Quinsigamond Community College; provided further, that not less than \$15,931,331 shall be expended for additional classroom space at Quinsigamond Community College; provided further, that not less than \$5,500,000 shall be expended for reconstruction and improvements to parking lots at Mount Wachusett Community College; provided further, that not less than \$20,742,970 shall be expended for major renovation and modernization projects at Roxbury Community College including, but not limited to, the renovation and modernization of existing classroom space and improvements to the Academic Building and the Media Arts Building; provided further, that not less than \$303,920 shall be expended for the sealing of building envelopes and study of the building systems and repairs at Springfield Technical Community College; provided further, that not less than \$33,200,000 shall be expended for the stabilization and renovation of Building 19 at Springfield Technical Community College; provided further, that not less than \$98,696,000 shall be expended for the Conant Science Center modernization and addition at Bridgewater State College; provided further, that not less than \$57,001,848 shall be expended for a new science center and renovations of existing facilities at Fitchburg State College; provided further, that not less than \$9,300,000 shall be expended for the Christa McAuliffe Center for Education and Teaching Excellence at Framingham State College; provided further, that not less than \$51,389,263 shall be expended for the expansion, modernization and improvement of Hemenway Hall Science Center at Framingham State College; provided further, that not less than \$30,000,000 shall be expended for the modernization of existing facilities and the Center for Design Innovation at Massachusetts College of Art and Design; provided further, that \$54,500,000 shall be expended

for renovation and expansion for a new Center for Sciences and Innovation at Massachusetts College of Liberal Arts and renovations and modernizations to existing academic facilities; provided further, that not less than \$23,000,000 shall be expended for the modernization of the library at the Massachusetts Maritime Academy; provided further, that not less than \$106,433,169 shall be expended for the library and learning commons renovation or replacement and for renovations and specialized space addition to Meier Hall at Salem State College which may be combined with the library and learning commons renovation or replacement to provide a science and learning commons; provided further, that not less than \$33,000,000 shall be expended for a new academic building at Westfield State College; provided further, that \$2,800,000 shall be expended for safety and accessibility renovations at the Dever Auditorium building at Westfield State College; provided further, that not less than \$25,500,000 shall be expended for the modernization and improvement of the health science and athletic center at Worcester State College; provided further, that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further, that any new capital projects funded through this item, unless they are consistent with approved regional capital master plans, shall be recommended by the board of higher education and approved by the secretary of education; and provided further, that the expenditure of any funds provided in this item not previously earmarked shall be recommended by the board of higher education and approved by the secretary of education and the secretary of administration and finance . . . \$1,189,055,630

7100-1000 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase or by eminent domain under chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, maintenance and repair, asset management and demolition at

the University of Massachusetts campus facilities and grounds; provided, that all projects approved for design and construction by the division of capital asset management and maintenance shall be consistent in priority and need with a capital master plan approved by the president of the University of Massachusetts and the board of trustees of the University of Massachusetts; provided further, that all maintenance and repair work funded by this item shall be included in the capital asset management information system administered by the division of capital asset management and maintenance; provided further, that not less than \$85,000,000 shall be expended for a new academic classroom building at the Amherst campus; provided further, that not less than \$100,000,000 shall be expended for a new laboratory science building at the Amherst campus; provided further, that not less than \$12,600,000 shall be expended for repairs to Machmer Hall at the Amherst campus; provided further, that not less than \$41,250,000 shall be expended for repairs and renovations to Lederle Research Center at the Amherst campus; provided further, that not less than \$51,300,000 shall be expended for repairs and renovations to Morrill Science Center at the Amherst campus; provided further, that not less than \$25,000,000 shall be expended for the stabilization of the campus substructure and alternate parking improvements at the Boston campus; provided further, that not less than \$100,000,000 shall be expended for the construction of a new academic building at the Boston campus; provided further, that not less than \$8,000,000 shall be expended for renovations and infrastructure repairs to the library at the Dartmouth campus; provided further, that not less than \$11,000,000 shall be expended for building and retrofitting of vacated spaces at the Dartmouth campus; provided further, that not less than \$250,000 shall be expended on planning and design services, including obtaining cost estimates, revenue estimates, construction drawings and specifications, feasibility studies, surveys and site analyses to determine the feasibility, approximate size, scope, location, and economic development of graduate student dormitories and artist loft dormitories for the University of Massachusetts, Dartmouth; provided further, that not less than \$6,000,000 shall be expended for classroom space upgrades at the Dartmouth campus; provided further, that not less than \$2,100,000 shall

be expended for air conditioning improvements to facilities at the Dartmouth campus; provided further, that not less than \$70,000,000 shall be expended for projects at the University of Massachusetts at Dartmouth campus; provided further, that of said \$70,000,000, funds shall be expended for major infrastructure repair projects, for a new addition to the Charlton College of Business at the University of Massachusetts at Dartmouth, and for a marine science facility for the School of Marine Science and Technology at the University of Massachusetts at Dartmouth; provided further, that the marine science facility shall be located on an appropriate waterfront site in the city of New Bedford which may include, but shall not be limited to, the state pier, land located in the inner harbor of the port of New Bedford, or land adjacent to Fort Taber park; provided further, that not less than \$1,000,000 shall be expended for the Portuguese-American Archives at the University of Massachusetts at Dartmouth; provided further, that \$500,000 shall be expended for the expansion, retrofitting, or renovation of the Center for Portuguese Studies at the University of Massachusetts at Dartmouth; provided further, that not less than \$26,000,000 shall be expended for a new south academic building at the Lowell campus; provided further, that not less than \$10,000,000 shall be expended for the north quad modernization at the Lowell campus; provided further, that not less than \$10,000,000 shall be expended for civic and athletic facilities at the Lowell campus; provided further, that not less than \$1,500,000 shall be expended for storm water management at the Lowell campus; provided further, that not less than \$2,500,000 shall be expended for renovations to Olney Hall at the Lowell campus; provided further, that not less than \$4,000,000 shall be expended for capital expense related to Massachusetts Medical Device Development Center at the Lowell campus; provided further, that \$5,000,000 shall be expended for deferred maintenance needs at the Lowell campus; provided further, that not less than \$43,500,000 shall be expended for repairs, renovations and improvements to buildings, systems and other facilities at the Medical School in the city of Worcester; provided further, that not less than \$8,500,000 shall be expended for improvements to the Medical School's Shriver Center facility in the city of Waltham; provided further, that not less than \$3,682,500 shall

be expended for expansion of the Medical School in the city of Worcester; provided further, that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further that any new capital projects funded through this item, unless they are consistent with the approved university capital master plan, shall be recommended by the board of trustees of the university and approved by the secretary of education; and provided further, that the expenditure of any funds provided in this item not previously earmarked shall be recommended by the board of trustees of the university and approved by the secretary of education and the secretary of administration and finance \$1,001,500,000

SECTION 3. To meet the expenditures necessary in carrying out section 2, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$2,190,555,630. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Public Higher Education Capital Expenditure 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. The bonds shall be payable not later than June 30, 2048. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest on bonds issued under this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth.

SECTION 4. Section 1 of chapter 703 of the acts of 1963 is hereby amended by striking out paragraph (b), as appearing in section 1 of chapter 290 of the acts of 1998, and inserting in place thereof the following paragraph:-

(b) "Trustees", the board of higher education established in section 4 of chapter 15A of the General Laws or, if that board shall be abolished, the board, body or commission succeeding to the principal functions of that board or to which the powers given by said chapter 15A with respect to public institutions of higher education shall be given by law.

SECTION 5. Paragraph (e) of said section 1 of said chapter 703, as appearing in section 2 of chapter 800 of the acts of 1985, is hereby amended by inserting after the words "structures", in line 17, the following words:- , including buildings or structures owned by the commonwealth,.

SECTION 6. The second paragraph of section 2 of said chapter 703, as appearing in section 4 of said chapter 800, is hereby amended by striking out the seventh and eighth sentences.

SECTION 7. Said section 2 of said chapter 703 is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Chapter 268A of the General Laws shall apply to all members, officers and employees of the Authority.

SECTION 8. The first paragraph of section 7 of said chapter 703, as appearing in section 3 of chapter 290 of the acts of 1998, is hereby amended by striking out, in lines 14 to 19, inclusive, the words “; and provided further, that the Authority shall not issue bonds and notes other than those guaranteed by the commonwealth under said section 10, the principal amount of which, when added to the principal amount of bonds and notes other than those guaranteed by the commonwealth under said section 10 theretofore issued and then outstanding hereunder, excluding bonds and notes previously refunded or being or to be refunded thereby, shall exceed in the aggregate the amount of \$500,000,000”.

SECTION 9. The fourth paragraph of said section 7 of said chapter 703, as appearing in section 10 of chapter 800 of the acts of 1985, is hereby amended by striking out, in line 4, the words “but not”.

SECTION 10. The first paragraph of section 18A of said chapter 703, inserted by section 5 of chapter 290 of the acts of 1998, is hereby amended by striking out the first 3 sentences and inserting in place thereof the following 2 sentences:- To provide for the expenses of the Authority and for the payment of indebtedness incurred by it in carrying out this act, the trustees may, in the name and on behalf of the commonwealth, in connection with any financing or refunding provided by the Authority or in connection with any transfer to the Authority of buildings or other property under section 5, transfer or pledge that they will periodically transfer to the Authority or any other state college affiliate under terms permitting further transfer or pledge to the Authority: (i) all or any part of any nonappropriated funds or revenue legally available to a state college including, without limitation, tuition, fees and other charges; and (ii) all or any part of any funds made available for expenditure by or on behalf of a state college under an appropriation made by the general court or otherwise available for expenditure by the trustees, but if amounts described in clause (i) have been pledged as security for a financing, those amounts shall be exhausted before amounts described in clause (ii) shall be available for this purpose, and amounts described in clause (ii) shall be used only to prevent a default by the Authority in connection with indebtedness incurred by the Authority on behalf of the applicable state college. The trustees may contract with the Authority or any other state college affiliate to permit further transfer or pledge of such amounts by the Authority to a trustee under a trust agreement entered into by the Authority but, in the case of any funds expected to be available for expenditure by the trustees under subsequent appropriation or other spending authorization by the general court, the trustees shall only pledge that they will transfer these funds subject

to that subsequent appropriation or other spending authorization.

SECTION 10A. Section 29A of chapter 193 of the acts of 2004 is hereby repealed.

SECTION 11. 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: 1102-0890, 1102-0961, 1102-0964, 1102-9897, 2000-1962, 7100-0001, 7109-0961, 7109-0962, 7109-7893, 7110-0960, 7112-0960, 7112-0961, 7113-0960, 7114-0960, 7114-0961, 7115-0960, 7115-0961, 7116-0960, 7117-0960, 7118-0960, 7118-0961, 7118-7962, 7220-0960, 7220-0961, 7220-7893, 7310-0960, 7410-7960, 7452-7960, 7452-7961, 7452-7963, 7452-7964, 7452-7965, 7502-0960, 7503-7960, 7503-7892, 7504-7960, 7504-7961, 7505-7960, 7506-7961, 7506-7962, 7507-7960, 7508-0960, 7509-7960, 7510-7960, 7510-7961, 7511-7960, 7512-7960, 7512-7961, 7514-7960, 7514-7961, 7516-7960.

SECTION 12. Notwithstanding any general or special law to the contrary, any structure that is built, renovated, rehabilitated or repainted in any manner as a result of the funds contained in this act shall be required to employ a photo luminescent system to clearly delineate egress routes leading to all exits, including traditional, emergency, and evacuation routes. In all instances the photo luminescent technologies shall be situated at floor level, which shall mean on the floor or within the first 12 inches from the floor on the wall. The installation of this technology on these routes shall not require the use of electrical power, but shall require performance standards of the photo luminescent technology, post loss of power, to achieve a minimum of 150 mcd/m² at 10 minutes, 30 mcd/m² at 60 minutes and 15 mcd/m² after 90 minutes. These route systems shall meet state building code and fire code standards for heat resistance to be a viable safety path in extreme fire and smoke and other calamitous events.

SECTION 13. 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 secretary of education, the board of higher education, the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means, the senate and house chairs of the joint committee on higher education and the chairs of the joint committee on Bonding, Capital Expenditures and State Assets. 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; and 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 10 years from the effective date of this act.

SECTION 13A. Notwithstanding any general or special law to the contrary, a private entity engaged in a construction, development, renovation, remodeling, reconstruc-

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tion, 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 14. Section 11 shall take effect 90 days after the effective date of this act.

Approved August 6, 2008.

Chapter 259. AN ACT ESTABLISHING A SPECIAL RESERVE FUND IN THE TOWN OF SUNDERLAND.

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, the town of Sunderland shall establish a special reserve fund in the town treasury into which shall be deposited income derived from investment of the proceeds of the school building assistance grant received from the Massachusetts School Building Authority as reimbursement for the Sunderland elementary school reconstruction project.

(b) Income derived from the investment or reinvestment of the special fund, including income generated as of July 1, 2007, or thereafter, shall remain with and become part of the special reserve fund. The town treasurer shall be the custodian of the special reserve fund and shall make an accounting thereof to each annual town meeting.

(c) Amounts in the special reserve fund shall be applied solely to the payment of debt service associated with the Sunderland elementary school reconstruction project for which bonds or notes were authorized and issued, in the amount as a special or annual town meeting may by majority vote determine.

(d) Monies held in the special reserve fund may be invested pursuant to section 55 of said chapter 44; provided, however, that, notwithstanding any limitations on the maturity of investments under said section 55, the investments may have a maturity date not later than a date determined by the town treasurer as needed to pay the debt service.

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

Approved August 6, 2008.

Chapter 260. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JUDITH SARGENT, 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 an 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 Judith Sargent, 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 Judith Sargent. Whenever Judith Sargent 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 August 6, 2008.

Chapter 261. AN ACT ESTABLISHING A SICK LEAVE BANK FOR RICHARD K. WARD II, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Richard K. Ward II, 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 Richard K. Ward II. Whenever Richard K. Ward II 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 August 6, 2008.

**Chapter 262. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LOIS TOBIN,
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 Lois Tobin, 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 Lois Tobin. Whenever Lois Tobin 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 August 6, 2008.

**Chapter 263. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DAVID S.
VITALE, 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 David S. Vitale, 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 David S. Vitale.

Whenever David S. Vitale terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time of 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 August 6, 2008.

Chapter 264. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DAVID CATANZARO, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the trial court shall establish a sick leave bank for David Catanzaro, 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 David Catanzaro. Whenever David Catanzaro 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 sick 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 department.

Approved August 6, 2008.

Chapter 265. AN ACT RELATIVE TO THE NORTH RAYNHAM WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. The North Raynham Water District, acting by and through its commissioners, may transfer property located on Broadway in the town of Raynham, containing approximately 1.45 acres of land to Prospect Leasing, Inc. The parcel is shown as Parcel B on a plan entitled "Plan of Land in Raynham, Massachusetts" prepared by Hayward-Boynton & Williams Inc. Civil Engineers dated March 14, 2007. In consideration and exchange for this conveyance, Prospect Leasing, Inc. shall transfer land comprising approximately 1.746 acres, along with a 20 foot wide water access easement shown on the aforementioned plan to the North Raynham Water District for water supply purposes.

The fair market value of the 1.746 acre parcel shall be equal or greater than the fair market value of the 1.45 acre parcel described above, as determined by an independent appraisal. For the purposes of these appraisals, the fair market value of the 1.746 acre parcel shall be calculated in its highest and best use. If there is a disparity in these values in favor of the North Raynham Water District, Prospect Leasing Inc will pay a sum equal to the difference to the North Raynham Water District for deposit in its water supply land conservation fund or otherwise dedicated to preservation of water supply land.

SECTION 2. A document, including a deed, transferring the care, custody, control, ownership or management of the 1.746 acre parcel shall not be valid unless the document contains a conservation restriction stating that it will be used for water supply purposes by the water district.

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

Approved August 6, 2008.

Chapter 266. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT A SEWER EASEMENT IN CERTAIN LAND IN THE TOWN OF BELCHERTOWN.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the division of capital asset management and maintenance to convey a parcel of land to the town of Belchertown for the purpose of installing and constructing sanitary sewer facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. 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 may convey to the town of Belchertown a non-exclusive easement interest in a portion of a parcel of state-owned land located on George Hannon street and Jackson street in the town of Belchertown. The parcel contains 49,932 square feet or 1.146 acres and is shown as “Sewer Easement S-1” on a survey plan consisting of 1 sheet, entitled “Plan of Land in Belchertown, MA prepared for the Town of Belchertown Commonwealth of Massachusetts (Owner)”, dated November 7, 2006, prepared by Sherman & Frydryk, Land Surveying and Engineering, 3 Converse Street, Suite 203, Palmer, MA 01069. To mitigate the impact of the conveyance on farmland, the town shall pay the full and fair market value of this easement, as determined by an independent appraisal, to The Commonwealth of Massachusetts, Department of Agricultural Resources, Mitigation Expendable Trust. The department of agricultural resources shall use the payment for this easement for the acquisition or renovation of farmland near the site of the easement as practicable.

SECTION 2. The grantees of the easement interest described in section 1 shall assume the costs associated with any engineering, surveys, deed preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance and shall assume the costs of recording the survey plan and easement deed with the registry of deeds for Hampshire county.

Approved August 6, 2008.

Chapter 267. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO MAKE CERTAIN CONVEYANCES IN THE CITY OF SOMERVILLE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the division of capital asset management and maintenance to convey certain easements across commonwealth property in the Assembly Square area in the city of Somerville, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey permanent and temporary easements, including extra work space rights and permanent and temporary access road rights over, under and through portions of Draw 7 park in the city of Somerville, currently under the control of and used by the department of conservation and recreation for recreation and natural resource purposes, to the city of Somerville and its agents and contractors, solely for the purposes of laying, constructing, maintaining, accessing, operating, replacing, repairing, abandoning and removing a stormwater discharge pipe and outfall and appurtenant subsurface facilities, subject to sections 5 and 6 and any reasonable additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may determine and which shall be memorialized in a land disposition agreement between the division and FR Sturtevant Street, LLC. The easement area is labeled "Draw 7 Park 60' Drainage Area Easement" and "New Outfall" on a certain plan of land entitled "DCR Exchange Plan", prepared by Vanasse Hangen Brustlin, Inc. and dated August 7, 2007 and revised as of March 20, 2008, which is on file with the department of conservation and recreation and the clerks of the senate and house of representatives. Temporary work space and access road easements shall expire and revert to the commonwealth upon completion of the initial construction and restoration of the easement areas. Modifications to the easement referenced herein may be made in order to conform to the requirements of the Massachusetts Water Resources Authority, the department of conservation and recreation, the division of capital asset and management, the city of Somerville and a final land survey which shall be accepted by the division of capital asset management and maintenance and the department of conservation and recreation before any conveyance is made pursuant to this section.

SECTION 2. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation and the city of Somerville, may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey permanent and temporary easements, including extra work space rights and permanent and temporary access road rights over, under and through certain parcels of land located in the Ten Hills neighborhood of the city of Somerville currently under the control

of the department of conservation and recreation to the city of Somerville and its agents and contractors, solely for the purposes of laying, constructing, maintaining, accessing, operating, replacing, repairing, abandoning and removing a stormwater discharge pipe and outfall and appurtenant subsurface facilities, subject to sections 5 and 6 and any additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may determine and which shall be memorialized in a land disposition agreement between the division and FR Sturtevant Street, LLC. The easement is labeled as "I/I Mitigation within DCR Right of Way" on a certain plan of land entitled "DCR Exchange Plan", prepared by Vanasse Hangen Brustlin, Inc., and dated August 7, 2007 and revised as of March 20, 2008 which is on file with the department of conservation and recreation and the clerks of the senate and house of representatives. Temporary work space and access road easements shall revert to the commonwealth upon completion of the initial construction and restoration of the easement areas. Modifications to the easement referenced herein may be made in order to conform to the requirements of the Massachusetts Water Resources Authority, the division of capital asset management and maintenance, the department of conservation and recreation, the city of Somerville and a final land survey which shall be accepted by the division of capital asset management and maintenance and the department of conservation and recreation before any conveyance is made pursuant to this section.

SECTION 3. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation and the city of Somerville, may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, enter into an agreement extinguishing the easement established by a certain order of taking by the metropolitan district commission dated December 20, 1962 and recorded at the Middlesex south registry of deeds in book 10189, page 593, which easement is located in the city of Somerville and provides public access to Draw 7 park. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation and the city of Somerville, may, notwithstanding said sections 40E to 40J, inclusive, of said chapter 7, enter into an agreement for public access to Draw 7 Park and adjacent properties with FR Sturtevant Street, LLC. and its successors and assigns, subject to sections 5 and 6 and may agree to additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may determine, and which shall be memorialized in a land disposition agreement between the division and FR Sturtevant Street, LLC. The new easement is shown as "Easement 1.2+/- ac" and the modified easement is shown as a portion of the "Existing 40' Driveway Easement 1.2+/-ac," each shown on a certain plan of land entitled "DCR Exchange Plan", prepared by Vanasse Hangen Brustlin, Inc. and dated August 7, 2007 and revised as of March 20, 2008, which is on file with the division of capital asset management and maintenance, the department of conservation and recreation and the clerks of the senate and house of representatives. Modifications to the easement referenced herein may be made in order to conform to the requirements of the

division of capital asset management and maintenance, the department of conservation and recreation, the city of Somerville and a final land survey which shall be accepted by the division of capital asset management and maintenance and the department of conservation and recreation before any conveyance is made pursuant to this section.

SECTION 4. The commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation and the city of Somerville may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey a parcel of land located in the city of Somerville and currently under the control of the department of conservation and recreation to FR Sturtevant Street, LLC. its successors and assigns solely for the purpose of exchanging the approximately 1.8 acres of land, more or less, under the control of FR Sturtevant Street, LLC. and substantially as shown as "New DCR Land Dedication 1.8+/-ac" on a certain plan of land entitled "DCR Exchange Plan," prepared by Vanasse Hangen Brustlin, Inc. and dated August 7, 2007 and revised as of March 20, 2008, for the "Assembly Square Mixed Use Redevelopment", subject to sections 5 and 6 and any additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation and the city of Somerville, may determine and which shall be memorialized in a land disposition agreement between the division and FR Sturtevant Street, LLC. The division shall incorporate into the land disposition agreement the terms and conditions of the memorandum of agreement provided for in section 7. The parcel is a portion of the land more particularly described in a certain order of taking by the metropolitan district commission dated December 20, 1962 and recorded at the Middlesex south registry of deeds in Book 10189, page 593. The parcel is shown as "Boat Storage Exchange 1.5+/- ac" on a certain plan of land entitled "DCR Exchange Plan", prepared by Vanasse Hangen Brustlin, Inc. and dated August 7, 2007 and revised as of March 20, 2008, which is on file with the division of capital asset management and maintenance, the department of conservation and recreation and the clerks of the senate and house of representatives. Modifications to the parcel referenced herein may be made in order to conform to the requirements of the division of capital asset management and maintenance, the department of conservation and recreation, the city of Somerville and a final land survey which shall be accepted by the division of capital asset management and maintenance and the department of conservation and recreation before any conveyance is made pursuant to this section.

SECTION 5. No instrument executed pursuant to sections 1 to 4, inclusive, shall be valid unless it provides that the easement or parcel conveyed shall be used solely for the purposes described in said section 1 to 4, as applicable. The easement instruments authorized in sections 1 and 2 shall include a reversionary clause that stipulates the property shall revert to the commonwealth and be assigned to the care, custody and control of, the department of conservation and recreation, upon such terms and conditions as the commissioner of capital asset management and maintenance may determine, if the property ceases to be used for the express purposes for which it was conveyed. No conveyance on behalf of the commonwealth pursuant to section 4 shall be valid unless, the deed provides

that the property shall be used solely for the purposes described in said section 4. The deed shall include a reversionary clause that stipulates that the property shall revert to the commonwealth and be assigned to the care, custody and control of the department of conservation and recreation if the property ceases to be used for the express purposes for which it was conveyed. If any of these easements reverts to the commonwealth, any further disposition of the easement shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and the prior approval of the General Court.

SECTION 6. There shall be an independent appraisal of the easements described in sections 1 to 3, inclusive, and of the conveyance described in section 4 to determine the fair market value or the value in use as proposed. Consideration for the conveyances shall be the fair market value, or the value in use, whichever is greater, as determined by the commissioner of capital asset management. The grantees shall assume all costs associated with engineering, surveys, appraisals, deed preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance to execute the conveyances authorized by this act. All consideration paid to the commonwealth as a result of the conveyances authorized by this act shall be deposited in the Division of Urban Parks Trust Fund established in section 34 of chapter 92 of the General Laws. The commissioner of capital asset management and maintenance shall submit each appraisal and a report thereon to the inspector general for his review and comment. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology used for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner of capital asset management and maintenance. The commissioner of capital asset management and maintenance shall submit the appraisal, his report and the inspector general's review, approval and comments, if any, to the senate and house committees on ways and means and to the senate and house chairs of the joint committee on bonding, capital expenditures and state assets before the execution of the conveyances.

SECTION 7. To ensure a no-net-loss of lands protected for natural resource purposes, FR Sturtevant Street, LLC. shall convey or cause to be conveyed to the commonwealth lands or interest in lands to be held by the department of conservation and recreation for conservation or recreation purposes. The land or interest in land shall be of equal or greater size and resource values than the parcel described in section 4, as determined by the department. The department shall not declare any interest in land under its care and control as surplus unless the department and FR Sturtevant Street, LLC. execute a memorandum of agreement that details all mitigation commitments made to the department by FR Sturtevant Street, LLC. on account of the entire project and the conditions and milestones for completing each mitigation element.

Approved August 6, 2008.

Chapter 268. AN ACT FURTHER PROTECTING BUZZARDS BAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further protect Buzzards Bay, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 21L of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:-

(f) Any person that owns or operates a tank vessel, as defined in section 1 of chapter 21M, carrying 6,000 or more barrels of oil within Buzzards Bay, as defined in said section 1 of said chapter 21M, that is subject to section 9 of chapter 21M and that fails to provide notice to the department of environmental protection as provided in said section 9 of said chapter 21M and violates any provision of this chapter, by spilling oil into Buzzards Bay, shall be assessed triple the fines provided in this section.

SECTION 2. Section 1 of chapter 21M of the General Laws, as so appearing, is hereby amended by inserting before the definition of "Area of special interest" the following 2 definitions:-

"AIS", automatic identification system.

"ARPA", automatic radar plotting aid.

SECTION 3. Said section 1 of said chapter 21M, as so appearing, is hereby further amended by inserting after the definition of "Covered vessel" the following definition:-

"Department", department of environmental protection.

SECTION 4. Said section 1 of said chapter 21M, as so appearing, is hereby further amended by inserting after the definition of "Double hull" the following 2 definitions:-

"ECDIS", an electronic chart display and information system.

"Fund", the Oil Spill Prevention and Response Trust Fund, established in section 8.

SECTION 5. Said section 1 of said chapter 21M, as so appearing, is hereby further amended by inserting after the definition of "Illicit drug" the following 3 definitions:-

"Rescue tug", a tugboat escort having twin radar displays equipped with ECDIS or ARPA capable of integrating AIS, a towing winch and associated wire and gear capable of towing, at minimum, a 470 foot fully loaded tank vessel, pilot disembarkment gear, and 600 feet of oil spill response boom and associated response gear.

"Response time", the amount of time required for a rescue tug to assist a tank vessel.

"State pilot", a pilot commissioned under chapter 103 or a pilot having received a first class federal pilot's endorsement for the waters of Buzzards Bay and Cape Cod Canal prior to the effective date of this act and having executed at least 15 round trips in such waters within the preceding 3 years.

SECTION 6. Section 8 of said chapter 21M, as so appearing, is hereby amended, by inserting after the word "teams", in line 3, the following words:- , rescue tugs dispatched under section 9.

SECTION 7. Said section 8 of said chapter 21M, as so appearing, is hereby further amended by striking out, in lines 22 and 23, the words “2 cents for each barrel of petroleum product, as set by the commissioner pursuant to clause (4)” and inserting in place thereof the following words:- 5 cents for each barrel of petroleum product.

SECTION 8. Subsection (c) of said section 8 of said chapter 21M, as so appearing, is hereby amended by striking out clauses (3) to (6), inclusive, and inserting in place thereof the following clause:-

(3) All fees collected pursuant to this section shall be deposited in the fund and shall be disbursed for the purposes set forth in subsection (f). The state treasurer shall not deposit or transfer revenues generated pursuant to subsection (b) to the General Fund or any other fund other than the Oil Spill Prevention and Response Trust Fund.

SECTION 9. Said section 8 of said chapter 21M, as so appearing, is hereby further amended by striking out, in line 80, the word “and”, the second time it appears.

SECTION 10. Said section 8 of said chapter 21M, as so appearing, is hereby further amended by striking out, in line 84, the word “Administration.” and inserting in place thereof the following words:- Administration; and

(10) to pay for appropriately manned rescue tugs and state pilots in Buzzards Bay, dispatched under section 9.

SECTION 11. Said section 8 of said chapter 21M, as so appearing, is hereby further amended, by striking out, in line 127, the word “and”.

SECTION 12. Said section 8 of said chapter 21M, as so appearing, is hereby further amended by striking out the word “reimbursements.”, in line 128, and inserting in place thereof the following words:- reimbursements; and

(vii) payment of costs associated with appropriately manned rescue tugs and state pilots in Buzzards Bay, dispatched under section 9.

SECTION 13. Said chapter 21M, as so appearing, is hereby further amended by adding the following section:-

Section 9. (a) An owner or operator of a tank vessel carrying 6,000 or more barrels of oil may provide 24-hour notice to the department, in a manner to be determined by the department, of the owner or operator’s intent to enter or operate such vessel in Buzzard’s Bay.

(b) If 24-hour notice is given, pursuant to subsection (a) and the tank vessel is unaccompanied by a tugboat escort, the commissioner shall dispatch a state pilot, if requested by the owner or operator, to the towing vessel.

(c) The commissioner shall dispatch rescue tugs in Buzzards Bay to be available to tank vessels carrying 6,000 or more barrels of oil, unaccompanied by a tugboat escort, entering or operating in Buzzards Bay. The commissioner shall establish by regulation the maximum response times that rescue tugs shall maintain upon being dispatched.

(d) If no state pilot is requested under subsection (b), a rescue tug dispatched under

subsection (c) shall be manned by a state pilot. A state pilot may be dispatched by the commissioner to request boarding of the towing vessel. If the towing vessel refuses to allow the state pilot to board and a rescue tug is dispatched under said subsection (c), the state pilot may board said rescue tug at the direction of the commissioner. If no rescue tug is dispatched at the direction of the commissioner, the state pilot may monitor the safe passage of the vessel and provide information to the tank vessel operator on current and anticipated navigational issues from the pilot boat or from the rescue tug.

(e) The state pilot or operator of the rescue tugs shall report to the commissioner all near and actual navigational incidents that could potentially lead to an oil spill including, but not limited to: tank vessels traveling outside of the designated vessel route as appearing on the national oceanic and atmospheric administration chart for Buzzards Bay; failure to use AIS; near or actual collisions, allisions or groundings; steering or engine failures; and towing gear failures. The commissioner shall record, make available to the public, and keep on file these reports for not less than 10 years.

(f) Notwithstanding subsection (c), the commissioner may authorize longer response times and fewer state pilots if he determines that exigent circumstances exist. No such authorization shall be construed to relieve or otherwise limit the liability of an owner or operator of a tank vessel for any release of oil that occurs while the tank vessel enters or operates in Buzzards Bay. The commissioner shall report annually on January 1, to the joint committee on the environment, natural resources and agriculture the number of occasions that such exemptions were authorized.

(g) The commissioner shall adopt regulations for the implementation and enforcement of this section including, but not limited to, the dispatching of state pilots, manning requirements, and maximum response times.

(h) The commissioner, after a competitive bidding process, may evaluate such bids and may enter into contracts with companies to dispatch and provide rescue tugs, which meet or exceed the standards required under this section.

SECTION 14. Notwithstanding any general or special law to the contrary, the commissioner of environmental protection shall adopt regulations pursuant to subsection (g) of section 9 of chapter 21M of the General Laws not later than February 1, 2009.

SECTION 15. Subsections (g) and (h) of section 9 of chapter 21M of the General Laws, as appearing in section 13, shall take effect on the effective date of this act.

SECTION 16. Unless otherwise specified herein this act shall take effect on March 1, 2009.

Approved August 6, 2008.

Chapter 269. AN ACT PROVIDING FOR THE DISPOSITION OF CERTAIN PROPERTY AT MEDFIELD STATE HOSPITAL.

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

is to provide forthwith for the disposition of certain property at Medfield state hospital, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 1 of chapter 180 of the acts of 2002 is hereby amended by striking out clause (b) and inserting in place thereof the following clause:—

(b) Those certain parcels of land described as Parcels A, B and C in a certain order of taking recorded in the Norfolk county registry of deeds in Book 4567, Pages 628 and 629;

SECTION 2. Section 340 of chapter 149 of the acts of 2004 is hereby repealed.

SECTION 3. As used in sections 3 to 11, inclusive, the following words shall, unless the context clearly indicates otherwise, have the following meanings:

“Area median income”, the median income adjusted for family size as determined by HUD for the Boston MSA.

“Campus”, the parcels of state-owned land in the town of Medfield consisting of portions of the former Medfield state hospital, and the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto, including parcels A, A-1, A-2, B, C, D, E, F, G and H, as shown on the plan, as hereinafter defined.

“Client housing plan”, the description of the relative location and mix of the 1 and 2-bedroom units which the developer of the disposition parcel shall provide and set aside for clients whose annual income does not exceed 80 per cent of the area median income in accordance with subsection (d) of section 8.

“Clients”, clients of the department of mental health.

“Commissioner”, the commissioner of the division of capital asset management and maintenance.

“Developer”, any person, entity, or governmental body that acquires an ownership or leasehold interest in the disposition parcel, as hereinafter defined, or a portion thereof pursuant to this act.

“Disposition parcel”, parcels A, B and G as shown on the plan, containing approximately 134 acres in the aggregate, and the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

“Division”, the division of capital asset management and maintenance.

“MOA”, the memorandum of agreement to be executed between the town of Medfield and the division of capital asset management and maintenance.

“Permitted housing units”, the total number of housing units to be constructed on the disposition parcel consistent with the reuse plan.

“Plan”, the plan entitled “Compiled Subdivision Plan, Medfield State Hospital, Medfield, Massachusetts, prepared for Division of Capital Asset Management dated June 14, 2005, prepared by Judith Nitsch Engineering, Inc.” on file with the division.

“Reuse plan”, the Medfield state hospital reuse plan prepared by the division and approved by the Medfield board of selectmen on November 15, 2005, as the same may be amended from time to time by the division in accordance with this act and with the consent of the Medfield board of selectmen.

“Survey”, a survey of the campus undertaken by the commissioner in accordance with the plan and pursuant to section 4.

“Town”, the town of Medfield acting by and through its board of selectmen.

SECTION 4. The commissioner may prepare a survey and may undertake such additional planning and studies and the preparation of plans and specifications and, after receiving the consent of the board of selectmen of the town of Medfield, may amend the reuse plan as the commissioner considers necessary. The survey shall define the boundaries of the campus, of the parcels referred to in this act and the disposition parcel, substantially as set forth on the plan, but, the boundaries of the parcels referred to in this act shall be determined by the commissioner.

SECTION 5. After the completion of the transactions authorized in section 8, the commissioner may transfer care and custody of parcels A-1, A-2 and C as shown on the plan and subject to easements as the commissioner may elect, to the department of conservation and recreation for open space and passive recreational purposes. The transfer shall be without consideration and shall not be subject to chapter 7 of the General Laws.

SECTION 6. After the completion of the transactions authorized in section 8, the commissioner may transfer care and custody of parcel D as shown on the plan to the executive office of public safety for use as a firing range and open space. The transfer shall be without consideration and shall not be subject to chapter 7 of the General Laws.

SECTION 7. Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary and after the completion of the transactions authorized in section 8, the commissioner may, transfer to the town of Medfield, for nominal consideration, all of the commonwealth’s right, title and interest in the water tower located on parcel A as shown on the plan and in the parcel of land on which the water tower is located as shown on the plan and to grant to the town of Medfield rights of way or easements for access, egress, and utilities across parcel A as the commissioner considers reasonable and necessary for the use of the water tower by the town of Medfield. It shall be a condition of the transfer and grant that the town shall operate, maintain, repair and replace said water tower and its appurtenant facilities for the purpose of providing water in the town. A deed conveying the parcel of land to the town of Medfield shall contain a provision that if the parcel ceases to be used for the purpose set forth in this section, then upon notification to the owner by the commonwealth and recording of that notification with the appropriate registry of deeds or registry district of the land court, title to the parcel shall revert to the commonwealth.

SECTION 8. (a) Notwithstanding sections 40E to 40I, inclusive of chapter 7 of the General Laws, or any other general or special law to the contrary, the commissioner may sell,

lease for a term or terms of up to 99 years, including all renewals and extensions, or otherwise grant, convey, or transfer to one or more developers an interest in the disposition parcel, or portions thereof, and any buildings, improvements and facilities thereon, subject to this act and the reuse plan and on the terms and conditions as the commissioner considers appropriate; but, no portion of the disposition parcel may be used for an incinerator, landfill, or other means of permanent disposal of solid or hazardous waste, house of correction, jail or prison.

(b) Before conveyance or lease, the commissioner shall, in consultation with the department of agricultural resources and with the department of conservation and recreation, delineate 1 or more areas of parcel B to be protected by agricultural preservation restrictions or conservation restrictions, and shall determine the terms and conditions of those restrictions. Without limiting the foregoing, the restrictions shall limit the use of parcel B to agricultural open space, recreational and ancillary uses on conditions as agreed upon by the commissioner and the department of conservation and recreation and the department of agricultural resources. The commissioner shall incorporate the restrictions in a deed conveying all or a portion of parcel B to be so protected. In connection with any sale of all or a portion of parcel B by the commonwealth in accordance with this section, the commissioner shall require that the purchaser, immediately after it acquires title, shall convey to the town of Medfield, for nominal consideration, parcel B or the portion of parcel B as may be conveyed to the purchaser. In connection with any lease of all or a portion of parcel B by the commonwealth in accordance with this section, the commissioner shall require that the lessee shall immediately lease to the town of Medfield, for nominal consideration, parcel B or the portion of parcel B as may be leased to the lessee. Upon the conveyance or lease to the town of Medfield, the town shall be responsible for the use and maintenance of parcel B or the portion thereof so conveyed or leased to the town for agricultural open space, recreational and ancillary uses.

(c) The commissioner shall dispose of the disposition parcel, or portions thereof, utilizing appropriate competitive processes and procedures. The selection of a qualified developer for the disposition parcel or any portion thereof shall be made primarily based on the selected developer's plan to meet the requirements for providing affordable housing for clients, as set forth in subsection (d) of this section, the financial feasibility of the proposed development, the developer's experience with projects of this size and complexity, conformity with this act and in compliance with the reuse plan and the MOA, and other factors as the commissioner considers appropriate. The commissioner and the commissioner of mental health, after consultation with the department of housing and community development and the town, shall jointly select the client housing plan submitted by bidders that best meets the requirements of this act, taking into account the criteria for selection of a qualified developer pursuant to this subsection. In order to ensure that substantial benefit is derived for clients of the department of mental health from the transfer of the disposition parcel pursuant to this act, the commissioner shall provide the commissioner of the department of mental health and the undersecretary of housing and community development

with an opportunity to review and comment on any request for proposals, to review proposals received and to make recommendations concerning the designation of 1 or more developers. The commissioner shall also provide the town with an opportunity to review and comment on a request for proposals, to review proposals received and to make recommendations concerning the designation of 1 or more developers. The designated developer shall be required to implement the approved client housing plan.

Upon the expiration of a lease entered into under this act, the commissioner shall have the authority to dispose of the disposition parcel or portions thereof so leased in accordance with this act, but notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary.

(d) The developer of the disposition parcel shall provide and set aside units of rental housing for clients whose annual income does not exceed 80 per cent of the area median income in accordance with the following: (1) the number of set-aside units shall equal 10 per cent of the number of permitted housing units, but in no event shall less than 44 set-aside units be provided; (2) 24 of the set-aside units shall be constructed on the disposition parcel; (3) the balance of the set-aside units, but not less than 20, shall be located elsewhere in the department of mental health's metro suburban area; (4) the set-aside units shall include a mix of 1 and 2-bedroom units; and (5) each of the units shall be set aside for clients for as long as the disposition parcel is used for housing, but not less than 30 years. The department of mental health shall determine, arrange and provide appropriate support services for clients residing in the units. The developer and the department of mental health, the Massachusetts housing finance agency, and the department of housing and community development, or any successor thereto, shall be required to use all reasonable efforts before and after transfer of the disposition parcel to secure housing subsidies for clients whose annual income may be as low as 15 per cent of the area median income, and shall enter into a memorandum of understanding before and conditional to the transfer of the disposition parcel to the developer outlining their respective responsibilities, commitments, and obligations respecting securing the subsidies from both state and federal sources; provided, however, that any agreement by the department of mental health or the department of housing and community development to provide subsidies shall be subject to appropriation, and provided, further, that nothing herein shall be considered to require that the department of mental health and the department of housing and community development secure subsidies through their collective efforts for more than 44 rental housing units. The selected developer shall not be required to fund the subsidies required to allow the clients to afford said units.

(e) The developer of the disposition parcel or of a portion thereof, shall provide pedestrian and horse trails over the disposition parcel that will link parcel A-1 and parcel A-2.

(f) The developer of the disposition parcel or of any portion thereof shall provide for the use by the general public of all public recreation facilities now existing or hereafter created on the disposition parcel.

(g) The developer shall preserve, maintain and protect the existing cemetery located on parcel E as shown on the plan.

(h) At least 30 days before the date on which bids, proposals, or other offers to purchase or lease the disposition parcel, or any portion thereof, are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive process and other information deemed relevant, including the time, place and manner for the submission of bids, proposals and the opening thereof.

SECTION 9. The commissioner may retain or grant rights of way or easements for access, egress, utilities and drainage across the disposition parcel and across other commonwealth property, other than property under the care and control of the department of conservation and recreation as of the effective date of this act, contiguous to the disposition parcel, and the commonwealth may accept from a developer rights of way or easements in roadways or across the disposition parcel to be conveyed by deed or leased pursuant to this act for the purposes of access, egress, drainage and utilities as the commissioner considers necessary and appropriate to carry out the purposes of the reuse plan and this act.

SECTION 10. The grantee or lessee shall be responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as shall be considered necessary by the commissioner.

SECTION 11. This act shall be construed to be supplemental and additional to, and not in derogation of, powers conferred upon the commissioner and others by law; provided, however, that insofar as other laws are inconsistent with this act, this act shall be controlling.

Approved August 6, 2008.

Chapter 270. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT EASEMENTS IN THE CITY OF SOMERVILLE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith the granting of certain access and utility easements to the Somerville housing authority and Conwell Capen Limited Partnership, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, may grant, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to the Somerville housing authority, the owner of the premises known as 1 Capen court, and its successors or assigns,

and to Conwell Capen Limited Partnership, the owner of the premises known as 405 Alewife Brook parkway, and its successors or assigns, various access and utility easements over land owned by the commonwealth located at 149 Capen street in the city of Somerville which easements shall be substantially as described in the attachment "Access and Utility Easement" and approximately identified as the "Proposed Utility Easement" and "Proposed Access Easement" on the plan entitled "Easement Plan of Land" prepared by Design Consultants, Inc., dated January 16, 2008, which plan is on file with the commissioner of capital asset management and maintenance. Such access and utility easements shall reflect the past and current use of the commonwealth's land in which the easements shall be granted pursuant to this act and such recordable easements are necessary to effect improvements upon the respective properties and to further improve the alignment and configuration of such access and utility uses. The land in which the easements shall be granted pursuant to this act has been used in connection with a waterworks system pursuant to chapter 372 of the acts of 1984. The instrument granting the easements shall contain an acknowledgement that the Mystic Valley parkway and Alewife Brook parkway are parkways that are restricted to pleasure vehicles only by the department of conservation and recreation and that the use of Mystic Valley parkway and Alewife Brook parkway is subject to the regulations generally applicable to such parkways of the department of conservation and recreation, as such regulations may be amended from time to time. The above-referenced plan shall be recorded in the Middlesex county south district registry of deeds.

SECTION 2. The consideration for the easements described in section 1 shall be the undertaking of Conwell Capen Limited Partnership to complete and operate the proposed developments at 1 Capen court and 405 Alewife Brook parkway as affordable senior housing with supportive services, including independent and assisted living, under certain use restriction and regulatory agreements to be entered into in connection with the affordable housing subsidies granted to the respective properties.

SECTION 3. The commissioner of capital asset management and maintenance, 30 days before the execution of any agreement or release authorized by this act or any subsequent amendment thereof, shall submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures, and state assets at least 15 days before the execution of the agreement.

Approved August 6, 2008.

Chapter 271. AN ACT RELATIVE TO GROUP MARKETING PLANS.

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

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is to provide forthwith for renewal of certain insurance group marketing plans, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, a group marketing plan approved and in effect pursuant to section 193R of chapter 175 of the General Laws, during calendar years 2007 to 2010, inclusive, may be approved upon renewal notwithstanding that less than 35 per cent of its members are insured during said calendar years 2007 to 2010, respectively.

The commissioner of insurance shall report on group marketing plans for motor vehicle insurance in effect for calendar years 2007 to 2010. Said report shall include without limitation: (1) the number of group marketing plans; (2) the number of members within each group marketing plan; (3) the average discount offered through group marketing plans; (4) the number of group marketing plans that do not have at least 35 per cent of their members insured through such plans; and (5) any other relevant issues that the commissioner may deem appropriate. The commissioner shall file said report together with legislation, if any, with the clerks of the house of representatives and senate, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on financial services not later than December 31, 2011.

Approved August 6, 2008.

Chapter 272. AN ACT PROVIDING FOR THE RELEASE OF CERTAIN LAND IN THE TOWN OF DEERFIELD FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for the release of a portion of an agricultural preservation restriction on certain land in the town of Deerfield, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Pursuant to section 32 of chapter 184 of the General Laws and notwithstanding the requirements of sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of agricultural resources, the former referred to in this act as the commissioner and the latter as the department, may execute a certificate of release of a portion of the land covered by that agri-

cultural preservation restriction granted by Carlos E. Allen, referred to in this act as the former owner, to the Deerfield Land Trust, Inc. recorded July 27, 1999 in the Franklin county registry of deeds, book 3524, page 312, referred to in this act as the APR land. Said agricultural preservation restriction was assigned to the commonwealth, by an assignment recorded April 6, 2000, in the Franklin county registry of deeds in book 3613, page 75, said restriction referred to in this act as the original APR. The portion of the APR land to be released is more particularly described as follows:

One certain parcel of land, containing approximately 0.25 acres more or less, and located on the easterly side of Greenfield Road in Deerfield, Franklin County, Massachusetts, being a portion of Assessor's lot 86-7, and bounded on the south by land of Albert J. Dray; bounded on the west by Greenfield Road; and bounded on the north and east by the remainder of the land comprising Assessor's lot 86-7.

This parcel, referred to in this act as the APR release parcel, is to be shown on a plan of land to be prepared and that shall be approved by the town of Deerfield and recorded in the Franklin county registry of deeds with the certificate of release.

SECTION 2. The land covered by the original APR is now owned by Molenaar LLC, also known as Pioneer Gardens, Inc., referred to in this act as the current owner, which term shall include its successors and assigns. The APR release parcel is a portion of Assessor's parcel 86-7 and shall be transferred by the current owner to Albert J. Dray, referred to in this act as Dray and which term shall include his successors and assigns, who is the owner of other land located near the APR land. The land owned by Dray includes a certain parcel of land consisting of 1.8 acres, more or less, that is Assessor's Parcel 87-13, and which is hereinafter referred to in this act as the APR new parcel, and is to be shown on a plan of land to be prepared that shall be approved by the town of Deerfield and recorded in the Franklin county registry of deeds with the plan for the APR release parcel and the certificate of release. Dray has agreed to and shall concurrently with the transfer of the APR release parcel from the current owner to Dray, transfer by deed the APR new parcel to the current owner for the parcel's agricultural value as determined by the appraisals described in this act, said consideration for the transfer being by agreement of current owner and Dray.

SECTION 3. In consideration of the release of the APR release parcel to be transferred to Dray from the original APR and the transfer of the APR new parcel to the current owner, the current owner shall execute, concurrently with the 2 described land transfers, a new agricultural preservation restriction, in this act referred to as the new APR. The new APR shall prohibit the construction of any dwellings on the subject land and contain an option running in favor of the commonwealth to purchase the land at agricultural value. The new APR shall cover certain other land located near the original APR on the northerly side of Wells Cross road, which land is owned by the current owner and subject to a separate agricultural preservation restriction granted by Carlos E. Allen to the commonwealth and recorded on April 27, 1995 in the Franklin county registry of deeds in book 2993, page 159. The new APR shall also cover the APR new parcel. The new APR shall be recorded in the Franklin county registry of deeds. In consideration of the release from the original APR and

the transfer to Dray of the APR release parcel, Dray and the current owner have agreed, in consideration of the release from the original APR and the transfer of the APR new parcel, to obtain at their sole and own expense, appraisals of each parcel to be transferred or updated current appraisals conforming to department standards and satisfactory to the commissioner and to the department. Dray and the current owner shall also obtain at their own expense surveys of each parcel together with plans from a licensed and qualified land surveyor to be approved by the town of Deerfield and recorded in the Franklin county registry of deeds, also at their sole and own expense, said surveys and plans to be acceptable to the commissioner and the department.

SECTION 4. If the fair market value of the APR release parcel is greater than the fair market value of the APR new parcel, as determined by the appraisals, Dray shall pay the difference in value to the department or to a non-profit agricultural land preservation organization, approved by the department. Such payment shall be used to acquire new agricultural preservation restrictions or for other agricultural land preservation in the Deerfield area, pursuant to guidelines and time requirement to be established by the department. No additional consideration shall be due to Dray in the event that the fair market value of the APR release parcel is less than the fair market value of the APR new parcel.

SECTION 5. If the current owner fails to execute the new APR or transfer the APR Release Parcel to Dray or fails to perform any other duty required under this act, all as determined by the department, or if Dray fails to transfer the APR new parcel to the current owner or to make the payment to the department or the agricultural land preservation organization as required by section 4, or fails to perform any other duty required by this act, as determined by the department, the certificate of release shall not be executed or recorded.

SECTION 6. Except as partially released by the recording of the certificate of release authorized by this act, the original APR shall remain in full force and effect.

Approved August 6, 2008.

Chapter 273. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT A CERTAIN EASEMENT OVER LANDS HELD FOR CONSERVATION AND RECREATION PURPOSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the granting of a certain easement over lands held for conservation and recreation purposes to Western Massachusetts Electric Company, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, on behalf of and in consultation with the commissioner of fish and game and the director of the division of fisheries and wildlife, may convey an easement in a certain parcel of land currently under the care and control of the division of fisheries and wildlife to Western Massachusetts Electric Company, its successors and assigns, subject to the requirements of section 2. Said easement shall be approximately 3.3 miles long and 100 feet wide running northwest to southeast, and shall be located within an area in the valley of the Tekoa and Shatterack mountain ranges along the northeastern bank of the Westfield river that is bounded as follows: to the north, at the southern boundary of the property owned by Westfield Paper Lands, LLC, formerly owned by the Westfield River Paper Company, Inc. and currently under option to purchase by Russell Biomass on Station road in the town of Russell; to the west, at the CSX right-of-way; to the south, at a point approximately 800 feet northwest of the Massachusetts turnpike in the town of Montgomery; and, to the east, at the western ridgeline of mount Tekoa and Shatterack mountain. The exact boundaries of the easement shall be determined by the commissioner of capital asset management and maintenance, in consultation with the department of fish and game, after completion of a survey. The consideration for said easement shall be the transfer by the Western Massachusetts Electric Company to the division of fisheries and wildlife in consultation with the department of fish and game of a transmission line easement of equal or greater value than the full and fair market value of the easement granted by the commonwealth. Said value shall be determined by the commissioner of the division of capital asset management and maintenance pursuant to 1 or more independent professional appraisals. Said easement shall be conveyed by deed without warranties or representations by the commonwealth.

SECTION 2. Notwithstanding any general or special law to the contrary, the easement conveyed pursuant to section 1 shall be for the construction, operation and maintenance of an electric transmission line and shall include, without limitation: (i) the right to remove or trim trees, bush or similar woody plants adjacent to the easement area that threaten the transmission line due to their height or condition; and (ii) ingress and egress rights including, but not limited to, the right to improve, use and maintain existing roads or ways accessing the easement area and the right to build, use and maintain new roads or ways accessing the easement area.

SECTION 3. Notwithstanding any general or special law to the contrary, the Western Massachusetts Electric Company 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 conveyance authorized pursuant to this act as such costs may be determined by the commissioner of the division of capital asset management and maintenance.

SECTION 4. Notwithstanding any general or special law to the contrary, 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 receipt of the proposed conveyance or amendment. The commissioner of capital asset management and maintenance 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.

Approved August 6, 2008.

Chapter 274. AN ACT AUTHORIZING AND DIRECTING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND IN THE TOWN OF WESTPORT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith transfer a certain parcel of land in the town of Westport, 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 through 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 department of conservation and recreation, may convey to Edward Peter Haley a certain parcel of land presently under the control of the department of conservation and recreation located in the town of Westport and shown as Lot B on a survey plan entitled “plan of land prepared for Edward P. Haley of Westport, MA,” which is a portion of lot 121 on the town of Westport assessor’s map 176A, containing 1174.4 square feet or 0.03 acres. The exact boundaries of the parcel 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 conveyance shall be the full and fair market value of the parcel as determined by the commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, pursuant to 1 or more independent professional appraisals. This parcel shall be conveyed by deed without warranties or representations by the commonwealth.

SECTION 2. Notwithstanding any general or special law to the contrary, 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 receipt of the proposed conveyance or amendment. The commissioner of capital asset management and maintenance 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 3. Notwithstanding any general or special law to the contrary, Edward Peter Haley 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 conveyance authorized pursuant to this act as such costs may be determined by the commissioner of capital asset management and maintenance.

SECTION 4. Notwithstanding any general or special law to the contrary, Edward Peter Haley shall sign, as a condition precedent to the conveyance authorized by this act, an agreement with the commissioner of capital asset management and maintenance and with the treasurer of the town of Westport relinquishing any and all rights that Edward Peter Haley, or his heirs, successors or assigns, have or had to any compensation, including any interest which may accrue thereon, from the commonwealth or from the town of Westport as reimbursement for any real estate taxes which were paid on the parcel of land described in section 1 to the town by Edward Peter Haley before the conveyance of said land. Edward Peter Haley shall provide and maintain permanent survey markers that identify the boundaries of the conveyance. All costs and expenses relating to said survey markers shall be the sole responsibility of Edward Peter Haley.

Approved August 6, 2008.

Chapter 275. AN ACT AUTHORIZING THE SALE OF CERTAIN LAND BY THE CITY OF HAVERHILL TO THE TOWN OF BOXFORD.

Be it enacted, etc., as follows:

SECTION 1. The city of Haverhill may convey to the town of Boxford a certain parcel of city-owned conservation land consisting of approximately 11.4 acres located at 0

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Lakeshore road in the town of Boxford. The land is shown on the town of Boxford Assessor's Map 3, block 1, lot 5.

SECTION 2. The consideration for the conveyance authorized in section 1 shall be \$750,000 based on the full and fair market value of the proposed use of the parcel, determined by 1 or more independent professional appraisals. The town of Boxford shall dedicate the parcel for open space, conservation and passive recreational purposes. The conveyance shall be by deed by the city of Haverhill pursuant to chapter 184 of the General Laws and shall include a conservation restriction to ensure the protection of open space, conservation and passive recreational purposes. This conveyance shall be made in accordance with chapter 30B of the General Laws.

SECTION 3. If the land conveyed pursuant to this act ceases to be used for the purposes described in section 2, the land shall revert back to the city of Haverhill for conservation purposes.

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

Approved August 6, 2008.

Chapter 276. AN ACT RELATIVE TO THE MANAGEMENT OF BANKS.

Be it enacted, etc., as follows:

Section 2 of chapter 167D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subparagraph 1 and inserting in place thereof the following paragraph:-

1. To receive deposits as authorized by sections 2 to 12, inclusive, and sections 21 and 31 and to receive demand, time and other types of deposits upon such terms and conditions as may be agreed upon between the depositor and the bank; provided, however, that a bank shall make available to a natural person 18 years of age or under or 65 years of age or older a demand deposit account and savings account which, in each instance, shall include a joint account in which the spouse of the eligible depositor, regardless of age, is the joint tenant therein or the joint tenant would otherwise be an eligible depositor, and which has been established and used for personal, family or household purposes, upon which no service, maintenance or other similar charge shall be imposed. Any such account shall not be subject to: (i) a minimum balance requirement, (ii) a charge for a check, deposit or withdrawal, or (iii) a fee for the initial order or subsequent refills of the basic line of checks offered by the bank, which shall include the name of the depositor. For the purposes of this section, the term "savings account" shall include a regular passbook, statement savings or regular NOW account, so-called. The commissioner shall, by regulation, establish the procedure whereby a person may demonstrate eligibility and apply for the account. A bank may, however, assess a fee for certain services in accordance with the bank's published service charge schedule which shall include stop payment orders, wire transfers, certified or

bank checks, money orders, and deposit items returned, transactions at electronic branches and through other electronic devices, and services not directly associated with the deposit, withdrawal or transfer of funds from any such account as may be approved by the commissioner; and that the bank may assess a reasonable charge, as determined by the commissioner, against any such checking account when payment on a check drawn on the account has been refused because of insufficient funds. A bank shall, in the manner prescribed by the commissioner, post in each of its banking offices a notice informing consumers of the availability of the banking services prescribed by this section. A law imposing liability for a violation of this section shall apply not to an act done or omitted in good faith in conformity with a rule, regulation or interpretation thereof by the commissioner, notwithstanding that after that act or omission has occurred, the rule, regulation or interpretation has been amended, rescinded or determined by judicial authority to be invalid.

Approved August 6, 2008.

Chapter 277. AN ACT AUTHORIZING THE TOWN OF WEST BOYLSTON TO CONVEY CERTAIN OPEN SPACE LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of West Boylston, acting by and through its board of selectmen, may convey all or a portion of a certain parcel of town common land, as determined by the board of selectmen, to Fay Brothers Funeral Home on such terms and conditions as the board of selectmen may determine, including the express purpose for the conveyance and restrictions on future use. This parcel of land is bounded on the south by lot 76 on assessor's map 148, on the west by lot 77 on assessor's map 148, and on the north and east by Church street, a public way.

SECTION 2. The consideration for the parcel described in section 1 shall be the fair market value of the parcel or the fair market value of its proposed use, whichever is greater, to be determined by 1 or more independent appraisals. The cost of the appraisals shall be assumed by the Fay Brothers Funeral Home. The town of West Boylston shall apply the proceeds thereof for conservation and recreation purposes.

SECTION 3. No deed conveying the parcel of land as authorized in section 1 shall be valid if the board of selectmen have included future use restrictions as a term of purchase as provided in section 1 unless the deed contains a provision so restricting its use and contains a reversionary clause that stipulates that the property shall revert to the town of West Boylston for open space purposes if the property ceases to be used for the express purpose for which it was transferred.

Approved August 6, 2008.

Chapter 278. AN ACT RELATIVE TO CONSERVATION RESTRICTIONS ON CERTAIN PARCELS OF LAND HELD BY THE MARTHA'S VINEYARD LAND BANK AND THE TOWN OF EDGARTOWN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the conservation restriction held by the Martha's Vineyard land bank on land owned by the town of Edgartown and known as the Pennywise Preserve property the following may occur relative to such property:

(a) the construction of a road along the southern boundary, which shall connect to Metcalf drive and which shall serve as an access road for an affordable rental housing project;

(b) the utilization of a portion of the northern corner for such affordable rental housing project; and

(c) the addition of a frost pocket and connecting land to the conservation restriction.

SECTION 2. Notwithstanding the conservation restriction held by the town of Edgartown on the property of the LSV Realty Trust d/b/a Vineyard Golf Club, a road crossing may be constructed from Metcalf drive to a proposed access road for an affordable rental housing project and other adjustments.

Approved August 6, 2008.

Chapter 279. AN ACT RELATIVE TO CERTAIN PROPERTY IN THE TOWN OF CHILMARK.

Be it enacted, etc., as follows:

SECTION 1. The town of Chilmark, acting by and through its board of selectmen, subject to the provisions of section 2, 4 and 5 shall convey 2 parcels of land to Howard W. Hillman or his nominee. The parcels to be conveyed are shown as A1 and A2 on a plan of land entitled "Plan of Land in Chilmark, Massachusetts" dated March 5, 2003 prepared by Scholfield, Barbini and Hoehn and filed in the Dukes County registry of deeds as Chilmark case file No. 352 together with an appurtenant right of passage to and from Middle road. The Martha's Vineyard land bank commission shall convey to Howard W. Hillman or his nominee all of parcel B on the plan except only a narrow strip of land comprising 0.15 acres along a portion of the easterly boundary. Such conveyances shall include the relinquishment by the town of any right or easement to use Sarah Brown Lane or the strip of land.

SECTION 2. In consideration of the conveyances authorized in section 1, Howard W. Hillman shall convey 2 parcels of land to the town of Chilmark and the Martha's Vineyard land bank commission. The parcels are shown on Chilmark assessor's Map 11 as parcels 45 and 46. After preparation of a subdivision plan by the town dividing up the parcels into 6 lots, the northernmost and southernmost lots shall be conveyed to the Martha's

Vineyard land bank commission and the 4 interior lots shall be conveyed to the town of Chilmark for affordable housing purposes.

SECTION 3. The town of Chilmark, acting by and through its board of selectmen, shall grant a trail easement over the 4 interior lots to the Martha's Vineyard land bank commission.

SECTION 4. Howard W. Hillman shall grant a conservation restriction over a portion of the land conveyed to him in section 1 to the Martha's Vineyard land bank commission.

SECTION 5. Howard W. Hillman shall grant a conditional trail easement along a portion of the easterly boundary of parcel B to the Martha's Vineyard land bank commission, the rights of which shall be exercised under prescribed circumstances.

SECTION 6. Howard W. Hillman shall grant a trail easement over a certain parcel of land to the Martha's Vineyard land bank commission. Said parcel is shown on land court Plan 20457A as Lot 3.

SECTION 7. In consideration for the trail easement granted in section 6, the Martha's Vineyard land bank commission shall terminate its right and easement, acquired as an appurtenance to property to the north of Lot 3 previously purchased by the Martha's Vineyard land bank commission, to travel over any of the ways or other roads located on Lot 3.

Approved August 6, 2008.

Chapter 280. AN ACT RELATIVE TO COUNTY HIGHWAYS IN THE TOWN OF GRANVILLE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, all rights, title and interest in real property located in the town of Granville and held by the former Hampden county for county road purposes on the date that the county was abolished including, without limitation, land or interests therein acquired for the purpose of draining the roads or having the surface of the adjoining land slope from the boundary of the location of the roads, and all fixtures and improvements used for roadway purposes and located thereon or appurtenant thereto, shall be conveyed or otherwise transferred to the town of Granville to be held for public way purposes under the care, custody, management and control of the board or officers having charge of public ways in the town; provided, however, that this section shall not apply to the highways presently numbered route 57 and route 189 in the town of Granville.

SECTION 2. Notwithstanding any general or special law to the contrary, the register of the Hampden county registry of deeds or the successor council of government to Hampden

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county shall, within 10 days of receipt of a written request by the board of selectmen of the town of Granville, provide copies of records, instruments and plans filed or recorded with the registry of deeds or council relating to the real property referred to in section 1, certified by the register or chief administrative officer of the council to be true copies of the records, instruments and plans. The town clerk of the town of Granville shall be the custodian of the certified copies.

Approved August 6, 2008.

Chapter 281. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO ENTER INTO A LEASE WITH THE DIVISION OF CAPITAL ASSET MANAGEMENT.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the town of Tewksbury may enter into a long-term lease with the division of capital asset management and maintenance for the placement of microwave and communication equipment on the water tower at the Tewksbury Hospital for the town-wide microwave and communication system, with no remuneration and conditions to be agreed upon by the parties.

Approved August 6, 2008.

Chapter 282. AN ACT RELATIVE TO THE LONG TERM CAREER LADDER GRANT PROGRAM.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 410 of chapter 159 of the acts of 2000 is hereby amended by striking out, in line 2, the words "Corporation for Business Work and Learning" and inserting in place thereof the following words:- Commonwealth Corporation.

SECTION 2. The second paragraph of said section 410 of said chapter 159 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The corporation shall award the grants, subject to appropriation, on a competitive basis to long-term care labor management workforce partnerships, nursing homes or consortiums of nursing homes for the development of career ladder programs, including but not limited to curriculum development, instructors, instructional materials and technical assistance.

SECTION 3. Said second section paragraph of said section 410 of said chapter 159 is hereby further amended by striking out, in line 6, the words "nursing home" and inserting in place thereof the following words:- grant recipient.

Approved August 6, 2008.

Chapter 283. AN ACT RELATIVE TO CHARLESTOWN'S DESIGNATED PORT AREA.

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, a certain parcel of land located on the northerly side of Medford street in the Charlestown section of the city of Boston shall not be included within the boundaries of any designated port area. This parcel, located at 465 Medford street in the Charlestown section of the city of Boston, is registered under certificate of title number 111502 in the Suffolk county registry of deeds, and is comprised of 3 parcels described in the certificate and shown on plans 3503-A, 6246-A, and 9147-A, filed with the Suffolk registry district of the land court.

Approved August 6, 2008.

Chapter 284. AN ACT AUTHORIZING THE CONVEYANCE OF AN EASEMENT OVER CERTAIN CONSERVATION AND RECREATION LANDS IN THE TOWN OF BLACKSTONE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management may, on behalf of and in consultation with the commissioner of environmental management, convey an easement over a certain parcel of land and any improvements thereon, currently under the control of and use by the department of environmental management for conservation and recreational purposes for the Southern New England Trunkline trail in the town of Blackstone, to the town of Blackstone, its grantees, successors and assigns, for the purposes of constructing, operating and maintaining utility lines, pipes, wires and necessary appurtenances for water and sewer service to the inhabitants of the town of Blackstone, subject to the requirements of sections 2, 3, 4 and 6 and to such additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance may prescribe in consultation with the commissioner of environmental management. The easement contains 16,600 square feet more or less and is shown on a plan of land entitled "Easement Plan of Land in Blackstone, Massachusetts, Proposed Permanent Utility Easement (Worcester County), scale 1" = 50', Dated: February 7, 2001" to be recorded with Worcester south district registry of deeds and to be filed with the department of environmental management. Modifications to the plan described above may be made prior to the conveyance in order to carry out the purposes of this act.

SECTION 2. No deed conveying, by or on behalf of the commonwealth, the easement described in section 1 shall be valid unless it provides that the easement shall be used solely for the purposes described in said section 1. The deed shall include a reversionary clause that stipulates that the easement shall revert back to the commonwealth

and be assigned to the care, custody and control of the department of environmental management if the property ceases to be used for the express purposes for which it was conveyed.

SECTION 3. The easement authorized in section 1 shall be conveyed only if the grantees agree to assume the cost of any appraisals, surveys and other expenses deemed necessary by the commissioner of capital asset management and maintenance for the conveyance.

SECTION 4. In consideration for the conveyance authorized in section 1, the grantees shall transfer land or an interest in land to the department of environmental management, the value of which shall be equal to or greater than the full and fair market value of the property described in said section 1, or its value in use as proposed, whichever is greater, as determined by independent appraisal, or in a sum equal to the full and fair market value of the property or its value in use as proposed, whichever is greater, as determined by independent appraisal, or some combination thereof. The grantees shall, at a minimum and at no cost to the department, install 2 gates consistent with existing department design standards at the vicinity of Fann and Old Elm streets and provide the department with keys for the gates. The grantees shall cooperate in the enforcement of regulations relative to the prohibition of motorized vehicles, after-hours loitering and illegal parking for the Southern New England Trunkline trail and Blackstone Gorge State Park, shall maintain the culvert and stream flow under the trail right-of-way in the vicinity of Rathbun street and shall insure that the proposed utilities are installed at a depth sufficient to not adversely impact future work by the department to grade or resurface the trail.

SECTION 5. Not more than 30 days before the execution of any agreement authorized by this act or any subsequent amendment thereto, the commissioner of capital asset management and maintenance shall submit the agreement or amendment, and a report thereon, to the inspector general for his review and comment. The inspector general shall complete his review and comment within 15 days after receipt of any agreement or amendment. The commissioner shall then submit the agreement and any subsequent amendments thereto, his report and the review and comment of the inspector general to the house and senate committees on ways and means and the chairmen of the joint committee on state administration and regulatory oversight not later than 15 days prior to the execution of the agreement or amendment.

SECTION 6. Any compensation, whether in the form of property or funds, received by the commonwealth pursuant to section 4 shall be deposited in the Conservation Trust established in section 1 of chapter 132A of the General Laws.

Approved August 6, 2008.

Chapter 285. AN ACT RELATIVE TO AGE REQUIREMENTS FOR CERTAIN STUDENTS.

Be it enacted, etc., as follows:

Section 2 of chapter 71B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Beginning age 14 or sooner if determined appropriate by an individualized education program team, school age children with disabilities shall be entitled to transition services and measurable postsecondary goals, as provided under the federal Individual Disabilities with Education Act, 20 USC sec. 1400, et sec.

Approved August 6, 2008.

Chapter 286. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY TO THE TOWN OF ACTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may lease, in consultation with the commissioner of correction, to the town of Acton for a term of 10 years, including any extensions, a certain parcel of land located on the southeast side of School street, approximately 700 feet south of the intersection of School street and Route 2 in the town of Acton and further shown as being the southerly portion of lot 6 on Acton's assessors map H-4, comprising a portion of the land of the Massachusetts Correctional Institute, Concord. The property so leased shall be used by the town of Acton for recreational activities and facilities. The exact boundaries of the property so leased shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of correction, after completion of a survey. The lease agreement authorized by this section shall be subject to such terms and conditions as the commissioner of capital asset management and maintenance may prescribe, in consultation with the commissioner of correction.

SECTION 2. If for any reason the property leased as described in section 1 ceases to be used solely for the purposes described in section 1, the commissioner of capital asset management and maintenance, in consultation with the commissioner of correction, shall terminate the lease for the property. If the lease is terminated, the property shall revert to the commonwealth under the care and control of the department of correction.

SECTION 3. Notwithstanding any general or special law to the contrary, the lease agreement authorized by section 1 shall provide for the town of Acton to manage, operate, improve, repair and maintain the leased property and any buildings, facilities and equipment thereon for the duration of the lease. The lease shall also provide for continuing public ac-

cess to the property described in section 1 under conditions acceptable to the commissioner of correction. The inspector general shall review and comment upon the lease agreement and any terms and conditions contained therein, as authorized under section 1. The inspector general shall issue his review and comments within 15 days of his receipt of any proposed lease agreement or amendments thereto. The commissioner shall submit the proposed lease agreement and any subsequent amendments thereto and the reports and the comments of the inspector general to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditures and state assets at least 15 days before execution of the lease.

SECTION 4. The town of Acton shall compensate the commonwealth in the sum of 1 dollar per year for the term of the lease and shall comply with Executive Order 193 by mitigating for the term of the lease the loss of state-owned agricultural soils and lands with the commissioner of agricultural resources. Any mitigation for the conversion of state-owned lands having soil types capable of supporting or contributing to present or potential commercial agricultural uses required by any general or special law, regulation or executive order in connection with the lease authorized by this act shall be provided by the town of Acton at its sole cost and expense and shall not include any other state-owned lands.

SECTION 5. The lease may provide that the town of Acton and its agents, tenants or contractors agree to hold the commonwealth and its agents and employees harmless from and against all claims, actions, damages or costs claimed for injuries or damages to persons or property arising out of, or in any way relating to, the lease authorized by this act, and agree to indemnify and defend the commonwealth and its agents and employees from and against any and all such claims, actions, damages or costs.

SECTION 6. The town of Acton shall be responsible for the costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals and lease preparation related to the lease authorized by this act as such costs may reasonably be determined by the commissioner of capital asset management and maintenance.

Approved August 6, 2008.

Chapter 287. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY TO THE TOWN OF SHIRLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may lease, in consultation with the commissioner of correction, to the town of Shirley for a term of 10 years, including any extensions, a certain parcel of land of approximately 10 acres located between the southeast side of Shaker road and the westerly side of Wilde road then northerly to the intersection of Shaker road and Wilde road in the town of Shirley and further shown

as being the most northerly portion of lot 1 on Shirley's assessors map 5, block A, comprising a portion of the land of the Massachusetts Correctional Institute, Shirley. The property shall be used by the town of Shirley for municipal, passive recreational activities. The exact boundaries of the property so leased shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of correction, after completion of a survey. The lease agreement authorized by this section shall be subject to such terms and conditions as the commissioner of capital asset management and maintenance may prescribe, in consultation with the commissioner of correction.

SECTION 2. If for any reason the property leased as described in section 1 ceases to be used solely for the purposes described in section 1, the commissioner of capital asset management and maintenance, in consultation with the commissioner of correction, shall terminate the lease. If the lease is terminated, the property shall revert to the commonwealth under the care and control of the department of correction.

SECTION 3. Notwithstanding any general or special law to the contrary, the lease agreement authorized by section 1 shall provide for the town of Shirley to manage, operate, improve, repair and maintain the leased property and any equipment thereon for the term of the lease. The lease shall also provide for continuing public access to the property described in section 1 under conditions acceptable to the commissioner of correction. The inspector general shall review and comment upon the lease agreement and any terms and conditions contained therein, as authorized under section 1. The inspector general shall issue his review and comments within 15 days of his receipt of any proposed lease agreement or amendment thereto. The commissioner shall submit the proposed lease agreement and any subsequent amendments thereto and the reports and comments of the inspector general to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditures and state assets at least 15 days before execution of the lease or amendment.

SECTION 4. The town of Shirley shall compensate the commonwealth in the sum of 1 dollar per year for the term of the lease and shall comply with Executive Order 193 by mitigating for the term of the lease the loss of state-owned agricultural soils and lands with the commissioner of agricultural resources. Any mitigation for the conversion of state-owned lands having soil types capable of supporting or contributing to present or potential commercial agricultural uses required by any general or special law, regulation or executive order in connection with the lease authorized by this act shall be provided by the town of Shirley at its sole cost and expense and shall not include any other state-owned lands.

SECTION 5. The lease may provide that the town of Shirley and its agents, tenants or contractors agree to hold the commonwealth and its agents and employees harmless from and against all claims, actions, damages or costs claimed for injuries or damages to persons or property arising out of, or in any way relating to, the lease authorized by this act, and agree to indemnify and defend the commonwealth and its agents and employees from and against any and all such claims, actions, damages or costs.

SECTION 6. The town of Shirley shall be responsible for the costs and expenses,

including, but not limited to, costs associated with any engineering, surveys, appraisals and lease preparation related to the lease authorized by this act as such costs may reasonably be determined by the commissioner of capital asset management and maintenance.

Approved August 6, 2008.

Chapter 288. AN ACT AUTHORIZING THE CITY OF FITCHBURG TO LEASE CERTAIN PARK LAND TO THE WALLACE CIVIC CENTER AND PLANETARIUM.

Be it enacted, etc., as follows:

SECTION 1. The city of Fitchburg may lease a certain parcel of land in the city held for park purposes, to the George R. Wallace, Jr. Civic Center and Alice G. Wallace Planetarium. The parcel is bounded and described as follows:

Beginning at a point at the centerline of Falulah Brook said point being the most easterly corner of land of the City of Fitchburg known as the Wallace Civic Center; thence S 86° 06' 42" E, a distance of ninety-six and 47/100 feet (96.47') to an angle; thence S 52° 53' 42" E, a distance of one hundred sixty-nine and 40/100 feet (169.40') to an angle. The previous two courses are along land of the Commonwealth of Massachusetts; thence S 29° 52' 29" W, a distance of four hundred twenty-five and 10/100 feet (425.10') to an angle; thence N 76° 12' 42" W, a distance of one hundred-thirty two and 53/100 feet (132.53') to an angle. The previous two courses are along other land of the City of Fitchburg known as Coolidge Park; thence N 13° 48' 50" E, a distance of one hundred forty-three and 92/100 feet (143.92') to an angle; thence N 13° 43' 33" E, a distance of three hundred-fifteen feet (315'), more or less, to the place of beginning. Said parcel containing 89,002 square feet, more or less.

SECTION 2. Notwithstanding any general or special law to the contrary, the division of capital asset management and maintenance, acting on behalf of Fitchburg State College, shall, but only in conjunction with the making of a lease pursuant to section 3 of chapter 88 of the acts of 2007, lease from the city of Fitchburg the parcel of land, together with any improvements thereon, described in section 1. A lease made pursuant to this section shall be made as a part of a supplement to any lease made pursuant to said section 3 and shall be made consistently with the requirements of said section 3.

SECTION 3. Upon the making of a lease under section 2, sections 4 to 7, inclusive, of chapter 88 of the acts of 2007 shall apply to the parcel of land, including any improvements thereon and to the college's and the division's rights and responsibilities with respect thereto.

SECTION 4. The parcel of land described in section 1, including all buildings and facilities that are a part thereof or appurtenant thereto shall be deemed to be a part of the civic center under chapter 88 of the acts of 2007 and the definition of "civic center" in section 2

of said chapter 88 of the acts of 2007 shall be deemed to include the same for all such purposes.

Approved August 6, 2008.

Chapter 289. AN ACT RELATIVE TO THE LEASING OF A CERTAIN PARCEL OF LAND IN THE TOWN OF GARDNER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, but subject to section 40J of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may lease, in consultation with the board of higher education and Mount Wachusett Community College, to the Veteran Homestead Inc., for a term, including extensions, not to exceed 50 years, a parcel of land containing approximately 10 acres, said parcel being a portion of the college's campus in the city of Gardner and shown on a plan on file with the division of capital asset management and maintenance. The initial term of the lease shall be for a period of 30 years with options to renew for 2 additional 10-year terms. The exact boundaries of the parcel shall be determined by the commissioner based upon a survey.

SECTION 2. No lease agreement entered into pursuant to this act by or on behalf of the commonwealth shall be valid unless it provides that the parcel shall be used solely for rehabilitation, counseling, therapy, education, the provision of not more than 20 units of transitional housing and other activities directly related to the lessee's purposes. No such lease agreement shall be valid unless it further provides that if, for any reason, the parcel ceases to be used for the purposes described in this act, the commonwealth may terminate the lease under such terms and conditions as the division of capital asset management and maintenance, in consultation with the board of higher education and Mount Wachusett Community College, may prescribe.

SECTION 3. A lease agreement entered into pursuant to this act by or on behalf of the commonwealth may provide that, in lieu of the payment of rent, the lessee shall provide students at Mount Wachusett Community College with opportunities to gain clinical experience in nursing, physical therapy and other medical fields by working with clients of the lessee, on such terms and conditions as the division of capital asset management and maintenance, in consultation with the board of higher education and Mount Wachusett Community College, deem appropriate.

SECTION 4. A lease agreement entered into pursuant to this act by or on behalf of the commonwealth shall be on such terms and conditions as the division of capital asset management and maintenance, in consultation with the board of higher education and Mount Wachusett Community College, deem appropriate. In furtherance and not in limitation of the foregoing, any such lease agreement shall contain a provision that requires the lessee to

carry comprehensive general liability insurance with the commonwealth named as an additional insured, protecting the commonwealth against all personal injury or property damage occurring on the parcel during the term of the lease. The lessee shall indemnify and hold the commonwealth and Mount Wachusett Community College harmless for any and all personal injury or property damage caused or suffered by the lessee, its clients or agents.

SECTION 5. The lessee shall be responsible for 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. The lessee shall also be responsible for any costs, liabilities or expenses of any kind for the development, improvement, maintenance or operation of the parcel as may be determined by the commissioner of capital asset management and maintenance, in consultation with Mount Wachusett Community College.

SECTION 6. The provisions of sections 38A½ to 38O , inclusive, of chapter 7 and sections 44A to 44J, inclusive, of chapter 149 of the General Laws, and any other general or special law relating to the advertising, bidding or award of contracts, or to the procurement of services or to the construction and design of buildings and other improvements on commonwealth property shall not be applicable to the lessee, except that the design of and plans and specifications for any buildings or other improvements to be constructed by the lessee shall be subject to the review and approval of the division of capital asset management and maintenance and Mount Wachusett Community College.

SECTION 7. If Veteran Homestead, Inc., ceases to use and maintain the property for the purposes specified in section 2 or uses the property for any other purpose, the lease shall terminate and the property shall revert to the commonwealth. Veteran Homestead, Inc., shall provide proof of adequate funding to the commissioner of capital asset management for the purposes specified in section 2 within a 12-month period after the lease has been signed by both parties. If Veteran Homestead, Inc. shall be unable to obtain the necessary funding within the 12-month period, then the lease shall be terminated and the property shall revert to the commonwealth.

Approved August 6, 2008.

Chapter 290. AN ACT EXTENDING SIMULCASTING OF HORSE AND GREYHOUND RACING.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 8 of chapter 449 of the acts of 2006, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 2. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words “December 31, 2008”, inserted by section 9 of said chapter 449, and inserting in place thereof the following words:- December 31, 2009.

SECTION 3. The introductory paragraph of section 13 of said chapter 494 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 10 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 4. Section 15 of said chapter 494 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 11 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 5. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 12 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 6. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of 1991 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 13 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 7. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words “December 31, 2008”, inserted by section 14 of said chapter 449, and inserting in place thereof the following words:- December 31, 2009.

SECTION 8. The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 15 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 9. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words “December 31, 2008”, inserted by section 16 of said chapter 449, and inserting in place thereof the following words:- December 31, 2009.

SECTION 10. The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words “and until December 31, 2008”, inserted by section 17 of said chapter 449, and inserting in place thereof the following words:- and until December 31, 2009.

SECTION 11. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out the words “December 31, 2008”, inserted by section 18 of said chapter 449, and inserting in place thereof the following words:-December 31, 2009.

SECTION 12. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out the words “December 31, 2008”, inserted by section 19 of said chapter 449, and inserting in place thereof the following words:-December 31, 2009.

SECTION 13. Section 20 of chapter 449 of the acts of 2006 is hereby amended by striking out the words “December 31, 2008” and inserting in place thereof the following words:- December 31, 2009.

Approved August 6, 2008.

Chapter 291. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT IN CERTAIN LAND IN THE TOWN OF HOLDEN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may, in consultation with the commissioner of conservation and recreation, convey an exclusive easement under, over, in and through a parcel of land containing approximately 13.82 acres, located in the town of Holden on Route 31, Paxton – Holden road, which is currently under the control of the department of conservation and recreation and held for watershed conservation purposes, to the Worcester Natural History Society, a Massachusetts nonprofit corporation, its successors and assigns, for the purpose of traveling over such easement area to and from said road and the land of the Worcester Natural History Society, its successors and assigns, in the towns of Holden and Paxton. The easement shall include the rights to: (i) create, maintain, repair and replace a paved driveway in the easement area; (ii) install, maintain, repair, replace and flow utilities to service the land of the Worcester Natural History Society; and (iii) use the easement area only for educational or scientific purposes consistent with the mission of the Worcester Natural History Society or for driveway purposes for access and egress to or not more than two dwelling units. The burdened property is owned by the commonwealth and is a portion of the property more particularly described in an Order of Taking dated June 21, 2001 and recorded with the Worcester district registry of deeds in Book 24446, Page 353. The benefited property owned by the Worcester Natural History Society is more particularly described in a deed recorded with the Worcester district registry of deeds in Book 3014, Page 521. The proposed easement area shall be approximately 25 feet wide and shall be located in the general area of an existing gravel driveway over the commonwealth's property which is currently used to access the land of the Worcester Natural History Society. The exact boundaries of the easement shall be determined by the commissioner of capital asset management and maintenance in consultation with the department of conservation and recreation after completion of a survey.

SECTION 2. No instrument granting, by or on behalf of the commonwealth, the easement described in section 1 shall be valid unless such instrument provides that the easement shall be used solely for the purposes described in section 1. The grant of easement shall stipulate that the easement granted thereby shall terminate if the property ceases to be used for the express purpose set forth in the instrument granting the easements.

SECTION 3. The Worcester Natural History Society shall assume all costs associated with any appraisals, engineering, surveys, deed preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance to effectuate the conveyance authorized in section 1.

SECTION 4. The grantees shall compensate the commonwealth through the following: the transfer of land, development rights or an interest of land to the department

of conservation and recreation, 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; or a sum equal to 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; or through some combination thereof, including, but not limited to, extinguishing all their rights, title and interests in the Worcester Natural History Society's existing 25 foot right-of-way easement created by an instrument recorded with the Worcester district registry of deeds in Book 4105, Page 151 over lands under the care, custody and control of the department of conservation and recreation within the town of Holden more particularly described in an Order of Taking dated June 21, 2001 and recorded with the Worcester district registry of deeds in Book 24446, Page 353 or including, but not limited to, the conveyance of a conservation restriction or a watershed preservation restriction, as defined in sections 31 to 33, inclusive, of chapter 184 of the General Laws, to the department of conservation and recreation in, over and on a portion of the grantees property, encumbering not less than 3 acres of land. The exact boundaries of any property interests to be extinguished or conveyed shall be determined by the commissioner of capital asset management and maintenance in consultation with department of conservation and recreation after completion of a survey.

SECTION 5. Notwithstanding any general or special law to the contrary, if the appraised value of property interests described in section 4 shall be determined to be greater than the appraised value of the easement described in section 1, the commonwealth shall not be obligated to pay the difference as additional consideration to the Worcester Natural History Society. The market value of the easement described in section 1 and the appraised value of the property interests received by commonwealth shall be as determined by an independent appraisal prepared in accordance with the usual and customary professional appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance. The commissioner shall submit any appraisals to the inspector general for his review and comment. The inspector general shall review and approve any appraisals. The review shall include an examination of the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission by the commissioner to the house and senate committees on ways and means and the chairmen of the joint committee on bonding, capital expenditures and state assets. The commissioner shall submit copies of the appraisals and the inspector general's review and approval and comments, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to the execution of the conveyance.

SECTION 6. If there is a disparity in these appraised values, as determined in sections 4 and 5 in favor of the grantee, the grantee shall pay a sum equal to the difference in appraised values to the department of conservation and recreation. Any additional compensation received by the commonwealth pursuant to section 5 shall be deposited in the Water Supply Protection Trust established under section 73 of chapter 10 of the General Laws.

Approved August 6, 2008

Chapter 292. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY IN THE TOWN OF GREAT BARRINGTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize a lease of certain land for telecommunications 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. 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 may lease for an initial term of 5-years together with an option to renew for 2 additional 5-year terms and pursuant to such additional terms and conditions as the commissioner may prescribe in consultation with the department of conservation and recreation, a certain parcel of state-owned land in the town of Great Barrington to Century Berkshire Cable Corp. The parcel, the exact boundaries of which shall be established before such conveyance by a survey commissioned by said commissioner, is located on East Warner Mountain in the town of Great Barrington; provided, however, that any lease shall contain the restriction required pursuant to section 2 of this act. The consideration for said lease shall be the full and fair market value as determined by the commissioner of capital asset management, in consultation with the commissioner of conservation and recreation pursuant to an independent professional appraisal.

SECTION 2. Notwithstanding any general or special law to the contrary, the parcel described in section 1 of this act shall be leased subject to a restriction limiting the use of the parcel to cable television and other video and non-video communications activities. If the property ceases to be used for the purposes described in this section, the commissioner shall give written notice to Century Berkshire Cable Corp. of the unauthorized use. Century Berkshire Cable Corp., 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 lease of the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further disposition of the property shall be subject to chapter 7 of the General Laws.

SECTION 3. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisal required pursuant to section 1 and 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 but no later than 15 days before the execution of any agreement or other document relating to the lease, 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.

SECTION 4. Notwithstanding any general or special law to the contrary, Century Berkshire Cable Corp. 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 act as such costs may be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation. Upon conveyance of the parcel, Century Berkshire Cable Corp. 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.

SECTION 5. The lessee shall pay the commonwealth the full and fair market value of the property as described in section 1, or its value in use as proposed, whichever is greater, as determined by an independent appraisal.

Approved August 7, 2008.

Chapter 293. AN ACT PROVIDING FOR A PARTIAL RELEASE OF CERTAIN LAND IN SUNDERLAND FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for the partial release of an agricultural preservation restriction on certain land in the town of Sunderland, 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, and pursuant to section 40E of chapter 7 and section 32 of chapter 184 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the commissioner of agricultural resources, may execute a certificate of release which will constitute a complete and unconditional release of a parcel of land from an agricultural preservation restriction originally granted by Charles N. Warner and Jacqueline M. Warner to the commonwealth and recorded in book 2730, page 29 at the Franklin county registry of deeds. The parcel to be released from the agricultural preservation restriction is more particularly described as follows:

A certain parcel of land located in Sunderland, Franklin County, Massachusetts with the buildings thereon, being described as Lot 3, containing 42,264 square feet on a plan of land entitled "Plan of Land in Sunderland, Mass. Surveyed for Charles N. & Jacqueline M. Warner dated April 16, 1988" and recorded in the Franklin county registry of deeds in plan book 75, plan 4.

SECTION 2. Except as partially released by the recording of the certificate of release of the parcel executed by the commissioner of capital asset management and maintenance and the commissioner of agricultural resources, as authorized by this act, the original agricultural preservation restriction shall remain in full force and effect.

Approved August 7, 2008.

Chapter 294. AN ACT RELEASING CERTAIN LAND IN DUDLEY FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

Be it enacted, etc., as follows:

SECTION 1. Pursuant to section 40E of chapter 7 and section 32 of chapter 184 of the General Laws, but notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of agricultural resources, the latter referred to in this act as “the department”, may execute a certificate of release of a portion of the land covered by the agricultural preservation restriction granted by Stewart D. Peckham and Barbara A. Peckham, in this act referred to as “former owner”, to the commonwealth and the town of Dudley, dated February 11, 1988 and recorded in Book 11743, Page 201, at the Worcester district registry of deeds, in this act referred to as “the original APR”. The portion of the original APR land which shall be released is located on the westerly side of Dresser Hill road in the town of Dudley and shown as “Parcel A” on a plan of land entitled, “Plan of Proposed Land Transfers in Dudley, Mass., between Thomas Realty, Inc. and Ronald S. Dziembowski and Rhonda L. Dziembowski, February 5, 2001; scale: 1” = 60’; Para Land Surveying, Inc., Southbridge, MA”, in this act referred to as “the plan”, and shall be recorded in the Worcester county registry of deeds. Parcel A contains 43,560 square feet according to the plan.

SECTION 2. The land covered by the original APR shall, on the effective date of this act, be owned by Ronald S. Dziembowski and Rhonda L. Dziembowski, in this act referred to as “current owner”, which term shall include Ronald S. Dziembowski and Rhonda L. Dziembowski’s successors and assigns. The Parcel A described in section 1 shall be transferred by the current owner to Thomas Realty, Inc. and its successors and assigns. Thomas Realty Inc. is the owner of other, separate land located near the original APR land, and which is 5.44 +/- acres in size and shown as “Parcel B” on the plan. Thomas Realty, Inc. shall, concurrently with the transfer of Parcel A, transfer Parcel B to current owner.

In consideration of the release from the original APR of Parcel A, which shall be transferred to Thomas Realty, Inc., current owner shall execute, concurrently with the 2 described land transfers, a new agricultural preservation restriction, in this act referred to as “the new APR”, prohibiting the construction of future dwellings and containing an option to purchase at agricultural value running in favor of the commonwealth. The new APR shall

cover both an agreed 30-acre parcel of the original APR land and Parcel B and shall be recorded at the Worcester district registry of deeds. Thomas Realty, Inc. shall, in consideration of the release from the original APR and the transfer to it of Parcel A, clear and prepare for active commercial agricultural production 2 +/- acres of the 30-acre parcel and approximately 3 acres of the 5.44 +/- acres of Parcel B according to standards and specifications to be provided by the department. The area to be cleared by Thomas Realty, Inc. is depicted as "area to be cleared and prepared for cultivation 5.0 acres" on the plan. Thomas Realty, Inc. shall donate \$2,000 to the Commonwealth of Massachusetts, Department of Agricultural Resources, Mitigation Expendable Trust established pursuant to section 6 of chapter 6A and section 4F of chapter 7 of the General Laws to be used for the acquisition of new agricultural preservation restrictions.

If current owner fails to execute the new APR or duly transfer Parcel A or if Thomas Realty, Inc. fails to prepare for agriculture the described two parcels in accordance with the specifications of the department, fails to make the described donation to the land preservation organization or fails to duly transfer Parcel B to current owner to become subject to the new APR together with the 30-acre parcel, the original APR shall be reimposed on the released Parcel A, unless it is released or discharged by the commonwealth in its entirety in the interim.

SECTION 3. Except as partially released by the recording of the certificate of release described in section 1, as authorized by this act, the original APR shall remain in full force and effect.

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

Approved August 7, 2008.

Chapter 295. AN ACT REGULATING LIQUEFIED NATURAL GAS TANKER IMPORT TERMINALS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 21E of the General Laws is hereby amended by adding the following two sections:-

Section 20. A LNG import terminal shall have a minimum distance of 5,000 feet from the center of the LNG tank to the nearest residential home, elderly housing complexes, schools, hospitals, health care facilities, businesses or developments.

Section 21. A LNG tanker shall have a 1,500 foot clearance along the shore, as it travels any Massachusetts waterway, from the hull to the nearest residential home, elderly housing complexes, schools, hospitals, health care facilities, businesses or developments.

SECTION 2. This act shall apply to all LNG import terminals constructed after January 1, 2007.

Approved August 7, 2008.

Chapter 296. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN PROPERTY TO THE CITY KNOWN AS THE TOWN OF NATICK.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith authorize the lease of a certain parcel of land to the city known as the town of Natick, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. 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 may lease, for a period not to exceed 30 years and pursuant to such additional terms and conditions as the commissioner may prescribe in consultation with the military division of the executive branch, a certain parcel of state owned land in the city known as the town of Natick to the town of Natick; provided, however, that said lease shall provide that in the event of military necessity, the lease may be terminated by the commonwealth upon 30 days written notice from the commissioner of capital asset management and maintenance to the town of Natick. The parcel, the exact boundaries of which shall be established prior to such conveyance by a survey commissioned by said commissioner, is located on Speen street and shown on the town of Natick's assessor's map as map 41, lot 84; provided, further, that any lease shall contain the restriction required pursuant to section 2. The consideration for said lease shall be the full and fair market value as determined by the commissioner of capital asset management and maintenance pursuant to an independent professional appraisal.

SECTION 2. Notwithstanding any general or special law to the contrary, the parcel described in section 1 of this act shall be leased subject to a restriction limiting the use of the parcel to municipal or other public purposes. If at any time the property ceases to be used for the purposes described in this section the commissioner 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 lease of the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further disposition of the property shall be subject to chapter 7 of the General Laws.

SECTION 3. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisal required pursuant to section 1 and 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, 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.

SECTION 4. Notwithstanding any general or special law to the contrary, the town of Natick 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 act as such costs may be determined by the commissioner of capital asset management and maintenance. Upon conveyance of the parcel, the town of Natick 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 August 7, 2008.

**Chapter 297. AN ACT RELATIVE TO CERTAIN EASEMENTS HELD BY THE
COMMONWEALTH OF MASSACHUSETTS AND THE
MASSACHUSETTS WATER RESOURCES AUTHORITY IN THE
TOWN OF WELLESLEY.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, an easement taken by the metropolitan district commission dated July 30, 1958, for the right to construct and maintain pipes and conduits and their appurtenances for the conveyance of water, through land situated in the town of Wellesley and the town of Needham in the county of Norfolk, shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, Southern High Service Pipe Lines, Land in Wellesley and Needham, Plan No. 306 of Land Takings," scale 1"=40', dated July 21, 1958, more particularly described in Order of Taking No. 261, dated July 30, 1958, recorded in the Norfolk county registry of deeds in Book 3658, Page 15, is hereby amended to exclude the land shown as Abandoned Easement Area on a plan entitled "Easement Plan of Land in Wellesley, Massachusetts (Norfolk County)", scale 1"=20', dated October 20, 1999, this abandoned easement area being bounded and described, according to the plan, as follows:

BEGINNING: At a point on the northerly sideline of May Street at land now or formerly of the Town of Wellesley;

THENCE: Turning and running N 71-51-20 E, sixty-one and 15/100 (61.15) feet to a point;

THENCE: Turning and running S 74-55-02 E, forty-five and 51/100 (45.51) feet to a point;

THENCE: Turning and running S 83-55-12 E, twelve and 26/100 (12.26) feet to a point;

THENCE: Turning and running S 18-08-40 E, one hundred ninety and 23/100 (190.23) feet to a point;

THENCE: Turning and running S 71-51-20 W, one hundred five and 00/100 (105.00) feet to a point;

THENCE: Turning and running N 18-08-40 W, nine and 49/100 (9.49) feet to a point;

THENCE: Turning and running S 72-58-36 W, forty and 01/100 (40.01) feet to a point;

THENCE: Turning and running N 18-08-40 W, twenty-nine and 73/100 (29.73) feet to a point;

THENCE: Turning and running N 71-51-20 E, one hundred five and 00/100 (105.00) feet to a point;

THENCE: Turning and running N 18-08-40 W, one hundred forty and 00/100 (140.00) feet to a point;

THENCE: Turning and running S 71-51-20 W, one hundred five and 40/100 (105.40) feet to a point;

THENCE: Turning and running N 18-08-40 W, fifty-nine and 23/100 (59.23) feet to a point;

THENCE: Turning and running N 72-58-36 E, thirty-five and 01/100 (35.01) feet to a point;

THENCE: Turning and running S 18-08-40 E, eighteen and 54/100 (18.54) feet to the point of beginning.

This abandoned easement area contains 16,723 square feet, more or less, according to the plan.

SECTION 2. Notwithstanding any general or special law to the contrary, an easement granted by the town of Wellesley to the Massachusetts Water Resources Authority, recorded in the Norfolk county registry of deeds in Book 9883, page 46, for the installation and maintenance of an underground precast concrete vault, pipes, conduits, water meters and appurtenances on a parcel of land commonly known as Vacant Land Adjacent to 114 Worcester Street in Wellesley, shown as "Easement for Water Meters, Area 3599 s.f." on a plan of land entitled "Massachusetts Water Resources Authority, Waterworks Division, Plan of Easement, Worcester Street, Wellesley," Scale 1"- 10', April 8, 1992, recorded in the Norfolk county registry of deeds in Book 413 as Plan No. 289 of 1993, is hereby abandoned in full, the location of the abandoned easement being more particularly bounded and described, according to the plan, as follows:

BEGINNING at a point on the Southerly sideline of Worcester Street (Route 9), which is distant 332.87 feet from a bound on the Easterly sideline of Dearborn Street;

THENCE running N82°-17'-34"E, sixty and 00/100 (60.00) feet along said Worcester Street to a point in the sideline of an easement held by the Commonwealth of Massachusetts;

THENCE turning and running 09°-02'-2"E, sixty and 00/100 (60.00) feet to a point;

THENCE turning and running 352°-17'-34"W, sixty and 00/100 (60.00) feet to a point;

THENCE turning and running N09°-02'-02"W, sixty and 00/100 (60.00) feet to the point of beginning.

This abandoned easement contains 3599 square feet, more or less, according to the plan.

Approved August 7, 2008.

Chapter 298. AN ACT ESTABLISHING THE GLOBAL WARMING SOLUTIONS ACT.

Be it enacted, etc., as follows:

SECTION 1. Section 19 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (f) and inserting in place thereof the following 2 subsections:-

(f) The secretary shall collaborate with other state agencies to reduce greenhouse gas emissions to achieve the greenhouse gas emission limits established in chapter 21N.

(g) Nothing in this chapter shall be construed to confer any powers or impose any duties upon the secretary with respect to the foregoing agencies and authorities except as expressly provided by law.

SECTION 2. Section 1 of chapter 16 of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) The commissioner shall collaborate with other state agencies to reduce greenhouse gas emissions to the limits established in chapter 21N.

(e) The commissioner may promulgate rules and regulations to effectuate the purposes of this chapter.

SECTION 3. Section 2 of chapter 21A of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(30) consistent with chapter 21N, oversee state agency efforts to address and diminish the impacts of climate change by coordinating state agency actions to achieve the greenhouse gas emissions limits established in chapter 21N.

SECTION 4. Section 8 of said chapter 21A, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The department of environmental protection shall assist in the implementation of chapter 21N.

SECTION 5. Section 16 of said chapter 21A, as so appearing, is hereby amended by adding the following paragraph:-

Any person who fails to comply with or otherwise violates chapter 21N shall be liable for a civil administrative penalty not to exceed \$25,000 for each day the violation continues.

SECTION 6. The General Laws are hereby amended by inserting after chapter 21M

the following chapter:-

Chapter 21N.

CLIMATE PROTECTION AND GREEN ECONOMY ACT.

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

“Allowance”, an authorization to emit, during a specified year, up to 1 ton of carbon dioxide equivalent.

“Alternative compliance mechanism”, an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emissions reduction, that is approved by the department, and that is real, permanent, quantifiable, verifiable and enforceable.

“Carbon dioxide equivalent”, the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

“Department”, the department of environmental protection.

“Direct emissions”, emissions from sources that are owned or operated, in whole or in part, by an entity or facility including, but not limited to, emissions from factory stacks, manufacturing processes and vents, and company owned or company-leased motor vehicles.

“Direct emissions reduction”, a greenhouse gas emission reduction action made by a greenhouse gas emissions source at that source.

“Emission”, emission of a greenhouse gas into the air.

“Emissions reduction measures”, programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this chapter, applicable to sources or categories of sources that are designed to reduce emissions of greenhouse gases.

“Entity”, a person that owns or operates, in whole or in part, a source of greenhouse gas emissions from a generator of electricity or a commercial or industrial site including, but not limited to, a transportation fleet.

“Executive office”, the executive office of energy and environmental affairs.

“Facility”, a building, structure or installation located on contiguous or adjacent properties of an entity.

“Greenhouse gas”, any chemical or physical substance that is emitted into the air and that the department may reasonably anticipate will cause or contribute to climate change including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

“Greenhouse gas emissions limit”, an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the secretary, expressed in tons of carbon dioxide equivalents.

“Greenhouse gas emissions source”, a source, or category of sources, of greenhouse

gas emissions with emissions that are at a level of significance, as determined by the secretary, that its participation in the program established under this chapter will enable the secretary to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions limit.

“Indirect emissions”, emissions associated with the consumption of purchased electricity, steam and heating or cooling by an entity or facility.

“Leakage”, the offset of a reduction in emissions of greenhouse gases within the commonwealth by an increase in emissions of greenhouse gases outside the commonwealth.

“Market-based compliance mechanism”, (i) a system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases; or (ii) greenhouse gas emissions exchanges, banking, credits and other transactions governed by rules and protocols established by the secretary or the regional greenhouse gas initiative, that result in the same greenhouse gas emissions reduction, over the same time period, as direct compliance with a greenhouse gas emissions limit or emission reduction measure adopted by the executive office pursuant to this chapter.

“Person”, an agency or political subdivision of the commonwealth, a state, public or private corporation or authority or an individual, trust firm, joint stock company, partnership, association or other entity or group thereof or an officer, employee or agent thereof.

“Secretary”, the secretary of energy and environmental affairs.

“Statewide greenhouse gas emissions”, the total annual emissions of greenhouse gases in the commonwealth, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in the commonwealth, accounting for transmission and distribution line losses, whether the electricity is generated in the commonwealth or imported; provided, however, that statewide greenhouse gas emissions shall be expressed in tons of carbon dioxide equivalents.

“Statewide greenhouse gas emissions limit”, the maximum allowable level of statewide greenhouse gas emissions in a given year, as determined by the secretary.

Section 2. (a) The department shall monitor and regulate emissions of greenhouse gases with the goal of reducing those emissions. The department shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this chapter. The regulations shall: (1) establish a regional greenhouse gas registry and reporting system for greenhouse gas emission sources; provided, however, that in establishing the greenhouse gas registry and reporting system, the department may collaborate with other states or a regional consortium; (2) annually require the owner or operator of any facility that is required to report air emissions data to the department pursuant to Title V of the federal Clean Air Act and that has stationary emissions sources that emit greenhouse gases to report annually to the regional registry direct stack emissions of greenhouse gases from such sources; (3) require the owner or operator of a facility that has stationary emissions sources that emit greenhouse gases in excess of 5,000 tons of greenhouse gases per year in carbon dioxide equivalents to report annually to the regional registry direct emissions of greenhouse gases from such sources; provided, however,

that the department shall develop a simplified estimation form to assist facilities in determining who shall report emissions and shall consider, on an annual basis, requiring the expansion of reporting to the regional greenhouse gas registry; (4) provide for the voluntary reporting of emissions of greenhouse gases to the regional greenhouse gas registry by entities and facilities that are not required to submit information pursuant to clauses (2) and (3); provided, however, that the greenhouse gas emissions reported shall be of a type and format that the regional greenhouse gas registry can accommodate; (5) require reporting of greenhouse gas emissions from generation sources producing all electricity consumed, including transmission and distribution line losses from electricity generated within the commonwealth or imported from outside the commonwealth; provided, however, that this requirement shall apply to all retail sellers of electricity, including electric utilities, municipal electric departments and municipal light boards as defined in section 1 of chapter 164A; (6) ensure rigorous and consistent accounting of emissions and provide reporting tools and formats to ensure collection of necessary data; and (7) ensure that greenhouse gas emissions sources maintain comprehensive records of all reported greenhouse gas emissions.

(b) The department shall: (1) consult with the secretary on periodic review and updates of emission reporting requirements, as necessary; and (2) review existing and proposed state, federal and international greenhouse gas emissions reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this chapter and other programs and to streamline reporting requirements on greenhouse gas emissions sources.

(c) The department shall triennially publish a state greenhouse gas emissions inventory that includes comprehensive estimates of the quantity of greenhouse gas emissions in the commonwealth for the last 3 years in which data is available.

Section 3. (a) The department shall, pursuant to chapter 30A, determine the statewide greenhouse gas emissions level in calendar year 1990 and reasonably project what the emissions level will be in calendar year 2020 if no measures are imposed to lower emissions other than those formally adopted and implemented as of January 1, 2009. This projection shall hereafter be referred to as the projected 2020 business as usual level.

(b) The secretary shall, in consultation with the department and the department of energy resources, adopt the following statewide greenhouse gas emissions limits: (1) a 2020 statewide emissions limit and a plan to achieve that limit pursuant to section 4; (2) an interim 2030 emissions limit accompanied by plans to achieve this limit in accordance with said section 4; provided, however, that the 2030 interim emissions limits shall maximize the ability of the commonwealth to meet the 2050 emissions limit; (3) an interim 2040 emissions limit accompanied by plans to achieve this limit in accordance with said section 4; provided, however, that the 2040 interim emissions limit shall maximize the ability of the commonwealth to meet the 2050 emissions limit; and (4) a 2050 statewide emissions limit that is at least 80 per cent below the 1990 level.

(c) Emissions levels and limits associated with the electric sector shall be established

by the executive office and the department, in consultation with the department of energy resources, based on consumption and purchases of electricity from the regional electric grid, taking into account the regional greenhouse gas initiative and the renewable portfolio standard.

(d) The department shall promulgate regulations establishing a desired level of declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions

Section 4. (a) The secretary shall adopt the 2020 statewide greenhouse gas emissions limit pursuant to subsection (b) of section 3 which shall be between 10 per cent and 25 per cent below the 1990 emissions level and a plan for achieving said reduction. The secretary shall consult with all state agencies and regional authorities with jurisdiction over sources of greenhouse gases on all elements of the emissions limit and plan that pertain to energy-related matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service and statewide fuel supplies, to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the secretary are complementary, non-duplicative and can be implemented in an efficient and cost-effective manner. The 2020 statewide emissions limit and implementation plan shall comply with this section.

(b) The secretary shall analyze the feasibility of measures to comply with the emissions limit established in subsection (a). Such measures shall include, but not be limited to, the electric generating facility aggregate limit established pursuant to section 12, direct emissions reduction measures from other sectors of the economy, alternative compliance mechanisms, market-based compliance mechanisms and potential monetary and nonmonetary incentives for sources and categories of sources that the secretary finds are necessary or desirable to facilitate the achievement of reductions of greenhouse gas emissions limits.

(c) The secretary shall consider all relevant information pertaining to greenhouse gas emissions reduction goals and programs in other states and nations.

(d) The secretary shall evaluate the total potential costs and economic and noneconomic benefits of various reduction measures to the economy, environment and public health, using the best available economic models, emissions estimation techniques and other scientific methods.

(e) The secretary shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions and shall recommend a de minimis threshold of greenhouse gas emissions below which emissions reduction requirements shall not apply.

(f) The secretary shall identify opportunities for emissions reduction measures from all verifiable and enforceable voluntary actions.

(g) The secretary shall conduct public hearings on the proposed 2020 emission limit and implementing plan. The secretary shall conduct a portion of these workshops in regions

that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both.

(h) The secretary shall update its plan for achieving the maximum technologically feasible reductions of greenhouse gas emissions at least once every 5 years, including the plans to implement the 2030, 2040 and 2050 statewide emission limits.

Section 5. The secretary shall monitor the implementation of regulations relative to climate change and shall, every 5 years, publish a report which shall include recommendations regarding such implementation. The report shall include, without limitation: (i) whether regulations or other measures undertaken, including distribution of emissions allowances, are equitable and minimize costs and maximize the total benefits to the commonwealth and encourage early action to reduce greenhouse gas emissions; (ii) whether activities undertaken to comply with state regulations and efforts disproportionately impact low-income communities; (iii) whether entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this chapter receive appropriate credit for early voluntary reductions; (iv) whether activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and reduce toxic air contaminant emissions; (v) consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources and other benefits to the economy, environment and public health; (vi) whether state actions minimize the administrative burden of implementing and complying with these regulations; (vii) whether state actions minimize leakage; (viii) consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases; (ix) whether greenhouse gas emissions reductions achieved are real, permanent, quantifiable, verifiable and enforceable; and (x) recommendations for future policy action. The report shall be filed with the clerk of the house of representatives, the clerk of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee of telecommunications, utilities and energy and the chairs of the joint committee on the environment, natural resources and agriculture.

Section 6. In implementing its plan for statewide greenhouse gas emissions limits, the commonwealth and its agencies shall promulgate regulations that reduce energy use, increase efficiency and encourage renewable sources of energy in the sectors of energy generation, buildings and transportation.

Section 7. (a) The secretary, in consultation with the executive office of administration and finance, may consider the use of market-based compliance mechanisms to address climate change concerns; provided, however, that prior to the use of any market-based compliance mechanism, to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the secretary shall: (1) consider the potential for direct, indirect and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution; (2) design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants, with particular attention paid to emissions

of nitrous oxide, sulfur dioxide and mercury; and (3) maximize additional environmental and economic benefits for the commonwealth, as appropriate.

(b) The secretary may adopt regulations governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emissions limits and mandatory emissions reporting requirements to achieve compliance with their greenhouse gas emissions limits.

(c) The executive office and the department may work with the participating regional greenhouse gas initiative states and other interested states and Canadian Provinces to develop a plan to expand market-based compliance mechanisms such as the regional greenhouse gas initiative to other sources and sectors necessary or desirable to facilitate the achievement of the greenhouse gas emissions limits.

(d) The executive office shall monitor compliance with and enforce any rule, regulation, order, emissions limitation, emissions reduction measure or market-based compliance mechanism adopted by the executive office or department pursuant to this chapter. The department may impose a civil administrative penalty pursuant to section 16 of chapter 21A for a violation of any rule, regulation, order, emissions limitation, emissions reduction measure or other measure adopted by the executive office pursuant to this chapter.

Section 8. The secretary shall convene an advisory committee to advise the executive office in overseeing the greenhouse emissions reduction measures. The advisory committee shall consist of representatives from the following sectors: commercial, industrial and manufacturing; transportation; low-income consumers; energy generation and distribution; environmental protection; energy efficiency and renewable energy; local government; and academic institutions.

Section 9. Nothing in this chapter shall affect the authority of the public utility commission or the obligation of an electrical utility to provide customers with safe and reliable electric service. Nothing in this chapter shall preclude, prohibit or restrict the construction of a new facility or the expansion of an existing facility subject to regulation under this chapter, if all applicable requirements are met and the facility is in compliance with regulations adopted pursuant to this chapter.

SECTION 7. Section 61 of chapter 30 of the General Laws is hereby amended by inserting after the first paragraph, as appearing in the 2006 Official Edition, the following paragraph:-

In considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise.

SECTION 8. Nothing in this act shall restrict the secretary of energy and environmental affairs from adopting greenhouse gas emissions limits or emissions reduction measures prior to January 1, 2011, that are consistent with general or special laws or rules or regulations, imposing those limits prior to January 1, 2012, or providing early reduction

credit, where appropriate, nor shall this act prevent the imposition of more stringent limits on emissions.

SECTION 9. Notwithstanding any general or special law to the contrary, the secretary shall convene an advisory committee to analyze strategies for adapting to the predicted impacts of climate change in the commonwealth. The advisory committee shall be chaired by the secretary, or his designee, and comprised of representatives with expertise in the following areas: transportation and built infrastructure; commercial, industrial and manufacturing activities; low income consumers; energy generation and distribution; land conservation; water supply and quality; recreation; ecosystems dynamics; coastal zone and oceans; rivers and wetlands; and local government.

The committee shall file a report of its findings and recommendations regarding strategies for adapting to climate change not later than December 31, 2009.

SECTION 10. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs shall promulgate regulations pursuant to section 2 of chapter 21N of the General Laws not later than January 1, 2009.

SECTION 11. Clauses (2) and (3) of the third sentence of subsection (a) of said section 2 of said chapter 21N shall take effect not later than April 15, 2009.

SECTION 12. Clauses (4) and (5) of said third sentence of said subsection (a) of said section 2 of said chapter 21N shall be implemented not later than July 1, 2009.

SECTION 13. The first inventory required pursuant to subsection (c) of said section 2 of said chapter 21N shall be published not later than December 31, 2010.

SECTION 14. Subsection (a) of section 3 of said chapter 21N shall be implemented not later than July 1, 2009.

SECTION 15. Clause (1) of subsection (b) of said section 3 of said chapter 21N shall be implemented not later than January 1, 2011.

SECTION 16. The department of environmental protection shall promulgate regulations pursuant to subsection (d) of said section 3 of said chapter 21N not later than January 1, 2012, which regulations shall take effect on January 1, 2013, and shall expire on December 31, 2020.

SECTION 17. The 2020 statewide greenhouse gas initiative required to be adopted pursuant to subsection (a) of section 4 of said chapter 21N shall be adopted not later than January 1, 2011.

SECTION 18. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs shall publish the report required pursuant to section 5 of said chapter 21N not later than January 1, 2014.

Approved August 7, 2008.

Chapter 299. AN ACT RELATIVE TO A PARCEL OF LAND IN THE CITY OF LOWELL.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the division of capital asset management and maintenance is hereby authorized to release its reversionary interest in a parcel of land conveyed to the county of Middlesex by a deed dated February 24, 1986, and recorded with the Middlesex North registry of deeds at book 3411, pages 280-281.

The current owner of the land 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, surveys, title examinations and the preparation of plans and specifications.

Approved August 7, 2008.

Chapter 300. AN ACT AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES ON GOLF COURSES.

Be it enacted, etc., as follows:

The first paragraph of section 12 of chapter 138 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the third sentence the following sentence:- A local licensing authority may grant a license for the sale of all alcoholic beverages or a license for the sale of wines and malt beverages at any location on the grounds of a golf course as it deems reasonable and proper.

Approved August 7, 2008.

Chapter 301. AN ACT AUTHORIZING THE TRANSFER OF LAND IN HAMILTON AND MANCHESTER-BY-THE-SEA.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary and for the purpose of curing inadvertent encroachments onto a tract of conservation land known as Chebacco Woods in the towns of Manchester-by-the-Sea and Hamilton, by and through the boards of selectmen and the conservation commissions of the towns of Manchester-by-the-Sea and Hamilton, said towns may convey to Patrick A. Daly and Kathleen B. O'Brien a certain parcel of land located in the Chebacco Woods tract for residential purposes. The parcel consists of approximately 20,008 square feet and is shown as Parcel B on a plan entitled "Plan of Land in Hamilton and Wenham, MA", dated March 17, 2004, prepared by Hancock Associates, which shall be recorded in the Essex county registry of deeds.

SECTION 2. In consideration for the conveyance authorized in section 1, Patrick A. Daly and Kathleen O'Brien shall convey to the towns of Manchester-by-the-Sea and Hamilton, as joint owners, a certain parcel of land containing approximately 40,114 square feet and shown as Parcel A on the plan described in section 1 for conservation purposes. The conservation commissions of the towns of Manchester-by-the-Sea and Hamilton shall determine whether the conveyance authorized by this act is equal to or greater than the full and fair market value of the parcel described in section 1, or its value in use as proposed, whichever is greater, as determined by an independent appraisal. If there is a disparity in these values in favor of Patrick A. Daly and Kathleen O'Brien, Patrick A. Daly and Kathleen O'Brien shall pay a sum equal to the difference to the towns of Manchester-by-the-Sea and Hamilton for deposit in their open space funds or otherwise dedicated to open space preservation.

SECTION 3. Notwithstanding any general or special law to the contrary and for the purpose of curing inadvertent encroachments onto a tract of conservation land known as Chebacco Woods in the towns of Manchester-by-the-Sea and Hamilton, by and through the boards of selectmen and the conservation commissions of the towns of Manchester-by-the-Sea and Hamilton, said towns may convey to Nancy L. Peterson a certain parcel of land located in the Chebacco Woods tract for residential purposes. The parcel consists of approximately 7,114 square feet and is shown as Parcel B on a plan entitled "Plan of Land in Hamilton, MA", dated March 17, 2004, prepared by Hancock Associates, which shall be recorded in the Essex county registry of deeds.

SECTION 4. In consideration for the conveyance authorized in section 3, Nancy L. Peterson shall convey to the towns of Manchester-by-the-Sea and Hamilton, as joint owners, a certain parcel of land containing approximately 7,114 square feet and shown as Parcel A on the plan described in section 3 for conservation purposes. The conservation commissions of the towns of Manchester-by-the-Sea and Hamilton shall determine whether the conveyance authorized by this act is equal to or greater than the full and fair market value of the parcel described in section 3, or its value in use as proposed, whichever is greater, as determined by an independent appraisal. If there is a disparity in these values in favor of Nancy L. Peterson, Nancy L. Peterson shall pay a sum equal to the difference to the towns of Manchester-by-the-Sea and Hamilton for deposit into their open space funds or otherwise dedicated to open space preservation.

Approved August 7, 2008.

**Chapter 302. 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, 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. Notwithstanding any general or special law to the contrary, appropriations made in section 2 shall not revert and shall be available for expenditure until June 30, 2009.

SECTION 2.

JUDICIARY
Trial Court

0330-3337 \$4,000,000

DISTRICT ATTORNEYS
Suffolk District Attorney

0340-0101 \$41,802

Northern District Attorney

0340-0201 \$74,813

Eastern District Attorney

0340-0301 \$27,584

Worcester District Attorney

0340-0401 \$11,000

Hampden District Attorney

0340-0501 \$64,973

Northwestern District Attorney

0340-0601 \$37,829

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<i>Norfolk District Attorney</i>		
0340-0701	\$107,524
<i>Plymouth District Attorney</i>		
0340-0801	.....	\$82,151
<i>Bristol District Attorney</i>		
0340-0901	.....	\$23,899
<i>Berkshire District Attorney</i>		
0340-1101	.....	\$107,955

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Bureau of State Office Buildings

1102-3302	.....	\$176,000
<i>Office of the Secretary of Administration and Finance</i>		
1599-0050	.....	\$983,939
<i>Department of Revenue</i>		
1232-0100	.....	\$4,277,710
<i>Human Resources Division</i>		
1750-0300	.....	\$116,780

EXECUTIVE OFFICE OF EDUCATION
Department of Elementary and Secondary Education

7061-9010	\$4,700,178
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SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth 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. Notwithstanding any general or special law to the contrary, appropriations made in this section 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.

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

- 1599-4276 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 Middlesex sheriff's department and the Teamsters, Local 122, 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 \$12,577
- 1599-4280 For a reserve to meet the fiscal year 2007, 2008 and 2009 costs of salary adjustments and other economic benefits authorized by the December 21, 2006 temporary pay law agreement between the commonwealth and the National Association of Government Employees, and to meet the fiscal year 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 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 years 2008 and 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

1599-6379 For a reserve to fund the payment of the fiscal year 2009 incremental costs of contractual obligations of expiring collective bargaining contracts required by section 7 of chapter 150E of the General Laws; provided, that once an agreement has been reached between the employer and the exclusive representative, executed by the parties and ratified by the membership, the governor shall file a bill requesting that the legislature appropriate funding for the contract, a portion of which may be drawn from this reserve \$20,000,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT
Department of Housing and Community Development

7004-1000 For a state supplement to the federal Low Income Home Energy Assistance Program 42 U.S.C. section 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane, natural gas, electricity and other primary or secondary heating sources; provided, that expenditure of these supplemental funds shall be made in accordance with the state plan to be submitted by the department of housing and community development for operation of the fiscal year 2008 program, in accordance with federal law; provided further, that the department shall establish the maximum assistance for which a household shall be eligible commensurate with the increased funding provided in this item; and provided further, that up to \$10,000,000 may be released prior to receipt of any federal funds to allow for timely start-up of the program, including both administrative costs and payment of benefits \$10,000,000

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 those

other 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. Notwithstanding any general or special law to the contrary, appropriations made in this section shall not revert and shall be available for expenditure until June 30, 2009. These sums shall be in addition to any amounts previously authorized and made available for the purposes of those items.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Department of State Police

8100-0002 \$376,461

SECTION 2C. 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, and the unexpended balance of all appropriations in the Massachusetts management accounting and reporting system with a secretariat code of 01 or 17, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 61 of the acts of 2007; provided, however, that for items which do not appear in section 2 of the general appropriation act, the amounts in this section are re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. Amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in said section 2 of said chapter 61 of the acts of 2007; but for items which do not appear in said section 2 said chapter 61, the amounts in this section are re-appropriated from the fund or funds designated for the corresponding item in said section 2 or said section 2A of this act or in prior appropriation acts. The sums re-appropriated in this section shall be in addition to any amounts available for these purposes.

JUDICIARY
Committee for Public Counsel Services

0321-1520 \$1,100,000

DISTRICT ATTORNEYS
Norfolk District Attorney

0340-0700 \$93,500

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

0610-0000 \$150,000
0610-0050 \$221,731

Massachusetts Cultural Council

0640-0300 \$127,653

OFFICE OF THE STATE COMPTROLLER

Office of the Comptroller

1000-0001 \$70,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1100-1100 \$200,000

1100-1560 \$950,000

1100-2010 \$172,052

1599-0045 \$1,500,000

1599-2005 \$2,155,994

1599-3859 \$1,300,000

1599-4279 \$606,504

Information Technology Division

1790-0100 \$270,000

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Conservation and Recreation

2800-0700 \$100,000

2820-0100 \$272,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Office of the Secretary of Health and Human Services

4000-0050 \$200,000

Department of Public Health

4590-0914 \$327,400

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary of Transportation and Public Works

6000-0300 \$400,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Office of the Secretary of Housing and Economic Development

7002-0013 \$944,640

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Business and Technology

7007-0500	\$145,000
7007-0900	\$626,500

Department of Housing and Community Development

7004-0001	\$100,000
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Department of Telecommunications and Cable

7006-0071	\$50,000
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EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Department of Workforce Development

7003-0701	\$21,000,000
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EXECUTIVE OFFICE OF EDUCATION

Department of Elementary and Secondary Education

7010-0016	\$250,000
7061-9412	\$128,265

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary of Public Safety and Security

8000-0000	\$70,000
8000-0036	\$3,977,740

Department of Fire Services

8324-0000	\$430,000
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Military Division

8700-1150	\$2,633,917
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SHERIFFS

Hampden Sheriff's Department

8910-0102	\$150,000
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SECTION 3. Subsection (a) of section 16G of chapter 6A of the General Laws is hereby amended by striking out the first sentence, as amended by section 6 of chapter 19 of the acts of 2007, and inserting in place thereof the following sentence:- In the executive office of housing and economic development, there shall be a department of business development, a department of consumer affairs and business regulation and a department of housing and community development.

SECTION 4. Section 6 of chapter 22 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “over forty-five years of age when first appointed, and shall not be”.

SECTION 5. Section 5C of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:-

(c) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from those undesignated fund balances, but no such transfer shall cause a deficit in any of those funds; provided, however, that prior to certifying the consolidated net surplus in accordance with this section, the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund balances from any other fund contributing to the surplus.

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

Section 5D. At the close of each fiscal year, the comptroller shall determine, based on procedures established by the commissioner, the amount expended during the fiscal year from each state fund or accounts comprising such funds, other than the General Fund, for indirect costs and for the compensation of state personnel. On the basis of said determination, the comptroller shall charge each fund or accounts therein an amount for indirect costs and for fringe benefit costs attributable to compensation paid from the other funds, based on an indirect costs rate and on a fringe benefit rate to be set annually by the commissioner of administration. The amount so charged shall be credited to the General Fund. Upon approval said commissioner of administration, and subject to regulations established by him, the amount of indirect costs, either in whole or in part, charged to an account may be waived. The costs of fringe benefits shall be recovered in cash.

The comptroller shall make charges to recover the commonwealth’s indirect costs and the cost of fringe benefits provided to or on behalf of any person paid compensation by a state agency, authority or public institution of higher education, or by any entity otherwise directly or indirectly receiving state funds, from any source other than a direct expenditure of an appropriation charged to a state fund subject to the preceding paragraph. The comptroller may establish such systems of periodic charges or billings as he considers necessary and appropriate to ensure the recovery of these costs. Any bill rendered for the purpose of recovery of these costs shall be payable to the comptroller within 30 days after receipt of the bill and all amounts so paid shall be credited to the General Fund.

SECTION 7. Section 4 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 88, 208, 218, 227, 250, 261, 269, 278, 294 and 516, the word “regular” and inserting in place thereof, in each instance, the following word:- buyback.

SECTION 8. Said section 4 of said chapter 32, as so appearing, is hereby further amended by inserting after the word “system”, in line 379, the following words:- plus buyback interest thereon.

SECTION 9. Section 105 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "actuarial assumed interest thereon" and inserting in place thereof the following words:- buyback interest.

SECTION 10. The second paragraph of section 4 of chapter 32A of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 11. Section 2A of chapter 64C of the General Laws, as so appearing, is hereby amended by inserting after the word "safety", in line 13, the following words:- and security, or his designee.

SECTION 12. Section 6 of said chapter 64C, is hereby amended by striking out the last paragraph, added by section 2 of chapter 168 of the acts of 2008, and inserting in place thereof the following paragraph:-

Notwithstanding section 28, a portion of cigarette excise revenues paid under this section shall be credited to the Commonwealth Care Trust Fund, established in section 2000 of chapter 29. The amount credited to the fund in fiscal year 2009 shall be the sum of: (1) all revenues received in fiscal year 2009 attributable to the inventory tax under chapter 168 of the acts of 2008; and (2) the monthly excess, if any, on cigarette excise payments received in August 2008 to June 2009 over the cigarette excise payments received in the same months in the previous fiscal year, less the amount that the commissioner may reasonably determine equals increased revenues in 2009 due to cigarette stamp encryption and due to taxation of little cigars as cigarettes. The amount credited to the Fund in fiscal year 2010 shall be the monthly excess in cigarette excise payments received in fiscal year 2010 over cigarette excise payments received in the same months in fiscal year 2008, less the amounts that the commissioner may reasonably determine are increased revenues in 2009 due to cigarette stamp encryption and due to taxation of little cigars as cigarettes. The amount credited to the fund in fiscal year 2011 and thereafter shall be the monthly cigarette revenue received in each such year multiplied by the percentage of cigarette excise collections in 2010 that were credited to the fund.

SECTION 13. Section 6 of chapter 70B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:-

(e) A city, town or regional school district may borrow for a term of not more than 5 years for the cost of such feasibility studies as may be required to apply for a school facilities grant under this chapter.

SECTION 14. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of chapter 90 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:-

There shall be an assessment of \$250 against a person who is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances

under this section; provided, however, that but \$150 of the amount collected under this assessment shall be deposited monthly by the court with the state treasurer for who shall deposit it into the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

SECTION 15. Paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under this section, but \$150 of the \$250 collected under this assessment shall be deposited monthly by the court with the state treasurer, who shall deposit it in the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

SECTION 16. Section 66 of chapter 109 of the General Laws, as appearing in section 51 of chapter 182 of the acts of 2008, is hereby amended by striking out, in the first sentence, the words "section 66 may" and inserting in place thereof the following words:- section 65 may.

SECTION 17. Chapter 118G of the General Laws is hereby amended by inserting after section 39 the following section:-

Section 40. (a). Each health insurer, including health insurance companies, health maintenance organizations, hospital service corporations, and medical service corporations, as defined in section 1, that conducts business in Massachusetts shall pay an assessment for fiscal year 2009 for deposit into the General Fund for expenses associated with health care costs. Such assessment shall be based on the net worth surplus available to health insurance carriers in accordance with criteria developed by the division of insurance, in consultation with the division of health care finance and policy. The division of health care finance and policy shall specify by regulation the method of calculating the assessment, procedures for payment of the assessment, and requirements for submission of data by health insurers.

(b) The assessment established by the division of health care finance and policy for fiscal year 2009 shall not exceed the maximum rate of assessment that the laws of the United States or any rules, regulations, or standards issued under those laws, relating to health care assessments will allow without reduction in federal financial participation. The assessment shall be implemented as a broad-based health care related fee as defined in 42 U.S.C. 1396b(w)(3)(B).

SECTION 18. Subsection (b) of section 188 of chapter 149 of the General Laws, as amended by section 16 of chapter 61 of the acts of 2007, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- This con-

tribution shall be pro-rated by a fraction which shall not exceed 1, the numerator of which is the number of hours worked in the quarter by all of the employer's employees and the denominator of which is the product of the number of employees employed by an employer during that quarter multiplied by 500 hours.

SECTION 19. Subsection (d) of said section 188 of said chapter 149 of the General Laws, as amended by section 28 of chapter 208 of the acts of 2007, is hereby further amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The director of unemployment assistance shall determine quarterly each employer's liability for its fair share employer contribution. The director shall assess each employer liable for a fair share employer contribution in a quarter an amount based on 25 per cent of the annual fair share employer contribution rate applicable to that quarterly period and shall implement penalties for employers who fail to make contributions as required by this section.

SECTION 20. Subsection (b) of section 70 of chapter 156C of the General Laws, as appearing in section 61 of the chapter 182 of the acts of 2008, is hereby amended by striking out the word "demonstrates" and inserting in place thereof the following words:- fails to demonstrate.

SECTION 21. Subsection (b) of section 72 of said chapter 156C, as so appearing, is hereby amended by striking out the word "demonstrates" and inserting in place thereof the following words:- fails to demonstrate.

SECTION 21A. Section 17A of chapter 180 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:- Deductions on pay-roll schedules may be made from the salary of any state, county or municipal employee of any amount which such employee may specify in writing to any state, county or municipal officer, or the head of the state, county or municipal department, board or commission, by whom or which he is employed, or which may be specified by a collective bargaining agreement with the PCA Quality Homecare Workforce Council, for the payment of union dues to an association of state, county or municipal employees, dues to the Massachusetts State Employees Association, dues to the Massachusetts Nurses Association, or dues payable to any relief association of any municipal department.

SECTION 21B. Said section 17A of said chapter 180, as so appearing, is hereby further amended by striking out the first sentence, as amended by section 21A, and inserting in place thereof the following sentence:- Deductions on pay-roll schedules may be made from the salary of any state, county or municipal employee of any amount which such employee may specify in writing to any state, county or municipal officer, or the head of the state, county or municipal department, board or commission, by whom or which he is employed, for the payment of union dues to an association of state, county or municipal employees, dues to the Massachusetts State Employees Association, dues to the Massachusetts Nurses Association, or dues payable to any relief association of any municipal department.

SECTION 21C. Section 17G of said chapter 180, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Deductions on pay-roll schedules shall be made from the salary of any state, county or municipal employee of any amount which such employee may specify in writing to any state, county or municipal officer, or the head of the state, county or municipal department, board or commission, by whom or which he is employed, or which may be specified by a collective bargaining agreement with the PCA Quality Homecare Workforce Council, for the payment of agency service fees to the employee organization, which, in accordance with the provisions of chapter 150E is duly recognized by the employer or designated by the labor relations commission as the exclusive bargaining agent for the appropriate unit in which such employee is employed.

SECTION 21D. Said section 17G of said chapter 180, as so appearing, is hereby further amended by striking out the first sentence, as amended by section 21C, and inserting in place thereof the following sentence:- Deductions on pay-roll schedules shall be made from the salary of any state, county or municipal employee of any amount which such employee may specify in writing to any state, county or municipal officer, or the head of the state, county or municipal department, board or commission, by whom or which he is employed, for the payment of agency service fees to the employee organization, which, in accordance with chapter 150E, is duly recognized by the employer or designated by the labor relations commission as the exclusive bargaining agent for the appropriate unit in which such employee is employed.

SECTION 22. Section 44 of chapter 85 of the acts of 1994, as most recently amended by section 76 of chapter 182 of the acts of 2008, is hereby further amended by inserting after the word "reservation", in line 45, the following words:- , Wilbur Farmhouse and Barn at Borderland state park, police station, dormitory, laundry and waiting room structures at Nantasket Beach reservation, Caretaker's Cottage and the Barn at Brookwood Farm in the Blue Hills reservation, 1 Woodland Road in the Middlesex Fells reservation, Print Shop at the Brook Farm Historic Site in West Roxbury, Carriage House at Havey Beach in West Roxbury, CCC Camp in Upton state forest and the Teahouse and Boathouse in Maudsley state park.

SECTION 23. Section 4 of chapter 135 of the acts of 2006 is hereby amended by striking out the word "May 1, 2008" and inserting in place thereof the following word:- December 1, 2009.

SECTION 24. Section 2 of chapter 61 of the acts of 2007 is hereby amended by inserting after item 0330-0317 the following item:-

0330-0338 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 agreements 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, prior appropriation continued \$8,187,426

SECTION 25. Item 4000-1420 of section 2 of chapter 61 of the acts of 2007, as amended by section 5 of chapter 135 of the acts of 2008, is hereby further amended by striking out the figure “\$222,916,047” and inserting in place thereof the following figure:- \$223,218,902.

SECTION 26. Section 55 of said chapter 61 of the acts of 2007, as amended by section 4 of chapter 120 of the acts of 2008, is hereby further amended by striking out the figure “\$976,954,249” and inserting in place thereof the following figure:- \$1,045,863,158.

SECTION 27. Said section 55 of said chapter 61, as amended by section 5 of said chapter 120, is hereby further amended by striking out the figure “\$49,600,000” and inserting in place thereof the following figure:- \$113,600,000.

SECTION 28. The second sentence of said section 55 of said chapter 61, is hereby amended by inserting after the words “Health Safety Net Trust Fund;” the following words:- provided, that \$64,000,000 shall be paid for a certain public-service hospital operated by the Boston Medical Center Corporation; and.

SECTION 29. Section 2 of chapter 120 of the acts of 2008 is hereby amended by striking out item 0330-0337.

SECTION 30. Section 2A of chapter 130 of the acts of 2008 is hereby amended by striking out the number “1599-7107” and inserting in place thereof the following number:- 1599-7108.

SECTION 31. Chapter 168 of the acts of 2008 is hereby amended by striking out section 5 and inserting in place thereof the following 2 sections:-

Section 5. Notwithstanding section 4, a retailer or vending machine operator who did not collect the additional tax specified in section 1 or a substantially equivalent additional dollar amount, however designated, from its customers when making retail sales of cigarettes on July 1, 2008 may determine and pay the amount due under section 4 on the basis of its inventory of cigarettes on hand for sale as of the commencement of business on July 2, 2008. Any retailer or vending machine operator determining its tax due under this section shall retain sales register tapes or other contemporaneous business records to document its retail sales price for cigarettes both on and immediately before July 1, 2008, and shall produce such

tapes or other business records upon request of the commissioner.

Section 6. This act shall take effect as of July 1, 2008.

SECTION 32. The second paragraph of section 90 of chapter 169 of the acts of 2008 is hereby amended by striking out the words "January 1, 2009", and inserting in place thereof the following words:- August 1, 2008.

SECTION 33. Item 1750-0102 of section 2 of chapter 182 of the acts of 2008 is hereby amended by striking out the figure "\$1,627,500" and inserting in place thereof the following figure:- \$2,833,750.

SECTION 34. Item 4000-0300 of said section 2 of said chapter 182 is hereby amended by inserting after the words "application submitted through the virtual gateway;" the following words:- provided further that not less than \$500,000 shall be made available for supplemental payments to 1 or more of the 3 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 authorized to receive supplemental payments pursuant to line items 4000-0500 and 4000-0600; 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, or throat, below that which was granted during hospital fiscal year 2005; 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; and 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;

SECTION 35. Item 4000-0300 of said section 2 of said chapter 182 is hereby amended by striking out the figure "\$145,368,773" and inserting in place thereof the figure:-

\$153,568,773.

SECTION 36. Item 4000-0500 of said section 2 of said chapter 182 is hereby amended by inserting after the words “verbal consent to the reassignment;” the following words:- provided further, that not less than \$10,000,000 shall be expended for disproportionate share payments for inpatient services provided at pediatric specialty hospitals and units, including pediatric chronic and rehabilitation long-term care hospitals as allowable under federal law; provided further, that \$5,950,000 shall be expended on disproportionate share payments to high public payer hospitals.

SECTION 37. Said item 4000-0500 of said section 2 of said chapter 182 is hereby further amended by striking out the figure “\$3,121,385,000” and inserting in place thereof the figure:- \$3,139,085,000.

SECTION 38. Item 4000-0600 of said section 2 of said chapter 182 is hereby amended by inserting after the penultimate proviso the following words:- 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;.

SECTION 39. Said item 4000-0600 of said section 2 of said chapter 182 is hereby amended by striking out the figure “\$2,158,355,058” and inserting in place thereof the following figure:- \$2,175,860,000.

SECTION 40. Item 4000-0640 of said section 2 of said chapter 182 is hereby amended by inserting after the words “collectively-bargained wage increases” the following words:- ; provided further, that the division shall adjust per diem rates to reflect any reductions in Medicaid utilization.

SECTION 41. Item 4000-0700 of said section 2 of said chapter 182 is hereby amended by striking out the words “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” and inserting in place thereof the following words:- 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.

SECTION 42. Said item 4000-0700 of said section 2 of said chapter 182 is hereby further amended by inserting after the words “neonatal intensive care unit cases;” the following words:- provided further, that not less than \$2,000,000 shall be expended to for 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 not less than \$2,000,000 shall be expended for a grant to a pediatric chronic and rehabilitation long-term care hospital for which federal financial participation and federal approval need not be obtained.

SECTION 43. Said item 4000-0700 of said section 2 of said chapter 182 is hereby further amended by striking out the figure “\$1,535,816,000” and inserting in place thereof the following figure:- \$1,539,816,000.

SECTION 44. Said section 2 of said chapter 182 is hereby further amended by striking out, in items 4510-0110, 4512-0103, 4512-0200, 4512-0500, 4513-1000, 4513-1002, 4513-1020, 4530-9000, 4580-1000 and 4590-0250, the words “that no funds shall be expended in the AA object class; provided further”.

SECTION 45. Item 4513-1023 of said section 2 of said chapter 182 is hereby amended by striking out the words “that no funds shall be expended in the AA object class; and provided further”.

SECTION 46. Item 4590-0300 of said section 2 of said chapter 182 is hereby amended by striking out the words “; provided, that no funds shall be expended in the AA object class”.

SECTION 46A. Item 7007-0900 of said section 2 of said chapter 182 is hereby further amended by striking out the figure “\$37,087,309” and inserting in place thereof the following figure:- \$38,087,309.

SECTION 47. Item 7006-1003 of said section 2 of said chapter 182 is hereby amended by striking out the figure “441,404” and inserting in place thereof the following figure:- 1,087,969.

SECTION 48. Item 7007-0900 of said section 2 of said chapter 182 is hereby amended by striking out the words “provided further, that not less than \$100,000 shall be expended for the marketing, promotion and operation of Sail Boston 2009” and inserting in place thereof the following words:- provided further, that not less than \$1,100,000 shall be expended for the marketing, promotion and operation of Sail Boston 2009.

SECTION 49. Item 8100-0002 of section 2B of said chapter 182 is hereby amended by striking out the figure “6,481,181” and inserting in place thereof the following figure:- 7,049,711.

SECTION 50. Item 8324-0000 of said section 2 of said chapter 182 of the acts of 2008 is hereby amended by striking out the words “; 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”.

SECTION 51. Said Item 8324-0000 of said section 2 of said chapter 182 is hereby further amended by striking out the words “executive office of public safety” and inserting in place thereof the following words:- department of fire services.

SECTION 52. Subsection (d) of section 88 of said chapter 182 is hereby amended by adding the following sentence:- All federal financial participation received for expenditures from the Essential Community Provider Trust Fund shall be deposited into the General Fund and shall be available for further appropriation for the purposes specified in this paragraph.

SECTION 53. Subsection (e) of section 103 of said chapter 182 is hereby amended by striking out the words "Upon conveyance of the parcel, the" and inserting in place thereof the following word:- The.

SECTION 54. Chapter 58 of the acts of 2006 is hereby amended by striking out section 128, as most recently amended by section 79 of chapter 182 of the acts of 2008, 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. In fiscal year 2009, not more than \$4,200,000 of the amounts to be made available for physician services under this section shall be contingent on primary care clinician plan providers' adherence to quality standards and achievement of performance benchmarks, and may be paid in fiscal year 2010. 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 55. Notwithstanding any general or special law to the contrary, for fiscal year 2009, \$5,800,000 of the amounts designated in item 4000-0700 for Medicaid rate increases for community health centers shall be contingent on community health center adherence to quality standards and achievement of performance benchmarks or for infrastructure and system of care development including, but not limited to, infrastructure and system of care development necessary to enable community health centers to meet performance standards and achieve benchmarks, and may be paid in fiscal year 2010.

SECTION 56. There shall be established a special commission to investigate and study the impact of the OxyContin and heroin epidemic on state and municipal government, the substance abuse treatment system and to identify potential strategies to more effectively cope with said epidemic. The commission shall consist of 3 members of the senate, 2 of whom shall be appointed by the president of the senate and 1 of whom shall be appointed by the minority leader; 3 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 minority leader; and 5 members to be appointed by the governor; 1 of whom shall be a representative from the bureau of substance abuse services; 1 of whom shall be a representative from the Massachusetts District Attorneys Association; 1 of whom shall be the chair of the department of psychiatry at the University of Massachusetts Medical School; 1 of whom shall be a representative from the trial court; and 1 of whom shall be a representative from the department of correction.

The study shall include, without limitation, a review and analysis of: the total direct and indirect cost to the commonwealth as a result of substance abuse; the number of repeat detoxifications on an annual basis; recidivism of those committed in civil commitment programs for abuse of OxyContin or heroin; modifications to the civil commitment laws to reflect the long-term neurobiological impact that OxyContin and heroin abuse has on those addicted; the benefits of long-term residential programs that are of at least 90 days and how the commonwealth may transition to such a model; the juncture at which an addicted individual that is committed for OxyContin or heroin abuse may make competent decisions relative to his own course of treatment; the implementation of an intensive case management

system in the commonwealth and how other states have incorporated such a system; the establishment of a system of regional secure treatment centers; the number of inmates suffering from opiate dependence; recidivism in the criminal justice system for OxyContin and heroin abuse; statutory restrictions on parents and families with adolescents addicted to OxyContin or heroin; the sources of heroin, OxyContin and other prescription opiates available on the street; enhancements to the commonwealth's prescription monitoring program so that the data collected is a preventative resource for prescribers, law enforcement and treatment professionals; and the establishment of an outpatient commitment program.

The commission shall consult the department of public health, the executive office of public safety and security, the trial court, the department of correction and other entities as appropriate. The commission shall submit a report of its findings and recommendations, together with legislation, if any, necessary to implement said recommendations, by filing the same with the clerks of the house of representatives and the senate, the joint committee on mental health and substance abuse and the house and senate committees on ways and means not later than January 1, 2009.

SECTION 57. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2009, an acute hospital's liability to the Health Safety Net Trust Fund under section 37 of chapter 118G of the General Laws shall equal the product of: (1) the ratio of its private sector charges to all acute hospitals' private sector charges; and (2) \$180,000,000. The comptroller shall transfer \$20,000,000 to the Commonwealth Care Trust Fund, established under section 2000 of chapter 29 of the General Laws. Said funds shall be available for fiscal year 2009 expenses associated with health care costs. If these funds are not required for fiscal year 2009 expenses associated with health care costs, the funds shall be credited to the acute hospital liability to the Health Safety Net Trust Fund for fiscal year 2010.

SECTION 58. Notwithstanding any general or special law to the contrary, all fair share contribution liability for the period from October 1, 2007 to September 30, 2008 shall be paid not later than June 30, 2009.

SECTION 59. Notwithstanding subsection (k) of section 14G of chapter 151A of the General Laws or any general or special law to the contrary, the secretary of labor and workforce development may direct the comptroller to transfer up to \$35,000,000 in 3 separate payments from the Medical Security Trust Fund, established under said subsection (k) of said section 14G of said chapter 151A, to the General Fund for expenses associated with health care costs. The comptroller shall make the first payment in the amount of \$15,000,000 upon the effective date of this act. The remaining balance, up to \$20,000,000, shall be paid in not more than 2 payments of up to \$10,000,000 each, provided that the secretary of labor and workforce development certifies to the secretary of administration and finance that, based on projections made by the division of unemployment assistance, sufficient funds remain available in the Medical Security Trust Fund after said transfer or transfers to meet the requirements of said section 14G of said chapter 151A.

SECTION 60. The executive office of labor and workforce development, working with its division of unemployment assistance, the executive offices for administration and

finance and of health and human services, and other agencies, shall undertake a study of the Medical Security Plan program to examine the possibility of long-term efforts to integrate and align the program with other health insurance programs offered by the commonwealth in light of the commonwealth's health care reform effort.

SECTION 61. Notwithstanding any general or special law to the contrary, as of June 30, 2008, the comptroller shall transfer \$100,000,000 from the General Fund to the Commonwealth Stabilization Fund, established under section 2H of chapter 29 of the General Laws.

SECTION 62. The trial court shall work and cooperate with the district attorneys and state and municipal police departments to provide for the efficient management of court appearances by state and municipal police personnel. The chief justice for administration and management of the trial court shall convene a working group consisting of representatives of the justices and clerk-magistrates of the district and municipal courts and 1 representative to be designated by each of the following entities: the executive office of public safety and security, the department of state police, the Massachusetts Chiefs of Police Association and the Massachusetts District Attorney's Association. The working group shall study and make recommendations to the chief justice concerning the effective methods to schedule, manage and control court appearances by police personnel to create efficiencies and reduce police overtime costs. The working group shall report its recommendations to the chief justice not later than January 31, 2009, and the trial court shall work with the district attorneys and state and local municipal police departments to promptly implement these recommendations.

SECTION 63. 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 \$118,830,389 from the General Fund to the State Lottery Fund, established under section 35 of chapter 10 of the General Laws, for payments made to cities and towns during fiscal year 2007.

SECTION 64. 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 not more than \$117,000,000 from the General Fund to the State Lottery Fund, established under section 35 of chapter 10 of the General Laws, for payments made to cities and towns for fiscal year 2008.

SECTION 65. Notwithstanding any general or special law to the contrary, the information technology division may process fiscal year 2007 expenditure refunds not to exceed \$1,200,000 as fiscal year 2008 expenditure refunds in item 1790-0200 of section 2B of chapter 228 of the acts of 2007, and the amount of this deposit shall be available for expenditure in fiscal year 2009.

SECTION 66. The amount of the assessment established by the division of healthcare finance and policy, pursuant to sections 40 of chapter 118G of the General Laws, shall be sufficient, in the aggregate, to generate \$33,000,000 in fiscal year 2009.

(c) The division shall establish by regulation an appropriate mechanism for enforcing the assessment liability under this section in the event that a health insurer does not make a

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scheduled payment, but the division may, for the purpose of administrative simplicity, establish threshold liability amounts below which enforcement may be modified or waived. This enforcement mechanism may include assessment of interest on the unpaid liability at a rate not to exceed an annual percentage rate of 18 per cent and late fees or penalties at a rate not to exceed 5 per cent per month.

SECTION 67. Section 6 shall take effect as of July 1, 2007.

SECTION 68. Section 13 shall take effect as of January 1, 2008.

SECTION 69. Sections 5, 24, 26, 27, 28, 29, 61, 63, 64 and 65 shall take effect as of June 30, 2008.

SECTION 70. Sections 4, 7, 8, 9, 12, 13, 14, 15, 16, 20, 21, 22 and 31 to shall take effect as of July 1, 2008.

SECTION 71. Sections 18, 19 and 58 shall take effect on October 1, 2008.

SECTION 72. Sections 21B and 21D shall take effect on July 1, 2011.

This bill was returned on August 8, 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 sections therein:

Sections Disapproved: 21A, 21B, 21C, 21D, 34, 35, 36, 37, 38, 39, 40 and 72.

The remainder of the bill was approved by the Governor on August 8, 2008 at nine o'clock and thirty minutes, A.M.

Chapter 303. 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 forthwith finance improvements to the Commonwealth's transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for a program of transportation development and improvements, the sums set forth in sections 2A to 2G, 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.

NO SECTION 2.

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; provided further, that the amounts specified in this item for a particular project may be adjusted in order to facilitate other projects relating to the design, construction, repair or improvement to nonfederally-aided roadway projects; provided further, that \$800,000 shall be expended for resurfacing and related work on state highway route 3 in the town of Plymouth; provided further, that \$1,000,000 shall be expended for the construction of sidewalks in the South street bridge area and along the section of Manley street from West Center street to West street, all in the town of West Bridgewater; provided further, that \$100,000 shall be expended for a traffic improvement study of route 2, route 13 and the Nashua river in Northern Worcester county; provided further, that \$3,000,000 shall be expended for the resurfacing of Washington street in the city of Somerville; provided further that \$750,000 shall be expended for the design and construction of traffic signals at Main street, Alexander avenue, Harvard avenue, and Willis avenue in the city of Medford; provided further that \$50,000 shall be expended for the design and construction of school zone signage, pedestrian landing areas and crosswalks on route 44 in the town of Rehoboth, provided further, that \$110,000 shall be expended for the design and installation of Opticom or similar emergency vehicle signals for the public safety complex on route 44 in the town of Seekonk; provided further, that \$1,000,000 shall be expended for the Main street economic development project in the town of Lee; provided further, that \$150,000 shall be expended for the Greater I-495/Metro West economic and demographic study; provided further, that \$350,000 shall be expended for lighting improvements to the new Parker river bridge or the North and South approaches to the bridge on route 1A in the town of Newbury;

provided further, that \$1,700,000 shall be expended for the rehabilitation of the Rockland street bridge in Hingham; provided further, that \$700,000 shall be expended for the design, reconstruction and signalization of Amostown road at the Dewey street intersection in the city of West Springfield; provided further, that \$300,000 shall be expended for the design of West Main street in the town of Georgetown; provided further, that \$400,000 shall be expended for the design and construction of traffic signals on route 114 at Hillside road in town of North Andover; provided further, that \$4,430,000 shall be expended for the design and reconstruction of Goldsmith street in the town of Littleton; provided further, that \$469,000 shall be expended for replacement of a bridge located on Meadowbrook road in the town of Chelmsford; provided further, that \$860,000 shall be expended for the reconfiguration of Nonantum road in the city of Watertown; provided further, that \$8,400,000 shall be expended for the rehabilitation of the Tyngsborough bridge; provided further, that \$250,000 shall be expended for improvements to route 9 between Southboro and Wellesley; provided further, that \$1,500,000 shall be expended for improvements to route 9, route 27, and the route 9 and Oak street intersections in the town of Natick; provided further, that \$3,800,000 shall be expended for the design and construction of the Central Massachusetts Emergency Operations Center Access road and bridge at the Worcester Fire Headquarters, located at 141 Grove street in the city of Worcester; provided further, that \$500,000 shall be expended for the design and engineering costs associated with the construction of a bike and pedestrian rail-trail connecting the towns of Wakefield and Lynnfield; provided further, that \$6,000,000 shall be expended for the widening and improvements to route 85 Washington street corridor in the town of Hudson; provided further, that \$1,200,000 shall be expended for the installation of traffic signals at 3 intersections in West Bridgewater; provided further, that \$10,000,000 shall be expended for the design and construction of a parking garage in the city of Revere; provided further, that \$15,000,000 shall be expended for the design and construction of a parking garage in the city of Salem; provided further, that \$50,000 shall be expended for improvements to Story Street Road in the town of Essex; provided further, that

\$250,000 shall be expended for the Billerica Center to improve traffic flow; provided further, that \$200,000 shall be expended for the widening of route 139 in the town of Marshfield; provided further, that \$7,000,000 shall be expended for resurfacing and related work on state highway route 6 in the town of Westport; provided further, that \$400,000 shall be expended for the design and reconstruction of the Summer street and George Washington boulevard in the town of Hingham; provided further, that \$535,000 shall be expended for culvert repairs at Parish road, West street and Penn Brook in the town of Georgetown; provided further, that \$4,500,000 shall be expended for the construction of the reclamation of route 32 project from the Athol town line to the New Hampshire state border; provided further, that \$2,250,000 shall be expended for the design and construction of a parking deck in Gardner; provided further, that \$850,000 shall be expended for an engineering study, design, and construction for a traffic signal and intersection improvements on Route 9 in the town of Williamsburg; provided further, that \$2,000,000 shall be expended for the reconstruction of sidewalks surrounding the University avenue bridge in the city of Lowell; provided further, that \$500,000 shall be expended for the design and construction of Harrison avenue in the town of Avon; provided further, that \$800,000 shall be expended for the design and construction of traffic signals at the intersection of Main street and route 16, South Street, and Mystic avenue in the city of Medford; provided further, that \$3,000,000 be expended for improvements to route 138 in the town of Milton to the town of Stoughton; provided further, that \$1,500,000 shall be expended for the design and construction of a pedestrian footbridge over route 114 near Lawrence high school; provided further, that \$1,000,000 shall be expended for the Union crossing project in the city of Lawrence; provided further, that \$11,000,000 shall be expended for the design and construction of sound barriers along routes 128 and 93 in the towns of Woburn and Burlington; provided further, that \$10,000,000 shall be expended for the reconstruction of a section of route 140 from the town of Sterling to the town of Westminster; provided further, that \$1,750,000 shall be expended for the design and reconstruction of Rockland street in the town of Hingham; provided further, that \$500,000 shall be expended for the pur-

chase of railroad land in the town of Haverhill; provided further, that \$600,000 shall be expended for the repair and rehabilitation of town owned bridges in the town of Andover; provided further, that \$144,000 shall be expended for the reimbursement to the Town of Boxford for the repair of Parker river culvert on route 133 in the town of Boxford; provided further, that \$500,000 shall be expended for the design and construction of signage and intersection improvements at route 97 and Lake street in the town of Haverhill; provided further, that \$250,000 shall be expended for culvert cleaning in the Frye road area in the city of Methuen; provided further, that not less than \$10,000,000 shall be expended for the redesign and reconstruction of, and improvements to, exit 19 of route 128 in the city of Beverly, including but not limited to construction of an overpass; provided further, that \$20,000 shall be expended for the design and construction of crosswalks on route 28 in the town of Milton; provided further, that \$367,000 shall be expended for the design and construction of sidewalks on Granite avenue in the town of Milton; provided further, that \$1,000,000 shall be expended for the town of Randolph repaving project; provided further, that \$1,200,000 shall be expended for repairs to North Main street in the town of Randolph; provided further, that \$357,000 shall be expended for traffic improvements at the intersection of route 62 and Glen road in the town of Wilmington; provided further, that \$400,000 shall be expended for the design and construction of traffic signals at the intersection of Main street/route 38 and Newton avenue in the town of Tewksbury; provided further, that \$180,000 shall be expended for the drainage, repaving, and reconstruction of Couture, Amie, Boulanger, and Camp Jahn roads in the Ponds section in the town of Southamptton; provided further, that \$125,000 shall be expended for the repair of the Clement Street bridge in the Bay State section of the city of Northampton; provided further, that \$250,000 shall be expended for the additional costs related to the ongoing reconstruction of bridges on South road in the town of Westhampton; provided further, that \$150,000 shall be expended for the realignment of the route 5 and Hatfield street intersection in the city of Northampton; provided further, that \$50,000 shall be expended for the reconstruction of the highway maintenance

facility in the town of Montgomery; provided further, that \$50,000 shall be expended for the design and engineering related to the repair of the Connecticut river dike and associated roadway in the town of Hatfield; provided further, that \$1,200,000 shall be expended for the reconstruction and signalization at Oak street in the town of Randolph; provided further, that \$1,000,000 shall be expended for the repair and reconstruction of Bay Road in the town of Stoughton; provided further, that \$1,450,000 shall be expended for the reconstruction of the section of route 27 from Bryantville center to the intersection of route 27 and route 36 in the town of Pembroke; provided further, that \$775,000 shall be expended for the design and construction of the route 16 signalization improvement project in the town of Milford; provided further, that \$1,000,000 shall be expended for intersection improvements and traffic signal installation at the intersection of route 3A/State road and Herring Pond road in the town of Plymouth; provided further, that funds shall be expended for the rehabilitation and installation of sidewalks along the section of route 110 between the town center and the new senior center in the town of Merrimac; provided further, that \$750,000 shall be expended for the refurbishment of the South Canal bridge in the city of Lawrence; provided further, that \$100,000 shall be expended for the installation of traffic signals at the intersection of Charles and Canal streets in the city of Malden; provided further, that funds shall be expended for roadway safety and other improvements to Main street in the town of Southborough; provided further, that \$6,000,000 shall be expended for the construction of a new, full interchange on interstate highway route 93 between interchanges 41 and 42; provided further, that not more than \$4,000,000 shall be expended for the design and construction of a parking deck in the city of Westfield; provided further, that not more than \$6,200,000 shall be expended for the I-495/route 126 interchange improvement project in the town of Bellingham; provided further, that not more than \$3,000,000 shall be expended for the replacement of the Chapaquoit bridge in the town of Falmouth; provided further, that not more than \$100,000 shall be expended for the completion of the East street revitalization project in the town of Ludlow; provided further, that \$100,000 shall be expended

for the replacement of the Dilla street bridge at Louisa Lake in the town of Milford; provided further, that \$9,200,000 shall be expended for signalization and roadway improvements to the state highway route 116 and Main street corridor in the city of Springfield from interstate highway route 91 northbound off-ramp at interchange 10 to the Chicopee city line; provided, however, that not less than \$6,200,000 of those funds shall be used for roadway and signalization improvements at the intersections of Springfield street at Chestnut street, Chestnut street at Dover street, Main street, state highway route 116 at Walter street and Noble street, Main street, state highway route 116 at Wason avenue and Walter street at Bernie avenue; provided further, that \$17,000,000 shall be expended for the reconstruction and discontinuance of certain state roadways in the municipalities of Newton and Needham, including both the reconstruction after discontinuance of Highland avenue in Needham from Webster street to the Newton city line and after discontinuance, the reconstruction of Winchester street, and Needham street in Newton from the Route 9 westbound ramps to the Needham town line, and all areas appurtenant thereto; provided further, that the discontinuance of Highland avenue shall be east of the Route 128 northbound ramps as well as between Webster street and Hunting road/Gould street; and the discontinuance of Winchester street and Needham street shall be south of the route 9 eastbound ramps; and provided that, the department shall provide the town of Needham and the city of Newton the necessary funds from this item to complete their respective portions of such project; provided further that \$500,000 shall be expended for design and engineering costs associated with the construction of a bike and pedestrian rail-trail connecting the towns of Wakefield and Lynnfield; and provided further, that \$3,300,000 shall be expended for the design and construction of the Central Massachusetts Emergency Operations Center Access Road at Worcester Fire Headquarters, located at 141 Grove Street in the city of Worcester; provided further, that \$4,500,000 shall be expended for the construction of the reclamation of route 32 Project from the Athol town line to the New Hampshire state border; provided further, that \$25,000 shall be expended for the design and engineering for

traffic signals at the intersection of Prospect Street and Jackson Street in the city of Northampton; provided further, that \$6,000,000 shall be expended for the widening and improvements to state highway route 85 Washington Street corridor in the town of Hudson; provided further, that \$50,000 shall be expended for the design and engineering of noise barriers on Route 91 in the Ferry Avenue and Island Road neighborhood of the city of Northampton; provided further, that \$2,750,000 shall be expended for roadway safety and other improvements to Norfolk, Central and Highland streets in the town of Holliston; provided further, that \$1,500,000 shall be expended for intersection improvements and traffic signal installation at the intersection of route 3A and Howlands lane and the intersection of route 3A and Crescent street, all in the town of Kingston; provided further, that not less than \$800,000 shall be expended for the design and construction of traffic signals at the intersection of Main street and state highway route 16, South street and Mystic avenue in the city of Medford; provided further, that not more than \$2,000,000 shall be expended for the acquisition of right-of-way for the Veterans Memorial drive alternate route project in the town of Milford; provided further, that \$600,000 shall be expended for bridge repair work on Bartlett road in the town of Plymouth; provided further, that \$500,000 shall be expended for the design and construction of barriers along route 128 in the town of Beverly; provided further, that \$5,000,000 shall be expended for route 24 interchange improvements in the city of Fall River and the town of Freetown; provided further, that \$1,750,000 shall be expended for roadway safety and other improvements to routes 135 and 85 and to West Main street in the town of Hopkinton; provided further, that \$300,000 shall be expended for enhanced lighting and streetscape improvements around the 1st Lt. Derek Hines Bridge and Deer Island in the town of Amesbury; provided further, that \$2,900,000 shall be expended for streetscape improvements to Machine Shop Village in the town of North Andover; provided further, that \$2,000,000 shall be expended for flood mitigation in the city of Peabody; provided further, that \$595,000 shall be expended for sidewalk and drainage improvements on Elm street in

the town of Hubbardston; provided further, that \$1,200,000 shall be expended for the design and installation of traffic signals at the intersection of East and East Center streets, at the intersection of Matfield and North Main streets, and at the intersection of Belmont and Plain streets, all in the town of West Bridgewater; provided further, that \$2,000,000 shall be expended for reconstruction of a seawall along the Ocean avenue causeway connecting Marblehead Neck to Marblehead proper; provided further, that \$2,000,000 shall be expended for the Phase II streetscape improvement project in downtown Attleboro; provided further, that \$225,000 shall be expended for repairs to Hampshire Street in the city of Lawrence; provided further, that funds shall be expended for bank and slope stabilization along the section of River road from Skunk road to Bancroft lane in the town of Merrimac; provided further, that \$3,600,000 shall be expended for the design and reconstruction of route 79 in the city of Fall River; provided further, that funds shall be expended to provide safety improvements and roadway realignment at the site of the Bourne landfill on route 28 northbound; provided further, that \$10,000,000 shall be expended for the design and construction of sound barriers along the Northbound Side of interstate 93 from route 129 in the town of Wilmington extending north to route 133 in the town of Andover; provided further, that \$3,500,000 shall be expended for part II of the reconstruction of route 14 in the town of Pembroke; provided further, that \$800,000 shall be expended for the installation of traffic signals at the intersection of South street and route 3A and at the intersection of Water street and route 3A, all in the town of Plymouth; provided further, that \$700,000 shall be expended for the realignment of the intersection of Spofford street, Moseley avenue and Merrimac street in the city of Newburyport; provided further, that \$1,200,000 shall be expended for the construction of the Watertown bike path from School street to Grove street in the city of Watertown; provided further, that \$800,000 shall be expended for the realignment of the entrance of Mobile Home Estates at Marc drive and for the installation of a traffic signal in the town of Plymouth; provided further, that \$200,000 shall be expended for the design, planning and reconstruction of the Elm street bridge spanning the Jones river in the town of

Kingston; provided further, that \$4,400,000 shall be expended for the design, construction and right-of-way acquisition for improvements at the intersection of route 28 and Yarmouth road in the town of Barnstable; provided further, that \$4,000,000 shall be expended for the reconstruction of the section of route 3 to 140 from Legg road in the town of Sterling to Patricia road in the town of Westminster; provided further, that \$600,000 shall be expended for bridge repair work on Brook road in the town of Plymouth; provided further, that \$600,000 shall be expended for traffic signal upgrades at the intersection of Davisville road and route 28, the intersection of Jones road, David straits and route 28, and the intersection of Sandwich road and Brick Kiln road, all in the town of Falmouth; provided further, that \$2,000,000 shall be expended for the addition of lanes and widening of Yarmouth road in the town of Hyannis; provided further, that \$1,000,000 shall be expended to implement short-term solutions for the route 110 rotary in the town of Methuen; provided further, that \$50,000 shall be expended for portable solar-powered traffic signalization displays for the town of Groton; provided further, that \$10,000,000 shall be expended for all costs associated with traffic, transit, streetscape and pedestrian improvements to promote economic development in the Hamilton Canal district in the city of Lowell; provided further that \$1,000,000 shall be expended for the installation of a traffic signal and associated intersection improvements at the intersection of route 3A and Route 53 Kingsbury Plaza in the town of Kingston; provided further, that \$700,000 shall be expended for the design and construction of a new on-ramp to state highway route 3 northbound from Long Pond road westbound in the town of Plymouth; provided further, that \$5,000,000 shall be expended for sound barriers at Copeland Circle/Route 99 on the route 1 corridor in the city of Revere; provided further, that \$12,000,000 shall be expended for infrastructure improvements at Water Front Square Project at Revere Beach; provided further, that \$220,000 shall be expended for the design and construction of safety improvements at the Pease Avenue and Morgan Road intersection in the city of West Springfield; provided further, that \$1,200,000 shall be expended for roadway improvements in downtown Malden square in the city of Malden; provided

further, that \$500,000 shall be expended for the installation of a traffic signal or roundabout at the intersection of Mason street, County street and Chase street in the town of Freetown; provided further that \$1,000,000 shall be expended for the redesign of the intersection of the route 28 and Washington Street in the city of Somerville; provided further that \$750,000 shall be expended for emergency repairs to route 129 from the Lynn city line at Humphrey Street to Puritan Road and from Atlantic Avenue to the end thereof; provided further that \$750,000 shall be expended for emergency repairs to the Village Street Bridge to improve traffic safety within the Village Middle School zones and to facilitate traffic flow within coastal Essex county; provided further, that \$4,500,000 shall be expended for the construction of the New Boston Street Bridge in the city of Woburn; provided further, that \$10,000 shall be expended for a Traffic Control Opticom or similar system for route 9 in the town of Westborough; provided further, that \$50,000 shall be expended for improvements to Story Street Road in the town of Essex; provided further, that \$500,000 shall be expended for the design and construction of Harrison Boulevard in the town of Avon; provided further, that \$50,000 shall be expended for the design of traffic control enhancements and road and intersection improvements on Grafton Street and route 20 in the town of Shrewsbury; provided further, that \$2,000,000 shall be expended for the reconstruction of sidewalks surrounding the University Avenue Bridge in the city of Lowell; provided further, that \$200,000 shall be expended for the widening of route 139 in the town of Marshfield; provided further, \$500,000 shall be expended for the design and construction of road, intersection, and traffic safety improvements on Grafton Street and route 20 in the town of Shrewsbury; provided further that \$50,000 shall be expended for the design of traffic control enhancements and road and intersection improvements on South Quinsigamond Avenue at its intersection by White City Shopping Mall in the town of Shrewsbury; provided further, that \$300,000 shall be expended for the construction of road and traffic, intersection safety improvements on South Quinsigamond Avenue at its intersection by White City Shopping Mall in the town of Shrewsbury;

provided further, that \$400,000 shall be expended for the repair of the Great Bay Bank slope in the town of Falmouth; provided further, that \$300,000 shall be expended for the installation of traffic signals at the intersection of route 28/Main street and North street and at the intersection of route 28/Main street, North Border road and South street, all in the town of Stoneham; provided further, that \$3,000,000 shall be expended for improvements to route 138 in the town of Milton to the town of Stoughton; provided further, that \$2,400,000 shall be expended for the design, planning and construction of the Obery street northbound slip ramp and associated roadway improvements and for the reconstruction of Obery street in the town of Plymouth; provided further, that \$450,000 shall be expended for the reconstruction of the sections of Bellevue avenue from the Fellsway to Porter street and from Porter street to Upham street in the city of Melrose; provided further, that \$1,900,000 shall be expended for the design and construction of improvements to the airport rotary in the town of Barnstable; provided further that \$2,000,000 be expended for a feasibility study of constructing multi-modal station in the Guest Street/Market Street area in Brighton and for a River Station in Mountfort area of Brookline/Boston; provided further, that \$4,600,000 shall be expended for the reconstruction of the section of route 123 from Eastman street to the Norton town line; provided further, that \$1,400,000 shall be expended for the reconstruction of the section of route 27/School street from the intersection of route 27 and route 36 in the town of Pembroke to the Kingston town line; provided further, that \$40,000 shall be expended for safety improvements and traffic controls at the intersection of Acton Road, also known as route 127, and Maple Road in the town of Chelmsford; provided further that \$100,000 shall be expended for the installation of traffic islands at the grade crossings at Chestnut street, Prospect street and Broadway in the town of Wakefield; provided further, that \$4,511,000 shall be expended for road reconstruction and improvements to route 28 in the town of Barnstable; provided further, that \$6,200,000 shall be expended for widening of route 114 in the town of North Andover; provided further that \$150,000 shall be expended for a study of a Green Line extension by the city

of Medford in coordination with the executive office of transportation and construction; provided further, that \$2,500,000 shall be expended for improvements to route 28 in the town of Avon; provided further, that \$300,000 shall be expended to resurface of route 97 in the town of Boxford; provided further, that \$1,500,000 shall be expended for the design and construction of signage and intersection improvements at Lower Main Street and Farmwood Drive in the town of Haverhill; provided further, that \$3,000,000 shall be expended for paving and sidewalk construction along route 127 in the town of Beverly; provided further, that \$25,000 shall be expended for the design and engineering related to the construction of sidewalks on Hatfield Street in the city of Northampton; provided further, that \$825,000 shall be expended for the design and construction of safety improvements at Morgan Road at Piper Cross intersection in the city of West Springfield; provided further, that \$650,000 shall be expended for signalization improvements and curbing on North Main Street at Pond Street in the town of Randolph; provided further, that \$25,000 shall be expended for the design and construction of school zone signage on Brook Road in the town of Milton; provided further, that \$50,000 shall be expended for a safety and traffic study for an at-grade crossing of railroad tracks, including the MBTA commuter rail tracks in the Concord/Alewife area of the city of Cambridge; provided further that not less than \$300,000 be expended for the design and construction of sidewalks in the town of Falmouth from Seacoast Boulevard to Seapit road; provided further that not less than \$200,000 be expended for the design and construction of sidewalks in the town of Falmouth from Moonakis road to the Mashpee town line; provided further that not less than \$10,000,000 shall be expended on the design and construction of a parking garage or parking improvements in the city of Fall River; provided further that not less than \$1,000,000 shall be expended on the expansion, repair and improvement of sanitary facilities that utilizes zero pollution discharge technologies including recycling greywater systems; provided further, that \$203,000 shall be expended for improvements to the sidewalks on North Main Street in the Town of Andover; provided further,

that \$400,000 shall be expended for the design and construction of traffic signals at the intersection of River Road and Andover Street in the town of Tewksbury; provided further, that \$1,200,000 shall be expended for the repaving of route 125 in the town of North Andover; provided further that 2.4 million dollars will be provided to reinforce the street bridges and install or repair sidewalks at said bridges on Florence Street, Mountain Avenue, Clifton Street, and Winter Street in the City of Malden; provided further that not less than \$500,000 be expended for the repaving and refurbishing of municipal parking lots in the city of Beverly; provided further, that not less than \$150,000 be expended for the repair of the Pemberton Pier Commuter Float in the town of Hull; provided further, that not less than \$1,068,000 shall be expended for improvements and reconstruction to Abington Street in the town of Hingham; provided, further, that not less than \$9,000,000 shall be expended for the resurfacing of route 116 in the town of Savoy; provided further, that \$150,000 shall be expended for the Scott Road Bridge project in the city of Fitchburg; provided further, that not less than \$500,000 be expended for safety improvements along Rt. 44 near the Palmer River Elementary/Beckwith Middle School Complex in the town of Rehoboth, including the establishment of safe sightlines by regrading the roadway, installation/extension of sidewalks, and realignment of crosswalks; provided further, that not less than \$1,500,000 shall be expended for the design and reconstruction of the intersection at RT-114A & Arcade Ave. in Seekonk; provided further, that not less than \$850,000 shall be expended for an engineering study, design and construction for a traffic signal and intersection improvements on Route 9 in the town of Williamsburg; provided further that not less than \$1,500,000 be expended for the design and construction of a sound barrier along the Massachusetts Turnpike bordering Lincoln Street in Allston-Brighton; provided further, that \$1,300,000 shall be expended for the reconfiguration project at the intersection of Wellesley Street and Route 30 in Weston; provided further, that \$2,000,000 shall be expended for the Rockland Street Bridge in Wellesley; provided further that \$3,000,000 will be expended for streets and sidewalks improvements for State Highway 99

as the same transverse the City of Malden from the City of Saugus to the City of Everett; provided further that \$300,000 shall be expended for design of Route 109 and Holliston Street and the intersection of Route 109 and Pond Street in the town of Medway; provided further, that \$2,250,000 shall be expended for the design and construction of a parking deck in Gardner; provided further, that \$535,000 shall be expended for culvert repairs at Parish Road, West Street and Penn Brook in the town of Georgetown; provided further that \$1,000,000 shall be expended for the design and construction of a sound barrier wall along Route 93 southbound in the section of Dorchester in the city of Boston; provided further, that \$2,400,000 shall be provided to reinforce the street bridges and to install or repair sidewalks at said bridges on Florence Street, Mountain Avenue, Clifton Street and Winter Street in the city of Malden; provided further, that no more than \$500,000 shall be expended for sound barriers in Milford, including 1,000 linear feet of sound barrier along interstate route 495 near Hillcrest Drive along the southbound right of way beginning about 0.6 mile south of the Hopkinton town line, 2,200 linear feet of sound barrier near Eben Street along the southbound right of way beginning about 1.4 miles south of the Hopkinton town line and 1,500 linear feet of sound barrier near Bodio, Attilio, and Eugene Circles along the northbound right of way beginning about 1 mile north of the Bellingham town line; provided further, that no more than \$650,000 shall be expended to reconstruct Route 16 in Milford from the Hopedale town line to Water Street, including the replacement of concrete sidewalks on both sides of the street; provided further, that no more than \$200,000 shall be expended to reconstruct Lake Street in Hopedale, including 1,350 linear feet of road and 1,600 linear feet of sidewalk; provided further, that no more than \$300,000 shall be expended to reconstruct North Avenue in Mendon and provide signalization at the intersection of North Avenue and Hastings; provided that \$500,000 shall be expended for the repair and rehabilitation of the bridge across the Aberjona River on Mount Vernon Street in the town of Winchester; provided further that an amount not to exceed \$2,000,000 shall be expended for the design and construction of sound barriers in the town of Stoneham along the northbound lane

of interstate 93 from the Marble Street overpass extending south to the Fallon Road overpass and adjacent on-ramp, and along the Inter-state 93/Route 128 interchange adjacent to Constitution Road; provided further that the sum of \$8,100,000 be expended for reconstruction of Trapelo Road and Belmont Street in the towns of Watertown and Belmont and that the sum of \$2,000,000 shall be expended for streetscape and safety amenities in connection therewith; provided that not less than \$250,000 shall be expended for a comprehensive study of necessary road improvements of the Route 9 corridor from Southboro to Wellesley; provided that not less than \$750,000 be expended for the re-paving of the Pleasant Street Bridge over the Charles River in Natick; provided that not less than \$750,000 be expended for the re-paving of the Boden Lane Bridge over the CSX railroad tracks in Natick; provided that not less than \$7,000,000 be expended for the construction of a parking garage in downtown Natick; provided that not less than \$2,500,000 be expended for the bridge replacement on Pleasant Street over the Charles River in the town of Millis; provided further, that \$600,000 shall be expended for a flood mitigation project on route 62 in the town of Wilmington to be administered by the town of North Reading in conjunction with the town of Wilmington; provided further, that funds shall be expended to install and make functional a dedicated left turn signal in the north bound lane of Route 28 in the town of Reading at the intersection of Route 28 and Franklin Street; provided further that not less than \$2,000,000 be expended for the construction of a sidewalk from the Truro Central School to Truro Public Safety Building on Route 6 in the Town of Truro; and provided further, that not less than \$1,500,000 shall be expended for improvements to the intersections of state highway routes 9 and 27 and state highway route 9 and Oak street in the town of Natick; provided further that not less than \$1,900,000 be expended for the design and replacement of the Bridges Street Bridge over Mitchell River in the Town of Chatham; provided further that not less than \$100,000 be expended for the design and construction of a sidewalk along Race Point Road from the transfer station to Route 6, continuing along Conwell Street to the intersection of Cemetery

Road in the Town of Provincetown; provided further that \$500,000 shall be expended for reconstruction of sidewalks and repairs to Route 16 between Everett Avenue and Webster Avenue in the City of Chelsea; provided further that \$1,000,000 shall be expended for repair and reconstruction of parking lots, roadways and sidewalks at the Massachusetts Soldier's Home in Chelsea; provided further that \$10,000,000 shall be expended for the reconstruction, redesign and signalization of Rutherford Avenue and Sullivan Square in the Charlestown section of the City of Boston; provided further, that \$11,700,000 be expended for the renovation and reconstruction of Route 1A/Main Street in the town of Walpole; provided further that not less than \$500,000 be made available for the extension of the Ashuwillticook Rail Trail extension project from the town of Adams to Crane Avenue in Pittsfield; provided further that \$3,000,000 shall be expended for the repair and improvements to the Berkshire Mall Road in the town of Lanesborough; provided further that not less than \$600,000 be made available for the rehabilitation of the Keystone Arches Bridges in the towns of Middlefield, Becket and Washington; provided further, that \$600,000 shall be expended for resurfacing, sidewalk construction and related work on Brainerd Street in the town of South Hadley; provided further, that \$225,000 shall be expended for the design and construction of sidewalks and improvements to Route 10 in the city of Easthampton; provided further, that not less than \$1,000,000 shall be expended to repair the West Boylston Street bridge on Route 12 in Worcester; provided further, that not less than \$800,000 be expended for the construction of the Francis R. Carroll Intersection and Plaza in the city of Worcester; provided further, that not less than \$8,000,000 be expended for the route 146 interchange Gateway One Project in the city of Worcester; provided further that not less than \$400,000 shall be expended to the town of Amesbury for interior build out at the new Merrimack Valley Regional Transportation Authority transportation center; provided further, that not less than \$350,000 be expended for infrastructure and road work at the Gateway Park Economic Development Zone in the city of Worcester; provided further, that not less than \$300,000 for improvements to Downing Square area in Arlington; provided

further, that not less than \$300,000 for improvements and enhancements to the Massachusetts Avenue in Arlington; provided further that not less than \$500,000 shall be expended for the reconstruction and repaving of Route 97 in the Town of Boxford; provided further, that not less than \$750,000 shall be expended for the replacement of the Bridge Street culvert located in the Town of Hamilton; provided further that \$300,000 shall be expended for the design and construction of sidewalks in the town of Braintree on Grove Street, from Plain Street to Liberty Street; provided further that \$1,000,000 shall be expended for the design and construction of a sound barrier wall along Independence Avenue in the town of Braintree; provided further that \$1,000,000 shall be expended for the design and reconstruction of Route 37 in the Highlands section of the town of Braintree; providing further that \$5,000,000 shall be expended to conduct a traffic study at Wellington Circle; provided further, that \$150,000 shall be expended to construct a sound barrier at 37 and 37R Elliott Street in the Town of Danvers; provided further that not less than \$8,000,000 shall be expended on the application of paint finish for the Bragga Bridge in the city of Fall River; provided further, that \$3,700,000 shall be expended for pedestrian, vehicular and rail access and streetscape improvements in downtown Uxbridge; provided further that not less than \$50,000 shall be reimbursed to the Town of Oxford for traffic light design at the intersection of Cudworth Road and Route 12; provided further that not less than 50,000 dollars shall be expended to the Town of Millbury for storm water runoff drainage repairs and improvements; provided further, that \$1,000,000 shall be expended for street and sidewalk rehabilitation along Washington Street in the town of Abington; provided further, that \$1,200,000 shall be expended for street and sidewalk rehabilitation in the historical district surrounding East Bridgewater Town Common; provided further, that \$1,000,000 shall be expended for street and sidewalk rehabilitation in the town of Whitman; provided further that \$250,000 shall be expended for repairs on Gallivan Boulevard in the section of Dorchester in the City of Boston; provided further that \$750,000 shall be expended for a study and rehab of a new traffic system for Gallivan Boulevard, Granite Avenue and Adams Street in the section

of Dorchester in the city of Boston; provided further that \$700,000 shall be expended for a study on Kosciuszko Circle in the Section of Dorchester in the City of Boston; provided further that \$250,000 shall be expended for infrastructure improvements on Washington Street in the town of Braintree; provided further, that not less than \$2,000,000 shall be expended for rehabilitation of the Padanaram Bridge in the town of Dartmouth; provided further, that not less than \$1,200,000 shall be expended for the rehabilitation and sidewalk improvements to Slocum Road in the town of Dartmouth; provided further, that \$50,000 shall be expended for a comprehensive study of downtown Waltham parking conditions, requirements and recommendations; provided further, that \$500,000 shall be expended for the extension of the Wayside Rail Trail in the city of Waltham; provided further, that \$1,500,000 shall be expended for the design and roadway reconstruction, traffic signal and related improvements to the intersection of Trapelo Road and Forest Street in the city of Waltham; provided further, that \$3,500,000 for the resurfacing and/or reconstruction, including minor drainage improvements of Route 123 in the Town of Norwell; provided further, that not less than \$1,000,000 shall be expended for the construction of a Waban Noise Barrier on the east side of I-95 in Newton between Washington Street (Route 16) and the Charles River and in Wellesley between Charles River and Rosemary Brook; provided further, that not less than \$1,000,000 shall be expended for the construction of a Auburndale Noise Barrier located in West Newton and is under the jurisdiction of the Mass Turnpike Authority; provided further, that not less than \$2,000,000 shall be expended for design, construction, and engineering costs of a bike and pedestrian path along the Hurricane Barrier in the city of New Bedford; provided further, that not less than \$3,000,000 shall be expended for the redesign and construction of route 18 in the city of New Bedford; provided further, that not less than \$200,000 shall be expended for traffic signals and roadway improvements at the intersection of County Street and Cove Street located in the city of New Bedford; provided further that \$1,500,000 shall be expended for Brooklawn Park area for flood mitigation, street drainage, and street and parking reconfiguration in New

Bedford; provided further, that not less than \$2,500,000 shall be expended for the design and construction of a 3.5 mile bike path along Cisco Road in the Town of Nantucket; provided further, that not less than \$460,000 shall be expended on multi-user path safety improvements in the Edgartown section of Edgartown-Vineyard Haven Road in the Town of Edgartown; provided further, that not less than \$480,000 shall be expended on multi-user path safety improvements on the County Road Bike path in the Town of Oak Bluffs; provided further, that \$1,000,000 be expended for the beautification, maintenance and upkeep of Washington Street in the West Roxbury section of the city of Boston, including the upgrade and improvements of pedestrian safety features; provided further, that \$1 million be expended for the maintenance and improvements to Bellevue, Highland and West Roxbury commuter rail stations in the West Roxbury section of the city of Boston; provided further that \$350,000 shall be expended for a infrastructure and wastewater management study in Acushnet; provided further, that \$5,000,000 shall be expended for a decked garage and air-walks at the Indian Motorcycle parking lot site in Springfield; provided further that \$300,000 be expended for replacing the salt shed in the town of Monterey; provided further that not less than \$150,000 be expended to provide a plan for the MBTA commuter rail line ending in the village of Buzzards Bay in the town of Bourne. Said study will include a plan for parking and pedestrian walkways provided further that said plan include but not be limited to an evaluation of: the impact of traffic; impact to retail and residential areas; parking requirements and availability of space; pedestrian walkways; rail in flood and velocity zone; land and auxiliary needs; provided further, that \$2,000,000 shall be expended for the replacement of the Elm Street Bridge in the town of Freetown; provided further that not less than \$250,000 be provided for the Executive Office of Transportation and Public Work's Rail Unit to conduct a feasibility study for MBTA Commuter Rail Service between Union Station in Worcester and North Station in Boston via the Town of Clinton. This study shall assess the capital and operating costs as well as produce ridership estimates for this proposed commuter rail service. The capital cost estimate shall include

costs associated with track, signals, stations, structures, parking, layover facilities and equipment. The integration of this service with existing and proposed passenger and freight services as well as the impacts on service between Worcester and Boston via South Station shall be evaluated. Impacts of the proposed service on development and land use shall be examined. The study should explore and evaluate innovative methods to deliver new commuter rail services faster and more efficiently than traditional design and construction methods; provided further that not less than \$50,000 shall be expended for the renovation on the retaining walls for the Wareham Street Bridge in the Town of Middleboro; provided further, that \$100,000 shall be expended for traffic flow improvements to the left turning lane on Revere Beach parkway at its intersection with Spring street in the city of Everett; provided further, that not less than \$250,000 shall be expended for the purpose of installing sound barriers along the southerly eastbound side of route 290 in the town of Shrewsbury; provided further that not more than \$2,000,000 shall be expended for the Pulaski Boulevard Project in the town of Bellingham; provided further, that not less than \$500,000 shall be expended for road, drainage, and other infrastructure improvements at Hazelwood Park in New Bedford; that not less than \$2,500,000 shall be expended for Columbian Square and connecting roadways (Pleasant Street, Columbian Street {both sides of Route 18} and Union Street) located in the Town of Weymouth for the design and construction relating to traffic improvements, resurfacing and installation of below grade utilities; provided further, that not less than \$1,000,000 shall be expended for the area of Washington Street, Middle Street and Winter Street which is also considered the Weymouth Triangle, for improvements that are needed for the widening and paving of the South side of Route 53 (Washington Street) and the West side of Middle Street, installation of below grade utilities and the replacement of sidewalks on Washington, Middle and Winter Street; and provided further, that not less than \$5,000,000 shall be expended for the resurface a 1.5 mile section of Route 3A, from the Fore River Bridge to Green Street located in the Town of Weymouth for sidewalk repair or replacement,

provide wheel chair ramps where needed, the placement of utility lines below grade and finally the planting of trees and landscape along the roadway; provided further, that \$800,000 shall be expended for the installation of traffic lights at South street and Water street at state highway route 3A; provided further, that \$800,000 shall be expended for the resurfacing of interstate highway route 3 and related work; provided further, that \$100,000 be provided for the reconstruction of Reservation roadway at Wachusett Mountain; provided further, that \$100,000 shall be provided for a corridor study of state highway route 9 between interstate highway route 495 and state highway route 128; provided further, that \$3,000,000 shall be provided for the study and planning of renovation of the interstate highway routes 93 and 95 interchange and the study and planning of construction of an exit ramp onto Dedham Street on the north bound side of interstate highway route 95 provided further, that \$500,000 shall be expended for street improvements along Washington street in the town of Abington; provided further, that not less than \$500,000 shall be expended for roadway and signalization improvements at the intersection of state highway routes 187 and 57 and Springfield street in the town of Agawam; provided further that \$300,000 shall be expended for the Riverwalk connection to downtown Main street in the town of Amesbury; provided further, that not less than \$1,000,000 shall be expended for the planning and design for grade separation at the train crossing in downtown Ashland provided further, that \$400,000 shall be provided for the realignment and reconstruction of the intersection of state highway route 135 and Frankland road in the town of Ashland; provided further, that not less than \$4,000,000 shall be expended for improvements along state highway route 28 in the town of Avon including, but not limited to, infrastructure and road improvements, sidewalks, lighting, safety and aesthetic improvements; provided further, that not less than \$200,000 shall be expended for engineering, traffic, and safety analysis for the intersection of East Main street and East Spring street in the town of Avon; provided further that \$2,000,000 shall be expended for the addition of lanes and widening of Yarmouth Road; provided further that \$1,900,000 shall be expended for the design and construction

of improvements to the Airport Rotary in the town of Barnstable; provided further that \$3,700,000 shall be expended for roadway improvements to state highway route 28 between Yarmouth road and the Airport Rotary in said town of Barnstable; provided further, that not less than \$400,000 shall be expended for the design and installation of a traffic signal at the West Barnstable, Osterville and state highway route 28 intersection in the town of Barnstable; provided further, that not less than \$3,839,000 shall be expended for design and construction of an east-west bike trail and associated overpass from Willow street to state highway route 132 in the town of Barnstable; provided further, that not more than \$7,800,000 shall be expended for the interstate highway route 495 and state highway route 126 interchange improvement project in the town of Bellingham; provided further, that \$300,000 shall be expended for the Berkshire-New York Rail Connector project; provided further, that \$250,000 shall be expended for Billerica Center to improve traffic flow; provided further that \$7,000,000 shall be expended for the construction of Segment 2 of the Blackstone Valley Bikeway; provided further, that \$850,000 shall be expended for the planning and design of Segment 1 of the Blackstone Valley Bikeway; provided further, that \$850,000 shall be provided for the planning and design of Segment 1 of the Blackstone River Bikeway; provided further, that \$850,000 shall be provided for the planning and design of Segment 1 of the Blackstone Valley Bikeway; provided further, that \$10,000,000 be provided for the design, engineering and reconstruction of Sullivan Square and the Rutherford Avenue Corridor in the city of Boston; provided further that funds shall be expended to provide safety improvements and roadway realignment at the site of the Bourne landfill on the northbound side of state highway route 28; provided further, that not less than \$2,000,000 shall be expended for public safety and streetscape improvements to Meetinghouse lane in the town of Bourne; provided further, that \$100,000 shall be provided for the renovation and upgrade of the pedestrian signal light on Quincy avenue in the town of Braintree; provided further, that \$1,000,000 shall be expended for street and sidewalk rehabilitation to Perkins avenue in the city of Brockton; provided further, that \$2,500,000

shall be expended for street and sidewalk rehabilitation to West Elm street in the city of Brockton; provided further, that \$3,000,000 shall be provided for rail-trail extensions in the Dennis and Yarmouth area; provided further, that \$2,200,000 shall be expended for reconstruction of Nashua road in the town of Dracut; provided further, that not less than \$4,500,000 shall be expended for improvements along state highway route 106 from its intersection with Central street to the intersection with Pond street in the town of East Bridgewater; provided further, that not less than \$4,600,000 shall be expended for improvement along state highway route 123 in the town of Easton from the Norton town line to Eastman street; provided further, not less than \$1,000,000 shall be expended for improvements to the Five Corners intersection in said town of Easton; provided further, that not less than \$1,000,000 shall be expended for improvements to the intersection of state highway route 138 at Union street in said town of Easton; provided further, that \$2,000,000 shall be expended for the reconstruction of state highway route 2 in Erving center; provided further, that \$4,000,000 shall be expended for improvements to Beacham and Williams streets-Spruce Street-Everett Avenue corridors; provided further, that \$900,000 shall be provided for safety improvements at Sweetser circle in the city of Everett; provided further, that \$900,000 shall be provided for safety improvements at Santilli circle in said city of Everett; provided further, that not less than \$2,000,000 shall be expended for the planning and design for grade separation at the state highway routes 126 and 135 interchange in the city known as the town of Framingham; provided further, that \$150,000 shall be expended for the installation of a traffic signal at the intersection of Mason, County and Chase streets in the town of Freetown; provided further, that not less than \$2,000,000 shall be expended for improvements to Acushnet avenue from Braley road to the Freetown town line; provided further, that not less than \$250,000 shall be expended for the installation of noise barriers along the Massachusetts Turnpike in the town of Grafton; provided further, that \$2,000,000 shall be expended for the resurfacing of state highway route 57 in the town of Granville; provided further, that \$1,200,000 shall be expended for upgrades to the lights

at the state highway route 2 rotary in the town of Greenfield; provided further, that \$10,000,000 shall be expended for the construction of Phase A and Phase B of the Riverwalk in downtown Haverhill along the Merrimack River floodwall; provided further, that not less than \$2,100,000 shall be expended for roadway and intersection improvements in downtown Hyannis, Main street and South street; provided further, that not less than \$150,000 shall be expended for the Greater I-495/MetroWest economic and demographic study; provided further, that \$1,400,000 shall be expended for the reconstruction of state highway route 27, School street, from the intersection of state highway routes 36 and to the Kingston town line; provided further, that \$1,500,000 shall be provided for the design, permitting and construction of a river walk along the southern side of the Merrimack River in the city of Lawrence; provided further, that not less than \$100,000 shall be expended for a traffic study of state highway route 13 at state highway route 2 in the city of Leominster; provided further, that \$1,900,000 shall be provided for the reconstruction and improvement of state highway routes 117 and 126 in the town of Lincoln; provided further, that \$345,000 shall be expended for improvements on Lynn Shore drive; provided further, that \$750,000 shall be provided for signalization upgrades at the intersection of Morton street and Gallivan boulevard in the Mattapan section of the city of Boston; provided further, that not less than \$50,000 shall be expended for replacement and improvement of street signs in the town of Mattapoisett; provided further, that \$3,500,000 shall be provided for the realignment of Clippership drive and associated roadway and pedestrian improvements in the city of Medford; provided further, that \$100,000 shall be expended for the planning and installation of a traffic signal at the intersection of state highway route 16 and Hartford avenue in the town of Mendon; provided further, that \$200,000 shall be expended for costs associated with the discontinued use of River road and the construction of a pedestrian corridor in said town of Merrimac; and provided further, that \$12,000 shall be expended for stormwater management in the town of Millis; provided further, that not less than \$500,000 shall be expended to convert overhead utilities

to underground for the Central avenue business district at Eliot street in the town of Milton; provided further, that not less than \$5,000,000 shall be expended for improvement to state highway route 28 in the town of Milton from Central avenue to Blue Hills parkway, including repairs to stone walls and fencing along Kelly Field; provided further, that not more than \$1,000,000 shall be expended for the reconstruction of a retaining wall on the corner of Montgomery road in Russell and Carrington roads in the town of Montgomery; provided further, that not less than \$4,000,000 shall be expended to provide traffic, transit, streetscape and pedestrian improvements to promote economic development and tourism in the downtown and waterfront areas of the city of New Bedford; provided further, that not less than \$750,000 shall be expended for the resurfacing of roads in the city of North Adams; provided further, that not less than \$650,000 shall be expended on the construction of a rotary at the intersection of Barnes road and Edgartown-Vineyard Haven road in the town of Oak Bluffs; provided further, that \$45,000 shall be expended for a transportation and infrastructure Master Plan at the Pepperell Paper Mill; provided further, that not less than \$125,000 shall be expended for a salt shed for highway safety in the town of Princeton; provided further, that \$3,000,000 shall be expended for the redesign, planning and construction of the intersection of Hancock street and East and West Squantum streets in the city of Quincy; provided further, that \$2,500,000 shall be provided for the installation and construction of subsurface cable, telephone and electrical lines at Burgin parkway to the Southern Artery in said city of Quincy; provided further, that not less than \$4,000,000 shall be expended for design, rehabilitation and reconstruction of state highway route 28 in the town of Randolph from Oak Street to Chickatawbut Road in Milton; provided further, that not less than \$25,000 shall be expended for traffic signal upgrades at the intersection of route 44 and Orchard street in the town of Raynham which shall include, but not be limited to, the installation of an Opticom emergency vehicle signal control system, or similar emergency signal control system, and installation of essential corresponding transmitter equipment in specifically designated public safety/emergency responder vehicles in the town to be identified by the town of

Raynham chiefs of police and fire departments, in conjunction with board of selectmen of the town of Raynham; provided further, that \$100,000 shall be expended to install and make functional a dedicated left turn signal in the northbound lane of interstate highway route 28 in the town of Reading at the intersection of said route 28 and Franklin street; provided further, that \$75,000 shall be expended for a Route 3 Corridor Development analysis for infrastructure needs along state highway route 3 from interstate highway route 495 northbound to the New Hampshire state line; provided further, that \$132,620 shall be expended for the reclamation and overlay of Central Tree road from Skyline drive to the Holden town line in the town of Rutland; provided further, that \$154,975 shall be expended for drainage improvements to and the reclamation and overlay of Glenwood road from state highway route 68 to Campbell street in the town of Rutland; provided further, that not less than \$1,000,000 shall be expended for public safety and streetscape improvements to Quaker Meetinghouse road from state highway routes 6A to 130 in the town of Sandwich; provided further, that \$500,000 shall be expended for traffic safety and historic road improvements along Bay road in the town of Sharon; provided further, that not less than \$600,000 shall be expended for repair and maintenance of Temple street in the city of Somerville; provided further, that not less than \$100,000 shall be expended to facilitate transportation needs on Columbia road in the South Boston section of the city of Boston; provided further, that \$135,000 shall be provided for the upgrade of the traffic signal at the intersection of I street and Day boulevard in the South Boston section of the city of Boston; provided further, that \$1,100,000 shall be expended for the installation of lights at the state highway route 202 rotary in the town of South Hadley; provided further, that \$200,000 shall be expended for the construction of a new highway barn and salt shed in the town of Southwick; provided further, that \$750,000 shall be expended for the installation of traffic signals and associated road improvements on a section of Feeding Hills road in the town of Southwick; provided further, that \$10,000,000 be provided for the reconstruction of Boston road in the city of Springfield; provided further, that not less than \$350,000 shall

be expended for streetscape improvements along Humphrey street in the town of Swampscott; provided further, that not less than \$500,000 shall be expended for a design study of a full cloverleaf at exit 3 off of Interstate 195 at Route 118 in the town of Swansea; provided further, that \$600,000 shall be expended for traffic signalization at the intersection of Shawsheen and East streets in the town of Tewksbury; provided further, that not less than \$150,000 shall be expended for design costs for the state highway route 119 reconstruction project in the town of Townsend; provided further, that \$100,000 shall be expended for the installation of traffic islands at the train crossing at Chestnut street, Prospect street and Broadway in the town of Wakefield; provided further, that \$1,600,000 shall be provided for safety improvements and the reconstruction of Trapelo road and Belmont street corridor; provided further, that not less than \$200,000 shall be expended for town wide roadway drainage upgrades in the town of West Bridgewater; provided further, that \$1,200,000 shall be expended for Exit 3 interchange improvements on the Massachusetts Turnpike in the city of Westfield; provided further, that \$850,000 shall be provided for the reconstruction of state highway route 38 in the town of Wilmington; provided further, that not less than \$2,500,000 shall be expended for the redesign and construction of the state highway routes 12 and 202 interchange in at Blair square in the town of Winchendon; provided further that \$918,000 shall be expended for the planning and design of the Quinebaug Rail Trail and bikeway along the former Providence and Worcester Railroad right-of-way through the towns of Southbridge, Dudley and Webster; provided further, that not less than \$5,000,000 shall be expended for interoperability communication equipment for the Worcester Regional Transit Authority; provided, further that not less than \$5,000,000 shall be expended for the preliminary and final design of the roadways and access improvements included as a part of the Worcester Regional Mobility Study; provided further, that not less than \$150,000 shall be expended for the reconstruction of Creek street in the town of Wrentham; provided further, that \$500,000 shall be provided for a feasibility study for the Yarmouth road corridor \$575,000,000

6033-0827	For the purchase and rehabilitation of heavy equipment and other maintenance equipment, including attachments and parts, for the department	\$7,500,000
6033-0837	For the remediation of 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	\$2,800,000

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 section 34 of chapter 90 of the General Laws; provided, however, that a city or town shall comply with the procedures established by the department of highways; provided further, that a city or town may appropriate for 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 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	\$350,000,000
6033-0877	For the design and construction of roads, roadways and other transportation related projects considered necessary for economic development by the secretary of transportation and public works upon the petition of the local government body; provided, that funds authorized in this item shall be expended in accordance with chapter 19 of the acts of 1983 and shall be in accordance with 701 CMR 5.00 to CMR 5.10, inclusive; provided further, that the secretary of transportation and public works shall notify cities and towns of the availability of funds through this program and shall inform municipalities	

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	of the application process before the expenditure of any funds from this item	\$50,000,000
6033-0887	For the purpose of implementing chapter 16 of the General Laws relative to authorizing 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	\$10,000,000

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 the 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	\$17,000,000
6001-0802	For the purpose of implementing the mobility assistance program, under 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, except for regional transit authorities which may be reimbursed up to 100 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	\$7,000,000
6001-0803	For the purpose of planning, engineering, design and construction of transportation infrastructure investments to be called regional inter-modal transportation centers, strategically located to maximize passenger connections between road, air, water, rail and other transportation modes; provided, that in carrying out this item, the secretary of transportation and public works may set service standards to aid in identifying population hubs where intermodal centers would optimally affect passenger movement throughout the commonwealth; provided further, that \$2,000,000 shall be expended for the Greenfield Transit Center project, provided further that \$3,000,000 shall be expended for the Main Street Gateway/	

Intermodal traffic safety improvement project in the town of Falmouth; provided further, that not less than \$3,000,000 shall be expended for design, engineering and construction of Phase I of the intermodal transportation center in the city of Attleboro, provided further that \$5,000,000 shall be expended for the non-federal matching portion of the Haverhill Intermodal Parking Garage and Transit Facility in Railroad Square and provided further, that \$750,000 shall be expended for environmental remediation and structural improvements to the Pioneer Valley Transit Authority multi-modal transportation center in the city of Holyoke \$20,000,000

6001-0804 For the purpose of implementing rail improvements under chapter 161C of the General Laws; provided, that funds may be used for transportation planning, design, permitting and engineering, acquisition of interests in land, vehicle procurement, construction, construction of stations, right-of-way acquisition, layover facilities and economic development and land-use planning for heavy rail, light rail and bus projects, which projects shall include the Urban Ring, Blue Line extension to Lynn, the Connecticut River Knowledge Corridor Line and South Coast initiatives; provided further, that not less than \$25,000,000 shall be expended for the Blue Line Extension to Lynn; provided, however, that the extension of the Blue Line to Lynn shall be restricted to existing commuter rail rights of way excluding narrow gauge rail line rights of way; provided further, that funds may be used for the acquisition of interests in land; provided further, that not less than \$30,000,000 shall be expended for the South Coast Rail Initiative; provided further, that notwithstanding any general or special law to the contrary, the authority may expend funds authorized in this act and additional funds as previously authorized including, but not limited to, the amounts appropriated in item 6005-9906 of section 2 of chapter 125 of the acts of 2000 for the design, permitting and construction of the South Coast Rail line for the area south of Cotley Junction; and provided further, that not less than \$10,000,000 shall be expended for the replacement of the commuter rail station in the town of Rockport; provided further, that \$220,000 shall be expended for Phase II disabled accessibility renovations at the rail depot in the town of Athol; provided further that \$250,000 shall be expended for

the design and construction of a pedestrian footbridge adjacent to the Wedgemere Commuter Rail Station in the Town of Winchester; provided further, that \$50,000 shall be expended to study the feasibility of constructing a Massachusetts Bay Transportation Authority Commuter Rail station in the town of West Bridgewater and provided further, that not less than \$100,000 shall be authorized for the design, siting and initial permitting for a commuter rail station in the town of Wareham \$115,000,000

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, 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 \$10,000,000

6001-0806 For a program to provide financial assistance to promote transit-oriented development; provided, that such assistance may be in the form of grants or loans and may be used to design, construct, reconstruct or enhance parking facilities and related pedestrian and bicycle access serving mixed use developments adjacent to existing or planned transit stations,

to build or rehabilitate housing, at least 25 per cent of which shall be affordable to households earning not more than 80 per cent of the area median income; provided further, that all projects funded under this item shall be located within .25 miles of a commuter rail station, subway station, ferry terminal or bus station; provided further, that the executive office of transportation and public works may enter into agreements, request proposals and applications and issue regulations and guidelines as necessary to carry out the purposes of this item; provided further, that the secretary shall make reasonable efforts to coordinate with and utilize existing programs and resources including, but not limited to, the executive office for administration and finance off-street parking program, the Massachusetts Bay Transportation Authority Parking Enterprise Fund, Massachusetts Bay Transportation Authority station air rights development agreements, other Massachusetts Bay Transportation Authority investments in station access or commuter parking enhancements, similar types of parking investments by any other regional transit authority or existing programs of the department of housing and community development, the executive office of energy and environmental affairs, the Massachusetts Housing Finance Agency or the Massachusetts Development Finance Agency; provided further, that to be eligible to receive assistance under this item, a project shall also receive financial or technical assistance from at least 1 of the following: the department of housing and community development, the executive office of energy and environmental affairs, the Massachusetts Bay Transportation Authority, the Massachusetts Housing Finance Agency or the Massachusetts Development Finance Agency; and provided further, that annually, on or before December 31, the executive office of transportation and public works shall submit a report to the clerks of the senate and house of representatives, which shall include detailed descriptions of any agreements, loans or grants and a list indicating the allocation of all committed and expended funds under this item \$20,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

6001-0817	For a grant program to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the Growth Districts Initiative established by the executive office of housing and economic development; provided, that the secretary of housing and economic development, in consultation with the secretary of transportation and public works, shall, not later than December 31, 2008, promulgate regulations or issue guidelines regarding the proposed program described herein; provided further, that annually not later than December 31, the secretary shall issue a written report to the clerks of the senate and house of representatives, the chairs of joint committee on bonding, capital expenditures and state assets, the chairs of the joint committee on transportation, the chairs of the joint committee on economic development and emerging technologies and the chairs of the senate and house committees on ways and means which shall include detailed descriptions of any infrastructure improvement projects funded pursuant to this program and all funds expended for this purpose	\$50,000,000
6001-0818	For an off-street parking program pursuant to chapter 487 of the acts of 1980	\$45,000,000

SECTION 2D.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary

6001-0807	For the acquisition of information technology and related expenses including, but not limited to, identity document verification systems, Q-matic queuing system upgrade, automated testing equipment, document imaging systems and laptop tablets for all agencies within the executive office of transportation and public works; provided, however, that any expenditures pursuant to this item shall be subject to the approval of the chief information officer of the commonwealth	\$16,700,000
6001-0808	For the reconstruction, rehabilitation and maintenance of facilities under the care and control of agencies within the executive office of transportation and public works including,	

	but not limited to, the costs associated with the installation, improvement and repair of electrical, heating, ventilation and air conditioning systems	\$1,000,000
6001-0809	For the purchase and rehabilitation of necessary durable equipment and parts for said durable equipment for all agencies within the executive office of transportation and public works	\$1,500,000
6001-0810	For the installation, maintenance and repair of security systems and design improvements and related equipment, including security cameras, for all agencies within the executive office of transportation and public works	\$1,220,000

SECTION 2E.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary

6001-0813	For design and construction of the Massachusetts Bay Transportation Authority Fitchburg Line Speed Improvement project	\$67,000,000
6001-0815	For the purposes of providing interoperability and safety equipment for the Massachusetts Bay Transportation Authority	\$5,000,000

SECTION 2F.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Massachusetts Aeronautics Commission

6006-0801	For the implementation of the airport improvement program under section 51L of chapter 90 of the General Laws; provided, however, that \$2,500,000 shall be expended for the runway expansion at Pittsfield Municipal Airport	\$40,000,000
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SECTION 2G.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Office of the Secretary

6000-0400	For the costs associated with relocating the Bradford layover facility in the city of Haverhill including, but not limited to, site identification, relocation, land acquisition, environmental, engineering, permitting, design and construction costs; provided, that the Massachusetts Bay Transportation Authority may use the funds provided herein to establish revenue service to the new layover facility	\$10,000,000
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6000-0450	For emergency traffic control and communications equipment for the Cape Cod Emergency Traffic Plan	\$366,500
6000-0500	For expansion of passenger air service including, but not limited to, facilities infrastructure improvements and passenger terminal enhancements at the Westover Metropolitan Airport in the city of Chicopee	\$15,000,000
6000-0850	For the design and construction of a haul road from the Massachusetts Port Authority's Conley Terminal in the city of Boston	\$8,000,000

SECTION 3. Chapter 6A of the General Laws is hereby amended by adding the following section:—

Section 104. (a) As used in this section the following words shall have the following meanings unless the context clearly requires otherwise:

- “Compact”, the Massachusetts Mobility Compact.
- “Executive office”, the executive office of transportation and public works.
- “Independent agencies”, shall include, without limitation the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority and the Massachusetts Association of Regional Transit Authorities.
- “Secretary”, the secretary of transportation and public works.
- “State agencies”, shall include, without limitation the executive office, the department of highways, the Massachusetts aeronautics commission, the registry of motor vehicles and the department of conservation and recreation.

(b) There shall be a Massachusetts Mobility Compact, which shall be headed and coordinated by the secretary. All state and independent agencies shall be members of the compact. The compact shall improve the delivery of transportation services in the commonwealth by communicating regularly and more effectively and by adopting a cooperative and coordinated approach to transportation planning, design, construction, operation and maintenance aimed principally at: (i) increasing mobility for people and goods within and through the commonwealth in a safe, secure, environmentally-sustainable and efficient manner; (ii) promoting and adopting administrative efficiency and program improvement initiatives between and among transportation agencies and authorities; and (iii) sharing best practice techniques for implementation across transportation modes.

(c) Independent and state agencies which are members of the compact may issue purchase or work orders and execute contracts between and among themselves for the purpose of accomplishing the objectives of this section without regard to any procurement requirements; provided, however, that nothing in this section shall exempt an independent or state agency from the public construction bidding statutes including, but not limited to, chapter 30, chapter 149 and chapter 149A.

(d) The secretary shall conduct regular meetings of the chief executives of each of the Independent and state agencies which are members of the compact.

SECTION 4. Chapter 10 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 63 the following section:-

Section 63A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Regional Transit Authorities Forward Funding Trust Fund, administered by the secretary of transportation and public works. Revenues allocated to the fund shall be expended for capital or other eligible activities for regional transit authorities. The amounts in the fund shall not be subject to appropriation. Amounts in the fund at the end of a fiscal year shall not revert and shall be available for expenditure in the subsequent year.

SECTION 5. Section 1 of chapter 16 of the General Laws, as so appearing, is hereby amended by striking out, in line 81, the word "chief" and inserting in place thereof the following word:- general.

SECTION 6. Chapter 16 of the General Laws is hereby further amended by inserting after section 4B the following 5 sections:-

Section 4C. (a) There shall be within the department a real estate appraisal review board. The board shall consist of not less than 3 nor more than 5 members to be appointed by the governor, 2 of whom shall be certified general real estate appraisers licensed by the board of real estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and may be compensated at a rate to be determined by the department. Members of the board shall be state employees for the purposes of chapter 268A. A chairman of the board shall be elected annually from the membership. The department shall provide administrative support to the council as requested. In the event of a vacancy on the board, the governor shall appoint a new member consistent with this section to fulfill the remainder of the unexpired term.

(b) The department shall not purchase or acquire by eminent domain any real property or any interest in real property with a value in excess of \$300,000 without the written approval of the board.

(c) The board shall meet periodically, but not less than twice each year. The board shall keep a public record of all meetings, votes and other business.

(d) The board shall submit an annual report of its activities during the preceding fiscal year not later than September 1 to the governor, the secretary of the executive office of transportation and public works, the commissioner, the chairs of the joint committee on transportation and the chairs of the house and senate committees on ways and means.

Section 4D. (a) The commissioner may establish a small town rural assistance program to assist towns with populations of 7,000 or less in undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the construction of chemical storage facilities. The program shall provide grant funds to towns for projects authorized by this section, and towns shall be eligible to receive one grant every 5 fiscal years. The amount of the grant shall not exceed \$500,000.

(b) The commissioner shall establish rules and regulations to govern the application and distribution of grants under this section. The rules and regulations shall include provisions for joint applications by 2 or more eligible towns for a single project serving those towns. Funds so distributed may be apportioned to reflect the percentage of the project located in each town. Receipt of a grant which is part of a joint application shall not preclude a town from receiving additional funds under a separate application; provided, however, that the total amount distributed to any 1 town shall not exceed the maximum amount allowed under this section. Any rules or regulations, or any amendment or repeal of any rules or regulations promulgated pursuant to this section shall be filed with the clerks of the senate and house of representatives.

(c) A town with a population of 7,000 or less may, by vote at 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. The application shall include the proposed cost of the project, the proposed location of the project and any other information specified by the rules or regulations.

(d) In evaluating the project and the level of funding, the commissioner shall consider, without limitation, the following: (1) the extent to which the project will have a beneficial impact upon the economy and public safety of an applicant town; (2) the availability of funds for the project under other state or federal programs; (3) the likelihood of funding under other state or federal programs; (4) the financial ability of the town to fund the project from its own sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for the project; and (6) the amount of state and federal highway funds expended or to be expended in the town.

(e) The commissioner shall report annually to the house and senate committees on ways and means and the joint committee on transportation on the status of all small town rural assistance applicants.

Section 4E. (a) The commissioner may establish a program to assist municipalities with non-federally-reimbursable public works economic development projects, to design, construct, repair and improve roads, roadways and other related public works facilities, as deemed necessary for economic development by the secretary of transportation and public works upon the petition of an appropriate local governmental body in accordance with this section and any rules or regulations promulgated by the secretary in accordance with this section. The rules and regulations shall govern the criteria by which the funds shall be distributed and the method by which a municipality may apply for such funds. Any rules or regulations or any amendment or repeal of any rules or regulations shall be filed with the clerks of the senate and house of representatives.

(b) The commissioner may commit the funds pursuant to this section by executing a grant or other contractual agreement with a municipality and, upon execution, the funds so committed shall be made available as a grant directly to the municipality which has entered

into an agreement without further review or approval of the department. Each agreement shall contain assurances satisfactory to the commissioner that the municipality will award a construction contract for the project which is the subject of the agreement not later than 180 days after the date of execution of the agreement.

(c) In the event that a contract is not awarded by the municipality within the period provided in subsection (b), the commissioner may require, by written notification to the municipality, that the funds paid to it by the commonwealth pursuant to the agreement shall be returned forthwith to the commonwealth.

(d) The commissioner may, through execution of a grant or other contractual agreement as provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate amount of funds returned by municipalities under subsection (c) to any other municipality which has otherwise complied with the applicable requirements for such projects, including the terms and conditions provided in this section.

(e) The commissioner shall report annually to the house and senate committees on ways and means and the joint committee on transportation on the status of all public works economic development applicants.

Section 4F. (a) The department of highways may provide functional replacement of real property in public ownership whenever the department has acquired such property in whole or in part under this chapter or when such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the department determines that functional replacement is necessary and in the public interest. For the purposes of this section, "functional replacement" shall mean the replacement, pursuant to chapter 7, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which will provide equivalent utility, and "real property in public ownership" shall mean any present or future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required by said chapter 7.

(b) Whenever the department determines it is necessary that a utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally in whole or in part, then such facility shall be relocated by the department or by the owner thereof in accordance with an order from the department; provided, however, that the commonwealth shall reimburse the owner of such utility or utility facility for the cost of relocation subject to the limitations in subsections (e) and (f) and in accordance with the following formula: (1) for any utility facility that is to be reimbursed federally in whole or in part, the department shall reimburse the owner to the extent that the cost of relocating the utility facility is reimbursed by the federal government; and (2) for the relocation of any utility facility over \$50,000 that does not qualify for federal reimbursement, the department may reimburse the owner in accordance with the owner's ability to meet the following schedule: if the utility performs the relocation in a manner con-

sistent with the department's policies and not later than the target date established by the department for the project, the department shall reimburse the utility at least 50 per cent but not more than 80 per cent of the costs of relocating the utility facility. Failure to comply with an order from the department shall be subject to enforcement under chapter 81 of the General Laws.

(c) Any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to section 27 of chapter 149 of the General Laws.

(d) Notwithstanding any general or special law to the contrary, any utility facility that is required to be relocated because of the construction of a project federally funded under the Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated temporarily above ground during the construction of the project.

(e) The total cost to the commonwealth for reimbursements for utility relocations under this section that are not reimbursed federally in whole or in part shall not exceed \$10,000,000, annually, and shall not be credited toward the costs of the annual statewide road and bridge program.

(f) A utility relocation shall be eligible for reimbursement under this section only if it is completed to the satisfaction of the department within target dates established by the department and in accordance with design criteria set forth by the department for the relocation in a manner that facilitates the timely completion of the affected project.

Section 4G. Notwithstanding section 4F or any other general or special law to the contrary, the commonwealth, through the department of highways, may reimburse the owner of an underground utility or utility facility whenever such underground utility or utility facility has been relocated because of construction of a project which is to be reimbursed federally in whole or in part. The reimbursement authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the federal government.

SECTION 7. Section 2 of chapter 21E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "Authority", in lines 77, 216, 219, 428 and 463, each time it appears, the following words:- or the executive office of transportation and public works.

SECTION 8. Section 3I of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Unless specifically required by federal law in connection with any grant for construction of a rail-trail, a municipality that has applied for and received a grant and has purchased the environmental insurance as described in subsection (a) shall not be required to furnish to the Massachusetts Bay Transportation Authority, the executive office of transportation and public works or any person having an interest in the rail-trail project site, any other form of environmental insurance, or any defense, indemnification or hold-harmless agreement with respect to any claims, injuries, costs, damages or other relief arising out of or related to the pre-existing release or threat of release of oil or hazardous materials, as those

terms are defined in chapter 21E, at or from the project site in connection with the design, acquisition, construction, use or maintenance of the rail-trail for which the application is made.

SECTION 9. Subsection (c) of said section 3I of said chapter 23A, as so appearing, is hereby amended by inserting before the first sentence the following sentence:- This section shall only apply to rail-trail projects on land in which a city or town acquires or has acquired an interest by deed, easement, lease, license or otherwise from the Massachusetts Bay Transportation Authority or the executive office of transportation and public works or a successor agency of either of them for the design, installation, construction, operation, maintenance or use of a rail-trail, as defined in section 2 of chapter 21E.

SECTION 10. The second sentence of the second paragraph of section 8B of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following words:- ; provided, however, that if there is more than 1 surety company, the surety companies shall be jointly and severally liable.

SECTION 11. Section 39M of chapter 30 of the General Laws, as so appearing, is hereby amended by inserting after the word "authority", in line 83, the following words:- ; provided further, that if there is more than 1 surety company, the surety companies shall be jointly and severally liable.

SECTION 12. Said chapter 30 of the General Laws is hereby amended by inserting after section 39M the following section:-

Section 39M½. (a) The following words shall have the following meanings unless the context clearly requires otherwise:

"Certified estimate of cost", a good-faith estimate based on the best available information and made by the most senior official in the agency responsible for the contract, accounting for all expenses which could be reasonably foreseen including, but not limited to, those involving design, construction, management, acquisition and disposition of rights of way and contingency costs.

"Cost-plus basis", a form of compensation in which a premium is added to the actual cost of service to determine a total amount to be paid.

"Major contract", a contract by which the commonwealth or any of its public agencies is to procure the construction of a highway, railway, bridge, tunnel or aviation facility or any component thereof and for which the certified estimate of cost exceeds \$50,000,000.

"Oversight cost estimate", an estimate developed by the commonwealth or any agency thereof, prior to the engagement of an owner's representative, of the anticipated total cost of the services of that representative. "Owner's representative", an individual registered by the commonwealth as a professional engineer, who has not less than 5 years of experience in the construction and supervision of construction of the type which is the subject of the pertinent major contract in nature, scope and complexity.

"Owner's representative" shall mean an individual registered by the commonwealth as a professional engineer, who has not less than 5 years of experience in the construction

and supervision of construction of the type which is the subject of the pertinent major contract in nature, scope and complexity.

(b) The commonwealth or any agency or authority thereof shall engage and maintain an owner's representative to provide professional project oversight with regard to any major contract. Such representative shall be an individual employed by a corporation, partnership, sole proprietorship, joint stock company, joint venture or other entity engaged in the practice of providing project management services for public construction of the nature, scope and complexity which is the subject of the contract. A public agency may designate an existing employee as owner's representative subject to the conditions set forth in subsection (c).

(c) An existing employee of a public agency may act as its owner's representative if the following conditions are met:

(1) the employee meets or exceeds the qualifications set forth in subsection (b);

(2) the employee has suitable experience in the construction and supervision of projects of the nature, scope and complexity of the relevant major contract; and

(3) The employee and his employer have entered into a memorandum of understanding, contract or other comparable document establishing the independence of the employee as being equal to that of an owner's representative contracted from the private sector;

(d) An owner's representative shall certify in writing, under the pains and penalties of perjury, that his sole responsibility shall be to the commonwealth and the agency which has retained his services. The independent owner's representative shall be wholly independent of the designer, general contractor or any subcontractor involved in the public works project and shall attest to the same in a sworn statement.

(e) An owner's representative shall be subject to chapter 268A.

(f) An owner's representative shall be selected and retained prior to the award of a major contract by any public agency; provided, however, that such agency shall select and procure the services of the owner's representative through a process which is documented in writing, incorporates the evaluation of qualifications and experience and is competitive in nature. The process shall utilize a system of written applications which shall be retained for inspection for a period of not less than 6 months following the selection of an owner's representative. The process shall also be promulgated in writing by the inspector general prior to the commencement of any hiring process pursuant to this section.

(g) Any major contract executed prior to the selection of an owner's representative shall be null and void as against public policy. Prior to the award of any major contract, the public agency seeking to award the contract shall certify in writing to the inspector general that an owner's representative has been selected.

(h) Any individual, organization or agency eligible to receive information from an owner's representative shall do so in a form and manner approved and promulgated by the inspector general. Upon receipt of such request, the owner's representative shall respond within 60 days. Such response shall contain the requested information, indicate why it is not

available to the party requesting it or indicate a date certain when the information will be available and the date on which it will be provided. A party denied information pursuant to this section may appeal such denial to the inspector general.

(i) The owner's representative shall conduct a peer review of engineering elements on its projects.

(j) The owner's representative shall be the primary manager of cost recovery and value engineering on the project.

(k) The owner's representative shall enjoy unfettered access to project work sites, documents, and correspondence.

(l) The owner's representative shall file reports on the project, under oath, not later than December 31 of each year in which their contract is in effect, to the inspector general, to the secretary of transportation and public works, the house and senate chairs of the joint committee on transportation and to the state auditor.

(m) The inspector general shall promulgate regulations governing the operations and actions of owner's representatives which shall include, but not be limited to, sanctions for misfeasance, malfeasance and the failure to adhere to any contracts or agreements executed pursuant to this section.

(n) In no instance shall an awarding agency execute a contract that pays the independent owner's representative on a cost-plus basis. Awarding agencies shall establish an oversight cost estimate for the work of an owner's representative prior to the hiring of the owner's representative.

SECTION 13. Section 21 of chapter 81 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "purpose", in line 2, the following words:- , nor access granted thereto for any purpose.

SECTION 14. Said section 21 of said chapter 81, as so appearing, is hereby further amended by striking out, in lines 27 and 28, the words ", but shall be not less than two thousand dollars nor more than fifty thousand dollars" and inserting in place thereof the following words:— ; provided, however, that the bond shall be not less than \$300,000 unless a lesser amount is approved in writing by a representative of the department.

SECTION 15. Chapter 85 of the General Laws is hereby amended by striking out section 7A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 7A. (a) For the purposes of this section, the word "person" shall include surveyors of highways, road commissioners, superintendents of streets in towns, commissioners of public works in cities and towns, the chief engineer of the state department of highways, the chief engineer of the Massachusetts Turnpike Authority, the chief administrative officer of state agencies and private persons, including corporations.

(b) No person shall store sodium chloride, calcium chloride or chemically treated abrasives or other chemicals used for the removal of snow or ice on roads in such a manner or place as to subject a water supply or groundwater supply to the risk of contamination.

(c) Any sodium chloride, calcium chloride or chemically treated abrasives or other chemicals used for the removal of snow or ice on roads and stored within 200 yards of an established river or estuary shall be stored in a solid frame storage shed to insure against ground leaching and airborne pollution of surrounding property. This subsection shall not apply to:

(1) a water-dependent marine cargo facility that: on or before May 10, 1991, stored or distributed any such snow removal chemicals; is currently located at the site from which such chemicals were stored or distributed on or before May 10, 1991; such chemicals are stored or distributed within 200 yards of an established river or estuary; and such river or estuary has a depth-averaged annual salinity, greater than 10 parts per 1,000, or

(2) a water-dependent marine cargo facility that stores or distributes any such snow removal chemicals; is located on an established river or estuary that has a depth-averaged annual salinity greater than 10 parts per 1,000; is not located on commonwealth tidelands; and has an agreement with the municipality in which it is located, providing for best management practices.

(d) The department of environmental protection, hereinafter called the department, in consultation with the department of highways, may issue regulations as to place or manner of storage of such chemicals and may, by specific order, in a particular case regulate the place where such chemicals may be used for such purpose. All facilities storing chemicals used for the removal of snow and ice on roads shall annually review their best management practices and shall have such practices described in writing for inspection at the facility by the department on or before November first each year.

(e) Any violation of this section or any regulation or order issued hereunder shall be punished by a fine not to exceed \$50 per day.

(f) Any person who uses more than 1 ton of the chemicals described in subsection (a) in any calendar year shall report annually to the department on November first, and at such other times as prescribed, the amount of such chemicals used in the previous 12 months specified by road section or other location and the amount of chemicals on hand. Copies of such report shall be made available upon the request of any concerned state or municipal agency or commission. The department may require studies by competent professional personnel of the probable impact of proposed new or improved highways and the maintenance thereof by use of such chemicals upon reservoirs, ponds, streams, lakes, wetlands and the groundwater aquifers associated with both public and private water sources. Estimates of such chemicals to be applied on proposed roads and other paved areas shall be based upon the most recent records of chemicals actually applied as reported under this section.

SECTION 16. Section 1A of chapter 90 the General Laws, as so appearing, is hereby amended by inserting after the word "thereof", in line 9, the following words:- or by the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority or the Massachusetts Port Authority.

SECTION 17. Section 2E of said chapter 90, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The registrar shall furnish, upon application, to the owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design with the image of the American flag and the words "United We Stand" to commemorate the victims and heroes of the September 11, 2001 terrorist attack and the Massachusetts Military heroes from United States military Operations Enduring Freedom, Iraqi Freedom and Noble Eagle. There shall be a fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, which shall be payable at the time of registration of such vehicle and at each renewal thereof. The portion of the total fee remaining after the deduction of the costs directly attributable to the issuance of such plates shall be deposited in a registry retained revenue account and of the remaining portion of such fee, 50 per cent shall be directed to the Massachusetts 9/11 Fund, Inc. and distributed by such fund at its discretion for the benefit of the relatives of the Massachusetts victims of the September 11, 2001 terrorist attack on America; 25 per cent shall be directed to the Massachusetts Military Heroes Fund, Inc. and distributed by such fund at its discretion for the benefit of the families of military service personnel from Massachusetts killed while in service to the United States as a result of, or in support of, Operations Enduring Freedom, Iraqi Freedom or Noble Eagle; and 25 per cent shall be deposited in the Commonwealth Security Trust Fund established in section 67 of chapter 10. In the event the Massachusetts 9/11 Fund, Inc. has met its obligations to design, construct and maintain a memorial to the victims of the September 11, 2001 terrorist attack on America, any funds not necessary for the continued maintenance of the memorial shall be made available to the Massachusetts 9/11 Fund, Inc. and distributed by such fund at its discretion for the benefit of the relatives of the Massachusetts victims of the September 11, 2001 terrorist attack on America.

SECTION 18. Section 24I of said chapter 90, as so appearing, is hereby amended by striking out subsection (a), and inserting in place thereof the following subsection:-

(a) As used in this section, the following words shall have the following meanings:

"Open container," a bottle, can or other receptacle used to contain a liquid that has been opened or has a broken seal or the contents of which have been partially removed or consumed; provided, however, that a bottle resealed pursuant to section 12 of chapter 138 shall not be considered an open container; provided further, that a resealed bottle shall not be transported in the passenger area.

"Passenger area," the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in a seated position including, but not limited to, the glove compartment; provided, however, that the passenger area shall not include a motor vehicle's trunk or a locked glove compartment or, if a motor vehicle is not equipped with a trunk, the area behind the last upright seat or an area not normally occupied by the driver or passenger.

SECTION 19. Paragraph (a) of clause (2) of the first paragraph of section 34 of said

chapter 90, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Such engineering services, including surveying services, shall only be performed by architectural, engineering or surveying firms prequalified by the department; provided, however, that a municipality may seek a waiver of this requirement from the department if the municipality demonstrates to the satisfaction of the department that it is cost prohibitive to use a prequalified firm.

SECTION 20. Section 12 of chapter 138 of the General Laws, as so appearing, is hereby amended by inserting after the word “commission”, in line 23, the following words:- and transported in a manner authorized in section 24I of chapter 90 when carried in a motor vehicle, as defined in section 1 of said chapter 90.

SECTION 21. The first paragraph of section 27 of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following 2 sentences:- Each year after the awarding of the contract, the public official or public body shall submit to the commissioner a list of the jobs upon which mechanics and apprentices and laborers are to be employed and shall request that the commissioner update the determination of the rate of wages to be paid on each job. The general contractor shall annually obtain updated rates from the public official or public body and no contractor or subcontractor shall pay less than the rates so established.

SECTION 22. Said section 27 of said chapter 149, as so appearing, is hereby further amended by inserting after the word “schedule”, in line 29, the following words:- and subsequent updates.

SECTION 23. Section 44D½ of said chapter 149, as so appearing, is hereby amended by striking out, in line 148, the word “fraud” and inserting in place thereof the following words:- arbitrariness, capriciousness, fraud.

SECTION 24. Section 44D¾ of said chapter 149, as so appearing, is hereby amended by striking out, in line 138, the word “fraud” and inserting in place thereof the following words:- arbitrariness, capriciousness, fraud.

SECTION 25. Section 44E of said chapter 149, as so appearing, is hereby amended by inserting after the word “price”, in lines 65 and 241, each time it appears, the following words:- ; provided, however, that if there is more than 1 surety company, the surety companies shall be jointly and severally liable.

SECTION 26. Section 44J of said chapter 149, as so appearing, is hereby amended by adding the following subsection:-

(9) No request for proposals or invitation for bids issued under sections 38A½ to 38O, inclusive, of chapter 7, section 11C of chapter 25A, section 39M of chapter 30, this section and sections 44A to 44H, inclusive, shall be advertised if the awarding authority’s cost estimate is greater than 1 year old.

SECTION 27. Chapter 149A of the General Laws is hereby amended by inserting after section 15 the following section:-

Section 15½. (a) The following words shall have the following meanings unless the context clearly requires otherwise.

(a) The following words shall have the following meanings unless the context clearly requires otherwise:

“Certified estimate of cost”, a good-faith estimate based on the best available information and made by the most senior official in the agency responsible for the contract, accounting for all expenses which could be reasonably foreseen including, but not limited to, those involving design, construction, management, acquisition and disposition of rights of way and contingency costs.

“Cost-plus basis”, a form of compensation in which a premium is added to the actual cost of service to determine a total amount to be paid.

“Major contract”, a contract by which the commonwealth or any of its public agencies is to procure the construction of a highway, railway, bridge, tunnel or aviation facility or any component thereof and for which the certified estimate of cost exceeds \$50,000,000.

“Oversight cost estimate”, an estimate developed by the commonwealth or any agency thereof, prior to the engagement of an owner’s representative, of the anticipated total cost of the services of that representative. “Owner’s representative”, an individual registered by the commonwealth as a professional engineer, who has not less than 5 years of experience in the construction and supervision of construction of the type which is the subject of the pertinent major contract in nature, scope and complexity.

“Owner’s representative” shall mean an individual registered by the commonwealth as a professional engineer, who has not less than five years of experience in the construction and supervision of construction of the type which is the subject of the pertinent major contract in nature, scope and complexity.

(b) The commonwealth or any agency or authority thereof shall engage and maintain an owner’s representative to provide professional project oversight with regard to any major contract. Such representative shall be an individual employed by a corporation, partnership, sole proprietorship, joint stock company, joint venture or other entity engaged in the practice of providing project management services for public construction of the nature, scope and complexity which is the subject of the contract. A public agency may designate an existing employee as owner’s representative subject to the conditions set forth in subsection (c).

(c) An existing employee of a public agency may act as its owner’s representative if the following conditions are met:

(1) the employee meets or exceeds the qualifications set forth in subsection (b);

(2) the employee has suitable experience in the construction and supervision of projects of the nature, scope and complexity of the relevant major contract; and

(3) The employee and his employer have entered into a memorandum of understanding, contract or other comparable document establishing the independence of the employee as being equal to that of an owner’s representative contracted from the private sector;

(d) An owner's representative shall certify in writing, under the pains and penalties of perjury, that his sole responsibility shall be to the commonwealth and the agency which has retained his services. The independent owner's representative shall be wholly independent of the designer, general contractor or any subcontractor involved in the public works project and shall attest to the same in a sworn statement.

(e) An owner's representative shall be subject to chapter 268A.

(f) An owner's representative shall be selected and retained prior to the award of a major contract by any public agency; provided, however, that such agency shall select and procure the services of the owner's representative through a process which is documented in writing, incorporates the evaluation of qualifications and experience and is competitive in nature. The process shall utilize a system of written applications which shall be retained for inspection for a period of not less than 6 months following the selection of an owner's representative. The process shall also be promulgated in writing by the inspector general prior to the commencement of any hiring process pursuant to this section.

(g) Any major contract executed prior to the selection of an owner's representative shall be null and void as against public policy. Prior to the award of any major contract, the public agency seeking to award the contract shall certify in writing to the inspector general that an owner's representative has been selected.

(h) Any individual, organization or agency eligible to receive information from an owner's representative shall do so in a form and manner approved and promulgated by the inspector general. Upon receipt of such request, the owner's representative shall respond within 60 days. Such response shall contain the requested information, indicate why it is not available to the party requesting it or indicate a date certain when the information will be available and the date on which it will be provided. A party denied information pursuant to this section may appeal such denial to the inspector general.

(i) The owner's representative shall conduct a peer review of engineering elements on its projects.

(j) The owner's representative shall be the primary manager of cost recovery and value engineering on the project.

(k) The owner's representative shall enjoy unfettered access to project work sites, documents, and correspondence.

(l) The owner's representative shall file reports on the project, under oath, not later than December 31 of each year in which their contract is in effect, to the inspector general, to the secretary of transportation and public works, the house and senate chairs of the joint committee on transportation and to the state auditor.

(m) The inspector general shall promulgate regulations governing the operations and actions of owner's representatives which shall include, but not be limited to, sanctions for misfeasance, malfeasance and the failure to adhere to any contracts or agreements executed pursuant to this section.

(n) In no instance shall an awarding agency execute a contract that pays the independent owner's representative on a cost-plus basis. Awarding agencies shall establish

an oversight cost estimate for the work of an owner's representative prior to the hiring of the owner's representative.

SECTION 28. Section 25B of chapter 152 of the General Laws, as so appearing, is hereby amended by inserting after the word "commonwealth" in lines 1 and 2, the following words:- , the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority.

SECTION 29. Section 24 of chapter 161A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding section 168 of chapter 175 or any other general or special law to the contrary, the authority shall be exempt from any fees or taxes associated with surplus lines insurance; provided, however, that the exemption shall extend to any insurance broker for any insurance premium tax or surplus lines tax being incurred or having been incurred by the insurance broker as a result of the insurance having been procured, placed, negotiated, continued or renewed for or on behalf of the authority.

SECTION 30. The first paragraph of section 17 of chapter 732 of the acts of 1981 is hereby amended by striking out clause (c).

SECTION 31. Section 1 of chapter 335 of the acts of 1982 is hereby amended by striking out clause (b).

SECTION 32. Chapter 19 of the acts of 1983 is hereby repealed.

SECTION 33. Section 32 of chapter 637 of the acts of 1983 is hereby repealed.

SECTION 34. Clause (n) of section 3 of chapter 811 of the acts of 1985 is hereby amended by striking out, in line 7, the word "one" and inserting in place thereof the following figure:- 2.

SECTION 35. Section 1 of chapter 367 of the acts of 1992 is hereby amended by striking out, in lines 10 and 11, the words "five hundred seventy-four and eighty-six one hundredths feet (574.86') and inserting in place thereof the following words:— five hundred eighty-five and eleven one hundredths feet (585.11').

SECTION 36. Said section 1 of said chapter 367 is hereby further amended by striking out, in lines 13 and 14, the words "two thousand four hundred and ninety feet (2490') and inserting in place thereof the following words:— two thousand four hundred and seventy-nine feet (2,479').

SECTION 37. Chapter 301 of the acts of 1998 is hereby amended by striking out sections 1 to 31, inclusive, and inserting in place thereof the following 36 sections:-

Section 1. It is hereby found that the closure of the Naval Air Station hereinafter referred to as NAS South Weymouth, by the United States Government in September of 1997 is detrimental to the economic welfare of the citizens of the commonwealth and, in particular, the towns of Abington and Rockland and the city known as the town of Weymouth, hereinafter referred to as the town of Weymouth. The closure of this military installation imposes upon the commonwealth and its citizens an increased fiscal burden in

addition to that incurred by the commonwealth on account of the closure of various other military installations in the commonwealth. It is of considerable importance that the approximately 1,500 acres encompassing the NAS South Weymouth be acquired expeditiously by an entity empowered to fully redevelop the property for the benefit of the towns of Abington, Rockland and Weymouth, the region and the commonwealth. Because the base is located in 3 different jurisdictions, its orderly redevelopment will depend on the formulation of a comprehensive, consensus Reuse Plan and implementation of uniform redevelopment policies for the property. It will be necessary to establish incentives to attract private businesses to locate and expand their operations at NAS South Weymouth, including providing those businesses with tax incentives and relief from inconsistent land use controls. Therefore, it is the purpose of this act to promote the expeditious and orderly conversion and redevelopment of NAS South Weymouth for nonmilitary purposes, including, but not limited to, commercial, housing, industrial, institutional, educational, governmental, recreational, conservation or manufacturing uses in order to prevent blight, economic dislocation and additional unemployment, and to aid and strengthen the local economy, the regional economy and the economy of the commonwealth. In order to achieve these objectives, it is deemed necessary and appropriate to establish a public corporation with full powers and authority to carry out the purposes of this act.

Section 2. It shall be the goal of this act to promote the expeditious acquisition and redevelopment of NAS South Weymouth while addressing the economic, social and environmental needs of the region. This goal shall be accomplished in a manner consistent with the consensus Reuse Plan prepared by the Naval air station planning committee and approved by a majority vote of the town meetings of the towns of Abington, Rockland and Weymouth, on March 23, 1998, March 16, 1998 and March 4, 1998, respectively, and approved by the commonwealth and the United States Department of Defense. The passage of this act shall constitute such approval of the commonwealth and shall constitute approval for amendments to the Reuse Plan as may be approved by the town meetings of the towns of Abington and Rockland and the town council of the town of Weymouth. The Reuse Plan is intended to significantly stimulate economic activity and jobs on the base property while protecting the environment and enhancing the quality of life in the region. The redevelopment is designed to minimize and mitigate negative off-base impacts on the area such as those on water resources, air quality, traffic and noise, and to limit the impacts to those necessary to achieve community reuse goals and objectives. The redevelopment shall be integrated with the United States government's cleanup of hazardous materials on the base to ensure effective, expeditious and efficient environmental remediation and protection of public health and welfare in accordance with federal and state law and regulation.

Section 3. There is hereby created a body politic and corporate, to be known as South Shore Tri-Town Development Corporation, to carry out this act. The corporation is hereby deemed to be a public instrumentality, and the exercise by the corporation of the powers conferred by this act shall be deemed and held to be the performance of public functions. The corporation shall be included within the definition of a "local governmental unit", as de-

financed in section 1 of chapter 29C of the General Laws, and its bonds and notes shall be included within the definition of "local governmental obligations", as defined in said section 1 of said chapter 29C. The corporation shall be included within the definition of a "governmental entity" for purposes of owning public infrastructure improvements pursuant to chapter 293 of the acts of 2006. The corporation shall be an "eligible applicant" and a municipality for the purposes of the General Laws and the corporation and the town of Weymouth shall both be eligible for any financial or other assistance from the Massachusetts School Building Authority.

To achieve its primary purpose of securing the redevelopment of NAS South Weymouth to the greatest benefit of the towns of Abington, Rockland and Weymouth, the corporation shall be guided in its financing activities with the goal of maximizing the fiscal benefit to the towns stemming from the redevelopment from a long term perspective. The corporation, during its existence, shall attempt to pursue the redevelopment in a manner that imposes no costs on the towns for the provision of police and fire protection, emergency services, water and sewer, schools, road and highway, parking, transportation, telecommunications, lighting, recreation and other municipal services. The corporation shall, to the maximum extent feasible and consistent with the Reuse Plan and zoning by-laws, dispose of all of the property within the NAS South Weymouth Redevelopment Area through sale or other transfer prior to said corporation's termination as provided in section 33.

Section 4: As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:

(a) "Agency", Massachusetts Development Finance Agency, a Massachusetts body politic and corporate established by section 2 of chapter 23G of the Massachusetts General Laws, which is the successor-in-interest to the government land bank under chapter 289 of the acts of 1998.

(b) "Government land bank", the government land bank established by chapter 212 of the acts of 1975, or its successors, including the agency.

(c) "Board", the board of directors of South Shore Tri-Town Development Corporation established by section 9.

(d) "Bond termination date", the latest date on which all amounts outstanding under bonds or notes issued by the corporation pursuant to this act or by the agency pursuant to section 6 of chapter 293 of the acts of 2006, including all obligations of the corporation undertaken in connection with the issuance of such bonds of the agency, have been paid in full, which date shall be no later than December 31, 2053.

(e) "Central redevelopment area", the central portion of the NAS South Weymouth Redevelopment Area as defined in the Reuse Plan and zoning by-laws within which the corporation shall have full and exclusive administration of zoning, licensing, inspection and permitting authority for the implementation of and in accordance with the Reuse Plan and zoning by-laws.

(f) "Commissioner", the commissioner of revenue.

(g) "Corporation", the corporation established by section 3.

(h) "Dissolution and Administration Agreement", the dissolution and administration agreement authorized pursuant to section 33.

(i) "Financing MOA", the Memorandum of Agreement on Financing for the South Shore Tri-Town Development Corporation's Parkway dated as of January 31, 2008, by and between the commonwealth, acting by and through its executive office for administration and finance and its executive office of transportation and public works, and the corporation, as amended from time to time.

(j) "Infrastructure", all infrastructure included in the project.

(k) "Naval air station planning committee", the committee established by governor's Executive Order No. 378, dated September 20, 1995.

(l) "NAS South Weymouth", the military base formerly known as the Naval Air Station South Weymouth, which was disestablished in accordance with the recommendation of the 1995 Base Realignment and Closure Commission, pursuant to 10 U.S.C. § 2687, as amended.

(m) "NAS South Weymouth Region", (a) towns as defined in this act; (b) all municipalities contiguous to the towns; and (c) all municipalities contiguous to the municipalities in subsection (b); provided, however, that the NAS South Weymouth Region shall not include the city of Boston.

(n) "Perimeter area", the outer portions of the NAS South Weymouth Redevelopment Area as specifically defined in the Reuse Plan and zoning by-laws within which each town shall have full and exclusive administration of zoning, licensing, inspection and permitting authority for the implementation of and in accordance with the Reuse Plan and zoning by-laws in its respective sector of the NAS South Weymouth Redevelopment Area.

(o) "Project", the acquisition, development, improvement, construction, expansion, reduction, destruction and renovation of all real and personal property and buildings, structures, utilities and utility services located on, conducted within or otherwise directly associated with the NAS South Weymouth Redevelopment Area, which shall be owned by the corporation, the towns, the commonwealth or an other political subdivision or public instrumentality of the commonwealth including, but not limited to, all infrastructure for the provision of gas; cable television; telephone; storm drainage systems; dams; sewage treatment plants; sewers; water and well systems; roads; highways; bridges; culverts; tunnels; streets; sidewalks; lighting; parking, including garages; schools; public safety; public works and administration buildings; parks; cultural and performing arts facilities; recreational facilities; transportation stations and related facilities; shuttle transportation equipment; fiber and telecommunication systems; facilities to produce and distribute electricity, including alternate energy sources such as co-generation and solar installations; the investigation and remediation associated with the cleanup of actual or perceived environmental contamination in accordance with applicable governmental regulations; and all other programs, services, systems and other activities associated therewith, located on, conducted within or otherwise directly associated with the NAS South Weymouth Redevelopment Area.

(p) "Reuse Plan and zoning by-laws", the Reuse Plan and implementing zoning by-laws for the redevelopment of NAS South Weymouth prepared by the Naval air station planning committee pursuant to governor's Executive Order No. 378, dated September 20, 1995, and approved by the towns pursuant to section 14, and as the same may be amended from time to time. The purpose of the Reuse Plan and zoning by-laws shall be to establish redevelopment objectives, policies and standards to guide public and private decision-making and investment and to ensure the maintenance of quality of life and the protection of natural resources.

(q) "Secretary", the secretary of administration and finance.

(r) "Taxation plan", the plan established under section 15.

(s) "Town", the town of Abington, Rockland or Weymouth, within the corporate boundaries in which NAS South Weymouth is located.

(t) "Towns", the towns of Abington, Rockland and Weymouth.

Section 5. The NAS South Weymouth Redevelopment Area is hereby created. Plans and descriptions detailing the precise boundaries and configuration of the NAS South Weymouth Redevelopment Area, including the precise boundaries of the land of NAS South Weymouth which shall be transferred to the United States Coast Guard and Federal Aviation Administration, the precise boundaries of the land of each town located within the NAS South Weymouth Redevelopment Area and the precise boundaries of the central redevelopment area and perimeter area, shall be prepared by the corporation, reviewed by the boards of selectmen or town council of the towns, and filed with the secretary and recorded in the Plymouth county registry of deeds and the Norfolk county registry of deeds; provided, however, that the NAS South Weymouth Redevelopment Area shall be comprised of the central redevelopment area and the perimeter area and shall include the lands, including all easements, reservations and rights appurtenant thereto, and all buildings, structures, utilities and improvements located thereon, comprised of the former military base of that name presently located in the towns of Abington, Rockland and Weymouth and now or formerly within the ownership, control and jurisdiction of the United States, including those portions of the base property transferred as of the effective date of this act or to be transferred at some future date to the United States Coast Guard and Federal Aviation Administration pursuant to the federal screening process. The filings shall take place within 180 days of the effective date of this act.

Section 6. The corporation shall have all of the powers necessary or convenient to carry out the purposes and provisions of this act, including the power to:

(a) except as otherwise expressly provided in this act, and subject to section 31 of chapter 44 of the General Laws, exercise the rights provided to municipal governments and agencies under federal laws and regulations and under the constitution, laws and regulations of the commonwealth;

(b) sue and be sued in all courts and to initiate or participate in actions and proceedings, whether judicial, administrative, arbitative or otherwise;

(c) adopt a seal and alter such seal at its pleasure and use it by causing it or a facsimile to be affixed or impressed or reproduced in any manner;

(d) own, acquire, construct, manage, operate, convey or lease infrastructure improvements or any facilities for the project, including the distribution of public utilities including, but not limited to, electricity, gas, water, waste water and sewer and sewage treatment and disposal, refuse collection and disposal, telecommunications and cable services, and to own, manage, operate or lease the production plant for steam that is located on, conducted within or otherwise directly associated with NAS South Weymouth;

(e) develop, own, manage, operate, regulate or lease wells to procure water from productive aquifers underlying the NAS South Weymouth Redevelopment Area in accordance with sections 38 and 39A of chapter 40 of the General Laws and determine and collect, or authorize the collection on its behalf of assessments and other charges related to constructing and maintaining such systems, as provided in said chapter 40; provided, however, that the procurement of such water shall not materially adversely affect the supply of water available to a town;

(f) and develop, own, manage, operate, regulate, convey or lease facilities of common sewers and main drains, and facilities for waste water and sewage treatment and disposal and determine and collect, or authorize the collection on its behalf of assessments and other charges related to laying out, constructing and maintaining such systems, as provided in this act and pursuant to chapter 83 of the General Laws;

(g) develop, own, manage, operate, regulate or lease surface water reservoirs within the NAS South Weymouth Redevelopment Area and connect to or otherwise purchase or lease water from the water system of a town, an other municipality or an other governmental or quasi-governmental agency or an other public or private entity for the provision of water within the NAS South Weymouth Redevelopment Area, and develop, own, manage, operate, regulate, convey or lease any and all systems for the delivery of such water within the NAS South Weymouth Redevelopment Area; provided, however, that the procurement of such water does not materially adversely affect the supply of water available to any of the towns;

(h) make and execute agreements with 1 or more of the towns or other appropriate public or private agencies and entities for the provision of police, fire, emergency medical, schools and other municipal services within the NAS South Weymouth Redevelopment Area; provided, however, that, after consideration of public health and safety issues, operational efficiencies and costs, and other relevant considerations, preference in the provision of such municipal services shall be given to the towns before entering into any such agreements with other public or private agencies and entities;

(i) exercise the power of eminent domain within the NAS South Weymouth Redevelopment Area as provided in chapters 79, 79A, 80 and 80A of the General Laws;

(j) appoint, prescribe the qualifications and fix the compensation of corporate officers, agents and employees, and pay the same out of funds of the corporation;

(k) appoint legal counsel and fix compensation for such services rendered to the corporation;

(l) appoint qualified boards, commissions, committees or subcommittees, including those responsible for zoning, subdivision and other land use or permitting approvals whose members need not be directors of the board, and individuals, in addition to the advisory board established pursuant to section 10, to serve as unpaid advisors under such terms and conditions as it may deem necessary; provided, however, that such boards, commissions, committees, subcommittees and individuals may be reimbursed for incidental expenses determined by the corporation to be necessary and incurred while performing the business of the corporation;

(m) acquire, hold and dispose of personal property within the NAS South Weymouth Redevelopment Area for its corporate purposes;

(n) acquire easements and other interests in land directly associated with the NAS South Weymouth Redevelopment Area in connection with the project;

(o) purchase, receive, take by grant, gift, devise, bequest, lease, or otherwise acquire, own, hold, improve, employ, use or otherwise manage real and personal property or any interest therein, whether tangible or intangible, for its purposes, located within the NAS South Weymouth Redevelopment Area, except for any federally-owned property of the former NAS South Weymouth which shall be or has been transferred to the United States Coast Guard and Federal Aviation Administration; provided, however, that when any of the excepted property is declared to be surplus to the needs of the United States government, the corporation may obtain any and all like interest in the property as described herein;

(p) sell, convey, lease, exchange, transfer, or otherwise dispose of, or mortgage, pledge or create a security interest in the project and all or any of its real or personal property or any interest therein, using procedures adopted by the corporation; provided, however, that any such transaction consummated in fulfillment of the obligations of the Naval air station planning committee assumed by the corporation under clause (iii) of paragraph (b) of section 8 shall be exempt from the public bidding and procurement requirements applicable to bodies politic and corporate of the commonwealth imposed by general or special law, including, without limitation, the requirements of chapter 7 of the General Laws and regulations promulgated thereunder governing the division of capital asset management and maintenance; and provided further, that the corporation may, pursuant to an affirmative vote and by either stating the public convenience and necessity therefor or by determining that consideration in excess of fair market value is being paid thereto for or furnished in connection therewith, exempt any other such transaction from these requirements;

(q) apply for and, for the purposes of this act, accept gifts, loans, grants of property, funds, money, materials, labor, supplies or services from a person or from the United States government or its departments or agencies or from an agency of the commonwealth or a political subdivision thereof, or make agreements with respect to any such gifts, loans or grants, and to do any and all things necessary, useful, desirable or convenient in connection with procuring, accepting or disposing of such gifts, loans or grants;

(r) purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender

offer for, vote, employ, sell, lend, lease, exchange, transfer or otherwise dispose of, mortgage, pledge or grant a security interest in, use or otherwise deal in and with, bonds and other obligations, shares or other securities or interests therein issued by others, whether engaged in a similar or different business or activity;

(s) make and execute agreements, contracts, project labor agreements and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this act, including contracts with a person, firm, corporation, municipality, commonwealth agency, governmental unit or other entity, foreign or domestic;

(t) assess and collect taxes, assessments, special assessments, betterments and fees within the NAS South Weymouth Redevelopment Area under the General Laws and the powers granted by this act, in order to generate revenues to pay the cost of operations of the corporation, amounts due on outstanding indebtedness of the corporation, maintenance of the property, environmental remediation and monitoring of the property and the construction and maintenance of the project, infrastructure improvements within or associated with the NAS South Weymouth Redevelopment Area in accordance with this act, the General Laws, the Reuse Plan and zoning by-laws approved by the towns, including the funding provisions thereof and for all other purposes for which cities and towns may assess and collect such taxes, assessments, special assessments, betterments and fees, and distribute excess revenues in accordance with section 19. If connection with the foregoing, the corporation shall have all the powers and authority of cities and towns under chapters 59, 60, 60A, 61B and section 3A of chapter 64G of the General Laws, and any powers that require adoption by cities and towns if adopted by the corporation;

(u) administer land use and zoning controls and zoning, subdivision, licensing, inspection, and other municipal permitting, licensing and inspection activities within the central redevelopment area as defined for such administration in the Reuse Plan and zoning by-laws approved by the towns, and to enter into agreements with the towns whereby any such activities which the corporation may determine shall be more effectively administered by a town shall be within such town's administration, subject to such town's agreement to enter into such agreements. Except as otherwise expressly provided in the zoning by-laws approved by the towns under section 14, (a) in the administration of the activities authorized under this section in the central redevelopment area, the corporation may take action and issue permits, approvals, licenses, orders, determinations and other entitlements in accordance with the procedures and standards from time to time applicable to municipalities and their boards, commissions and agencies so authorized to take such action or to issue any such permit, approval, license, order, determination or other entitlement under the General Laws; provided, however, that the regulations developed and adopted by the corporation under section 14 may provide for expedited permitting under which the time frames for action applicable to municipalities and their boards, commissions and agencies under the provisions of the General Laws are shortened; and (b) all such actions, including a failure to take action, and such permits, approvals, licenses, orders, determinations and other entitlements shall have the legal effect and duration as provided in the General Laws, except

for any shortened time frames expressly provided in such regulations. Upon termination of the corporation under section 33, the authority to administer such activities shall be vested in the towns in accordance with the dissolution and administration agreement and the General Laws, but no action or inaction of or permit, approval, license, order, determination or entitlements issued by the corporation prior thereto or any activity undertaken or improvement made in accordance therewith shall be affected thereby. Any and all municipal powers which do not involve the administration by the corporation of such land use and zoning controls and zoning, subdivisions, licensing, permitting, or inspection activities shall remain with the towns in which the applicable real property is located unless expressly granted to said corporation in this act or elsewhere;

(v) develop, adopt, amend, implement and enforce by-laws and regulations for the general administration of the NAS South Weymouth Redevelopment Area pursuant to sections 21 through 33 of chapter 40 of the General Laws or as otherwise permitted by law;

(w) issue a maximum of 15 alcoholic beverage licenses within the NAS South Weymouth Redevelopment Area in accordance with chapter 138 of the General Laws and the Reuse Plan and zoning by-laws; provided, however, that said licenses shall not diminish the number of licenses permitted by the commonwealth to be granted by the towns; provided however that the licenses shall be limited as follows: (i) 10 licenses shall be available for issuance to qualified applicants operating sit-down restaurants and associated bar areas and bars located within and as part of hotels, function halls, conference centers, public and private social and recreational clubs, shopping centers and related entertainment venues and cinemas; and (ii) 1 license shall be available for issuance to a qualified applicant operating a clubhouse or like facility associated with a golf course if one is established in the NAS South Weymouth Redevelopment Area; provided further, that none of the remaining 4 alcoholic beverage licenses may be issued by said corporation to any applicant for any of the purposes authorized by this subsection unless said corporation first requests and receives approval of the appropriate licensing board or authority in the applicable town to issue one or more of said licenses; provided further, that none of the licenses authorized by this section shall be transferable outside the NAS South Weymouth Redevelopment Area; and provided further, that the corporation may issue entertainment licenses and temporary alcoholic beverage licenses as it deems necessary and appropriate;

(x) borrow money at such rate or rates of interest as the corporation may determine; issue its notes, bonds or other obligations to evidence such indebtedness, and secure any of its obligations by pledging any of its taxes, assessments, betterment fees, rents, fees or other revenues or by mortgage or pledge of all or any of its property, or any interest therein, tangible or intangible, whether then owned or thereafter acquired, as provided in this act, and exercise all other rights and powers of cities and towns under chapter 44 of the General Laws; provided, however, that chapter 44 of the General Laws shall not be applicable to the manner of voting or the limitations as to the amount and time of payment or other details of debts incurred by the corporation and, in the event of a conflict between the provisions of this act and chapter 44 of the General Laws, the provisions of this act shall apply;

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(y) arrange for guaranties of its notes, bonds or other obligations by the federal government, the commonwealth, the towns or by any private insurer or otherwise, and to pay any premiums therefor;

(z) issue such short and long term notes, bonds or other obligations, whether or not the interest to the holders is exempt from taxation;

(aa) purchase notes, bonds or other obligations of the corporation at such price or prices, in such manner, and upon such terms, as the corporation may determine;

(bb) invest and reinvest its funds in such investments as may be lawful for fiduciaries in the commonwealth, and take and hold property as security for the payment of funds so invested, as provided in section 55 of chapter 44 of the General Laws;

(cc) procure insurance against any loss in connection with its property or the project in such amounts and from such insurers, including the federal government, and directors and officers liability insurance, as it may deem necessary or desirable, and to pay any premiums therefor;

(dd) enter into and perform contracts, project labor agreements, and other agreements, whether or not they may be deemed to constitute indebtedness under applicable law, for the joint or separate planning, financing, construction, purchase, operation, maintenance, use, sharing costs of, ownership, mortgaging, leasing, sale, disposal of, or other participation in facilities, products or services of any person who engages in business on property owned or controlled by the corporation;

(ee) maintain a principal office within the NAS South Weymouth Redevelopment Area;

(ff) make any inquiry, investigation, survey, feasibility study or other study which the corporation may deem necessary or advisable to enable it to carry out effectively this act;

(gg) apply to the appropriate agencies and officials of the federal government and the commonwealth for licenses, permits or approvals, as are ordinarily applied for by cities and towns, of its plans or the project as it may deem necessary or advisable, and to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials, upon such terms and conditions as it may deem appropriate;

(hh) make by-laws and establish committees for the management and regulation of its affairs as it may deem necessary or advisable and, subject to agreement with bondholders, make rules pursuant to its own procedures for the use of the project and its property, and establish and collect assessments, rentals, fees and all other charges for the use of the project under the jurisdiction of the corporation and for services or commodities sold, furnished or supplied by the corporation;

(ii) design, construct, maintain, operate, improve and reconstruct the project as shall be consistent with the purposes and provisions of the approved Reuse Plan and zoning by-laws, including without limitation the maintenance and development of all infrastructure improvements necessary or convenient in connection with the project, and to contract for the environmental remediation, construction, operation or maintenance of any parts thereof, or for services to be performed thereon, and rent parts thereof and grant concessions thereon,

on such terms and conditions as the corporation may determine, in accordance with the Reuse Plan and zoning by-laws; provided, however, that any such transaction shall be exempt from the public bidding and procurement requirements applicable to bodies politic and corporate of the commonwealth imposed by general or special law, including without limitation, the requirements of chapters 7, 30 and chapter 149 of the General Laws, but excluding sections 28 and 29 of said chapter 149, and regulations promulgated thereunder so long as the corporation has, pursuant to an affirmative vote and by stating the public convenience and necessity therefor, exempted any such transaction from such requirement;

(jj) designate the depositories of its money within the commonwealth;

(kk) establish its fiscal year to commence on July 1 and end on June 30 of each year and change the fiscal year from time to time as the corporation may deem necessary and appropriate;

(ll) take such other actions and exercise such other powers as it may deem necessary, advisable and convenient in the furtherance of the purposes of this act;

(mm) apply for and be eligible for any and all available financial and other assistance, consistent with the Reuse Plan, without further approval of any agency of the commonwealth pursuant to chapters 40R and 40S of the General Laws and similar statutes of the General Laws as a town would be so eligible pursuant to said chapters; provided, however, that the NAS South Weymouth Redevelopment Area shall be deemed to be an approved smart growth zoning district under said chapter 40R, entitling the corporation to all funds available under said chapters 40R and 40S in connection therewith, including without limitation density bonus payments and zoning incentive payments; and provided further, that the designation of the NAS South Weymouth Redevelopment Area as a smart growth zoning district shall have no effect on the ability of the towns to otherwise obtain approvals for other land under said chapter 40R;

(nn) establish, construct, maintain, regulate, discontinue and otherwise own, manage and operate any street, public way or public use of a private way within the NAS South Weymouth Redevelopment Area, including any sewers, drains, sidewalks and other utilities and infrastructure located in any streets and ways;

(oo) assume responsibility for maintaining, monitoring and conducting other activities imposed by any condition of any license, permit or approval, or by any institutional control arising under any environmental law or regulation with respect to the project; and

(pp) provide, directly or indirectly, for the public educational needs of all kindergarten, primary and secondary school-age children within the NAS South Weymouth Redevelopment Area whereby all such children shall be deemed to be residents of the town of Weymouth for such purposes; provided, however, that in providing these public educational services to these children on behalf of the corporation, the town of Weymouth shall not be deemed to have accepted or adopted any school choice program under chapter 76 of the General Laws.

Section 7. The corporation shall not be obligated to maintain, operate, improve or provide services, including police and fire protection, for those portions of the NAS South

Weymouth which remain in federal ownership, nor shall the corporation bear any responsibility or be liable for any injury, damage or loss arising out of or in connection with any activities which may occur on such federal property, nor as a result of any improvements, damage, deterioration or environmental hazards occurring thereon. The corporation may enter into agreements with the federal government to provide any services to areas of the NAS South Weymouth Redevelopment Area remaining in federal ownership which the corporation may provide elsewhere in the NAS South Weymouth Redevelopment Area.

Section 8. (a) In addition to any other duties set forth in this act, the corporation shall coordinate with, and provide information to, the United States and any officials or employees thereof, regarding any matter relating to the ownership, condition, closure, conversion, redevelopment or future use or operations of the NAS South Weymouth Redevelopment Area as required by the Defense Base Realignment and Closure Act. Notwithstanding any other provision of law, the corporation shall be the only person or entity in the commonwealth authorized to negotiate, purchase or otherwise obtain on behalf of itself, the commonwealth or any of its political subdivisions, any fee ownership, easement, lease, license or other interest in any property in or on the NAS South Weymouth Redevelopment Area from the United States, except that a governmental entity of the commonwealth may acquire an interest from the corporation to such property, if such acquisition and use of the property by a governmental entity of the commonwealth is consistent with the Reuse Plan and zoning by-laws. Prior to the disestablishment of the Naval air station planning committee as specified in subsection (e) of section 14, such committee may request, on behalf of the corporation, that the government land bank act as its agent to conduct implementation negotiations with the United States government until the corporation is fully staffed with the capacity to pursue such negotiations for itself. The corporation may request continuing assistance of the government land bank in pursuing such negotiations with the United States government.

(b) The corporation shall be obligated to: (i) assume and perform the government land bank's obligations with respect to the less than fair market interim master lease between the United States of America and Government Land Bank d/b/a Massachusetts Development Finance Agency for the Naval Air Station South Weymouth, which the Naval air station planning committee requested the government land bank enter into on its behalf; (ii) assume and perform the government land bank's obligations with respect to any subleases which the government land bank enters into pursuant to the less than fair market interim master lease at the Naval air station planning committee's request; and (iii) assume any and all obligations, including, without limitation, any letters of intent to lease or sell real estate, entered into by the Naval air station planning committee, or the government land bank at the committee's request with respect to the NAS South Weymouth Redevelopment Area.

Section 9. (a) The powers and management of the corporation, which include all rights and powers of a town council or board of selectmen or mayor of a city or town, shall be vested in a board of 5 directors to be appointed as follows:

(i) 1 member appointed by the board of selectmen of the town of Abington;

- (ii) 2 members appointed by the board of selectmen of the town of Rockland; and
- (iii) 2 members appointed by the mayor of the town of Weymouth.

The board shall appoint a chairman from among its members who shall serve in that capacity at the pleasure of the board.

(b) Directors shall serve for terms of 5 years; provided, however, that of those initially appointed, 1 by the town of Weymouth shall be appointed for a term of 3 years, 1 by the town of Rockland and 1 by the town of Weymouth shall be appointed for terms of 4 years, and 1 by the town of Abington and 1 by the town of Rockland shall be appointed for terms of 5 years. All directors shall be eligible for reappointment at the expiration of their terms and may be removed for good cause by their respective appointing authority. Vacancies shall be filled by the board of selectmen or mayor, as applicable, of the town that appointed the director.

(c) All directors of the corporation shall have demonstrated expertise or education and experience in 1 or more of the following areas: real estate development, housing, finance, business, environment, planning, engineering, transportation or municipal government. The towns shall cooperate to assure the appointment of directors from as many of the foregoing disciplines as possible.

(d) Four members of the board shall constitute a quorum. A minimum of 3 affirmative votes of the quorum shall be required for any action of the board.

(e) Directors may receive compensation as determined from time to time by the advisory board established by section 11. Directors shall receive reimbursement of such incidental expenses determined by the board to be necessary; provided, however, that the annual compensation of the directors shall not exceed \$6,250 or 80 per cent of the total combined average of the annual salaries of the town councilors of the town of Weymouth, whichever is higher.

(f) Directors shall be residents of the commonwealth. No director shall be a local elected public official of the town of Abington, Rockland or Weymouth, except that residents of the towns of Abington and Rockland who participate in their respective town meetings shall not be restricted from service as a director of the corporation.

(g) Public employees or appointed officials of the federal government and the commonwealth and its political subdivisions may serve as directors of the corporation so long as their service as director does not constitute a conflict of interest with their duties as public employees or appointed officials.

(h) Directors shall be subject to chapter 268A of the General Laws.

(i) The directors may, from time to time, by majority vote designate employees of the corporation, consultants and other individuals to participate on boards, commissions, committees and other organizations established by the corporation or otherwise related to the project as a representative of the directors.

(j) The directors may, from time to time, by majority vote, authorize a person, other than a majority of the board, to issue endorsements, certificates and other ministerial documents in furtherance of actions taken by the board.

(k) The officers and directors of the corporation shall have the full protections afforded by section 13 of chapter 258 of the General Laws to the same extent as municipal officers in a city or town which has accepted said section 13 of said chapter 258.

Section 10. If a director, or member of his immediate family shall be interested either directly or indirectly, or shall be a director, officer or employee of or have an ownership interest in a firm or corporation interested directly or indirectly, in a contract or other matter involving the corporation, such interest shall be disclosed to the board and shall be set forth in the minutes of the board. The member having such interest shall not participate on behalf of the corporation in any proceeding or decision relating to such contract or matter. For the purpose of this section, immediate family shall include spouse, parent, parent-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law and the parent or child of any of such individuals.

Section 11. (a) There shall be an advisory board to the corporation consisting of: (i) 1 voting representative appointed by the town of Abington and 1 voting representative appointed by the town of Hingham; (ii) 2 voting representatives appointed by the town of Rockland and 2 voting representatives appointed by the town of Weymouth; (iii) 1 voting representative of the metropolitan area planning council who shall be a member of and be designated by the board of the council and who shall reside in Norfolk county; (iv) 1 voting representative of the Old Colony planning council who shall be a member of and be designated by the board of the council and who shall reside in Plymouth county; and (v) 3 voting representatives to be appointed by the governor, 1 of whom shall have skill and expertise in matters relating to environmental protection, 1 of whom shall have skill and expertise in matters relating to real estate development and 1 of whom shall be a member of the board of the South Shore chamber of commerce. The members of the advisory board representing a town shall be appointed by, and serve at the pleasure of, the mayor of the town of Weymouth or board of selectmen of each such other town. The members of the advisory board appointed by the metropolitan area planning council and the Old Colony planning council shall serve at the pleasure of the councils. The members of the advisory board appointed by the governor shall serve at the pleasure of the governor.

(b) The total voting membership of the advisory board shall be 11 votes, equally weighted. The advisory board may act at regular periodic meetings called in accordance with its by-laws or at a special meeting called by the corporation or by 6 or more members of the advisory board. A quorum of the advisory board shall consist of 6 representatives. The advisory board may act by the affirmative vote of a majority of the representatives present that constitute a quorum.

(c) For the conduct of its business the advisory board shall adopt and may revise and amend its own by-laws. The advisory board shall annually elect from among its members a chairperson, a vice chairperson and a secretary and such other officers as the advisory board may determine. Each such officer shall serve in such capacity at the pleasure of the advisory board and may be removed from such position by majority vote of the advisory board. In the

event of a vacancy, the appointing authority shall fill the vacancy for the unexpired term. Each member of the advisory board shall serve without compensation but may be reimbursed for all reasonable expenses incurred in the performance of his or her duties as approved by the advisory board and the corporation.

(d) The purposes of the advisory board shall be as follows:

(i) to review the annual report of the corporation and to prepare comments thereon for the benefit of the corporation, the governor and the towns, and to make such examinations of the reports on the corporation's records and affairs as the advisory board deems appropriate;

(ii) to hold regular meetings twice annually with the board of directors of the corporation and, at the discretion of the advisory board and with the concurrence of the board of directors of the corporation, special meetings with the board of directors of the corporation as it deems necessary and appropriate on matters relating to the corporation, and to hold meetings at other times as the advisory board may determine;

(iii) to make recommendations to the corporation on its annual budget;

(iv) to make recommendations to the governor, the general court and the towns regarding the corporation and its programs; and

(v) to determine, from time to time, compensation for directors of the board.

(e) The corporation shall provide such reasonable administrative and staff support to the advisory board as may be necessary for the efficient discharge of the advisory board's responsibilities pursuant to this act.

Section 12. The board may from time to time appoint an executive director, who shall devote his full time during business hours to the duties of his office, who shall receive compensation as the board may determine, and who shall serve at the pleasure of the board; a chief financial officer, who shall be the chief financial and accounting officer of the corporation and shall be in charge of its funds, books of accounts and accounting records; and such other officers and employees as are necessary to the orderly functioning of the corporation. The executive director shall be well qualified to serve in this capacity and shall have, at a minimum, professional education in public administration or a related academic discipline and at least 10 years of demonstrated experience in positions of comparable responsibilities. The chief financial officer shall, at a minimum, have both education and at least 10 years of demonstrated experience in the field of finance. Officers and employees of the corporation shall not be subject to the provisions of chapter 30 of the General Laws or section 9A, 45, 46, 51 or 52 of chapter 31 of the General Laws. Officers and employees of the corporation shall be subject to the provisions of chapter 268A of the General Laws. Compensation for employees of the corporation, including the executive director and chief financial officer, shall be set by the board.

Section 13. The corporation may hire, fix and pay compensation, prescribe duties and qualifications and establish personnel policies without regard to any personnel or civil service law or personnel or civil service rule of the commonwealth. The employees of the corporation shall not be classified employees of the commonwealth. An individual employed

by the corporation shall be deemed an employee at will and shall serve at the pleasure of the corporation.

Section 14. (a) The Reuse Plan prepared by the Naval air station planning committee and approved by majority vote of the towns of Abington, Rockland and Weymouth, and the zoning by-laws approved by a two-thirds vote of the towns of Abington, Rockland and Weymouth, shall govern the corporation's redevelopment of the NAS South Weymouth Redevelopment Area. The zoning by-laws shall be effective on the date that the last of the 3 towns gives its approval of the same; provided, however, that neither the towns nor the corporation may initiate or undertake any redevelopment activity within the NAS South Weymouth Redevelopment Area, unless and until the 3 towns approve the zoning by-laws in accordance with this section. Once effective, such zoning by-laws shall supersede the existing zoning by-laws of the towns except to the extent the existing zoning by-laws are incorporated in the zoning by-laws. Adoption of the Reuse Plan and newly adopted zoning by-laws by the towns shall constitute final acceptance of the same for the purposes of this act.

(b) A revision to the Reuse Plan or zoning by-laws considered to be substantial as that term is defined in the Reuse Plan and zoning by-laws shall not be effective until the towns, following public hearings, approve the revision. Notwithstanding the foregoing, revisions to the zoning by-laws which merely change the boundaries of zoning districts but do not alter or amend the Reuse Plan shall not be considered substantial if the board determines that such boundary revisions are warranted by: (i) the department of highway's determination of the location of "East-West Parkway" at NAS South Weymouth; or (ii) requests from the Natural Heritage and Endangered Species Program for minor relocations of the proposed golf course at NAS South Weymouth. Within 90 days of receipt of a proposed substantial revision to the Reuse Plan or zoning by-laws, the mayor of the town of Weymouth shall convene a meeting of the town council of the town of Weymouth and the boards of selectmen of each of the towns of Abington and Rockland shall convene a town meeting for such towns for the purpose of adopting by majority vote of such town council and each town meeting the substantial revision to the Reuse Plan, or adopting by two-thirds vote of the town council and each town meeting the substantial revision to the by-laws, as the case may be. Each town shall vote to adopt or disapprove the substantial revision to the Reuse Plan or zoning by-laws as submitted. No amendments to the proposed substantial revision to the Reuse Plan or zoning by-laws shall be made by the towns. Each town shall, within 30 days of adoption or rejection of a proposed substantial revision to the Reuse Plan or zoning by-laws at either a town council meeting or a town meeting, provide the secretary with a written notification stating whether the town council or town meeting adopted or rejected the proposed substantial revision to the Reuse Plan or zoning by-laws. Until such time as all 3 towns have adopted the proposed substantial revision to the Reuse Plan or zoning by-laws, the change to the Reuse Plan or zoning by-laws shall have no force or effect. Revisions to the Reuse Plan or zoning by-laws not considered substantial pursuant to the guidelines set forth in the Reuse Plan or zoning by-laws shall be effective upon approval thereof by the corporation.

Prior to approving any revision not considered substantial, the corporation shall formally notify and consult with the towns and the advisory board, publish a notice of public hearing in a newspaper of general circulation within the NAS South Weymouth Region, hold at least 1 public hearing in the NAS South Weymouth Redevelopment Area or in any one of the towns, and afford the opportunity for public comment at which the proposed revision to the Reuse Plan or zoning by-laws not considered substantial shall be considered and voted upon. Such regulations may provide for expedited permitting under which the time frames for actions, including a failure to take action, applicable to municipalities and their boards, commissions and agencies under the provisions of the General Laws may be shortened. Nothing in this section shall require the corporation to be governed by the requirements of chapter 30A of the General Laws.

(c) The procedures set forth in this section for the adoption of the Reuse Plan and zoning by-laws, whether such adoption occurs prior to or subsequent to the effective date of this act, and for adopting revisions to the Reuse Plan and zoning by-laws shall be exclusive notwithstanding any general or special law to the contrary.

(d) Regulations for the effective implementation and enforcement of the Reuse Plan and zoning by-laws and revisions thereof shall be developed and adopted by the corporation, pursuant to section 6. No regulation shall be adopted by the corporation without first publishing notice of same in a newspaper of general circulation within the NAS South Weymouth Region, holding at least one public hearing in the NAS South Weymouth Redevelopment Area or in any one of the towns, and affording the opportunity for public comment. Nothing in this section shall require the corporation to be governed by the requirements of chapter 30A of the General Laws.

(e) Except where the General Laws establish jurisdiction of another court or agency to act on appeal from such determination or approval when otherwise made by a municipal board, commission or official, a person aggrieved by a determination or approval of the corporation, whether or not previously a party to the proceeding, may appeal to the superior court or land court by bringing an action within 20 days after the corporation has filed its decision in each of the 3 towns' clerk's offices. The 20 day period shall commence only after all such filings have been completed. The court shall hear all pertinent evidence and shall annul the determination of the corporation if it finds that the determination is unsupported by substantial evidence or exceeds the authority of the corporation, or it may remand the case for further action by the corporation or may make such other decree as is just and equitable.

(f) The Naval air station planning committee shall be disestablished on the 120th day following the effective date of enactment of this act or upon the appointment of the 5 members of the board of the corporation, whichever occurs first.

Section 15. The corporation shall prepare a taxation plan, consistent with the Reuse Plan and zoning by-laws approved by the towns, for the corporation's assessment of property taxes and other taxes over which the department of revenue has regulatory oversight for municipalities under the General Laws. The taxation plan shall provide for the imposition

and levy of such taxes that may be adjusted from time to time by the corporation, upon persons, residents and estates lying within the NAS South Weymouth Redevelopment Area including both the central redevelopment area and the perimeter area consistent with the General Laws that are applicable to municipalities. Upon approval of the taxation plan by the secretary and the commissioner, the corporation shall exercise all the powers granted pursuant to this act and to municipalities in the commonwealth to enable the collection of such taxes and other charges. In connection with the foregoing, the corporation shall have all the powers and authority of cities and towns under chapters 40, 59, 60, 60A, 61B and section 3A of chapter 64G of the General Laws, and may accept a local option under a general or special law related to the assessment, exemption or enforcement of property taxes and excises that cities and towns may accept. The towns shall not be entitled to assess a fees or taxes on property, persons or businesses located in the NAS South Weymouth Redevelopment Area unless a town has, by agreement with the corporation, undertaken to issue specific licenses and permits to persons, businesses or other entities within the NAS South Weymouth Redevelopment Area. In such cases, the town issuing the licenses or permits may assess and collect a reasonable fee for the issuance of such licenses and permits from the licensees or permittees. The towns shall not be required to incur any costs or expenses related to the provision of municipal services within the NAS South Weymouth Redevelopment Area or to provide municipal services therein except pursuant to written agreement for the provision of the same between the corporation and one or more of the towns. Each town shall be responsible for furnishing or funding the cost of municipal services furnished to any land within the NAS South Weymouth Redevelopment Area owned or leased by the towns.

Section 16. The executive office for administration and finance and the executive offices of housing and economic development and of labor and workforce development shall identify a senior staff member who shall assist the corporation with establishing a method for coordinating 1-stop licensing for all businesses and developments to be located within the NAS South Weymouth Redevelopment Area for the purpose of expediting the process for obtaining commonwealth licenses, permits, certificates, approvals, registrations, charters and meeting any other requirements of law. The corporation shall assist prospective developers by centrally coordinating the submission of licensing and permitting requests to the permitting agencies.

Section 17. Each public agency in the commonwealth involved in the development or financing of economic development projects shall develop a coordinated 1-stop program for businesses, institutions and private parties that may intend to locate in the NAS South Weymouth Redevelopment Area in order to enable development activities within the NAS South Weymouth Redevelopment Area to be more effectively promoted by the commonwealth.

Section 18. (a) The corporation may fix, revise, charge, collect, levy and abate betterments, assessments, special assessments and fees, and other charges for the cost, administration and operation of the infrastructure improvements. In providing for the payment

of the cost of the infrastructure improvements or for the use of the infrastructure improvements, the corporation may avail itself of the General Laws relative to the assessment, apportionment, division, fixing, reassessment, revision, abatement and collection of infrastructure charges, including betterments, assessments, special assessments and fees by municipalities, or the establishment of liens therefor and interest thereon, and the procedures set forth in sections 5 and 6 of chapter 254 of the General Laws for the foreclosure of liens, as it shall deem necessary and appropriate for purposes of the assessment and collection of such infrastructure improvement charges. Notwithstanding any general or special law to the contrary, the corporation may pay the entire cost of any infrastructure improvements, including the acquisition thereof, during construction or after completion, or the debt service of notes or bonds used to fund such costs, from betterments, assessments, special assessments, fees, or other charges, and may establish the betterments, assessments, special assessments, fees or other charges, prior to, during or within 1 year after completion of construction or acquisition of any infrastructure improvements. The corporation may establish a schedule for the payment of betterments, assessments, special assessments, fees or other charges, not to exceed 35 years. The corporation may determine the circumstances under which the betterments, assessments, special assessments, fees and other charges, may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any other parcel within the NAS South Weymouth Redevelopment Area.

(b) The betterments, assessments, special assessments, fees and other charges of general application authorized by this act may be increased in accordance with the procedures to be established by the corporation for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. The initial schedule of assessments, special assessments, fees and other charges, may be adopted by the corporation at any scheduled meeting of the board, provided that notice of the meeting, and the proposed schedule, is sent to each owner of a parcel within the NAS South Weymouth Redevelopment Area, by registered or certified mail at least 7 days prior to the meeting. Thereafter, the corporation shall hold at least 1 public hearing on a revision to its schedule of betterments, assessments, special assessments, fees and other charges thereof prior to adoption by the corporation, notice of which revisions shall be delivered to the towns and shall be published in a newspaper of general circulation in each of the towns at least 1 month in advance of the hearing. No later than the date of such publications, the corporation shall make available to the public and deliver to the towns the proposed revisions to the schedule of special assessments, fees, betterments, assessments and other charges. The betterments, assessments, special assessments, fees and other charges established by the corporation shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the commonwealth or its political subdivisions, including without limitation, the towns, except for the approval of the taxation plan and any amendments thereof requiring approval by the secretary and commissioner.

(c) The betterments, assessments, special assessments, fees and other charges established by the corporation in accordance with this act shall be fixed and adjusted in respect of the aggregate thereof so as to provide revenues at least sufficient: (i) to pay the principal of, premium, if any, and interest on bonds, notes or other evidences of indebtedness issued by the corporation under this act as the same become due and payable; (ii) to create and maintain such reasonable reserves as may be reasonably required by a trust agreement or resolution securing bonds or notes; (iii) to provide funds for paying the cost of necessary repairs, replacements and renewals of the infrastructure improvements; and (iv) to pay or provide for an amount that the corporation 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 its bonds and notes, provided that the corporation shall not be required to increase any mandatory betterments, assessments, special assessments, fees or other charges by virtue of an individual proprietor delinquencies.

(d) As an alternative to levying betterments, assessments, special assessments, fees and other charges under this act or the General Laws, the corporation may levy special assessments on real estate within the NAS South Weymouth Redevelopment Area to finance the cost, administration and operation of the infrastructure improvements. In determining the basis for and amount of the special assessment, the cost, administration, maintenance and operation of the infrastructure improvements, including the cost of the repayment of the debt issued or to be issued by the corporation to finance the improvements, may be calculated and levied using any of the following methods that result in fairly allocating the costs of the infrastructure improvements to the real estate in the NAS South Weymouth Redevelopment Area:

(1) equally per length of frontage, or by lot, parcel or dwelling unit, or by the square footage of a lot, parcel or dwelling unit;

(2) according to the value of the property as determined by the corporation; or

(3) in any other reasonable manner that results in fairly allocating the cost, administration and operation of the infrastructure improvements, according to the benefit conferred or use received including, but not limited to, by classification of commercial or residential use or distance from the infrastructure improvements.

(e) The corporation may also provide for the following:

(1) a maximum amount to be assessed with respect to any parcel;

(2) a tax year or other date after which no further special assessments under this section shall be levied or collected on a parcel;

(3) annual collection of the levy without subsequent approval of the corporation;

(4) the circumstances under which the special assessment levied against a parcel may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any other parcel within the NAS South Weymouth Redevelopment Area; and

(5) procedures allowing for the prepayment of betterments, assessments, special assessments, fees and other charges under this act.

(f) Betterments, assessments, special assessments, fees and other charges levied under this act shall be collected and secured in the same manner as property taxes, betterments, assessments and fees owed to the towns unless otherwise provided by the corporation and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for such property taxes, betterments and liens owed to the towns.

(g) The appellate tax board shall have jurisdiction within the NAS South Weymouth Redevelopment Area pursuant to chapter 58A of the General Laws to the same extent as its jurisdiction in cities and towns.

Section 19. (a) Excess revenues of the corporation, as that term is defined in the Reuse Plan and zoning by-laws, shall be distributed by the board annually within 120 days following the end of the corporation's fiscal year to the towns of Abington, Rockland and Weymouth in the following percentages: 12 per cent to Abington; 42 per cent to Rockland and 46 per cent to Weymouth. These percentages are based upon the ratio of the land area of each town located within the boundaries of the NAS South Weymouth Redevelopment Area to the total acreage of the NAS South Weymouth Redevelopment Area.

(b) The sharing of tax and non-tax revenues generated in the NAS South Weymouth Redevelopment Area shall continue based on the formula in subsection (a) in perpetuity following termination of the corporation in accordance with 33.

Section 20. (a) The corporation may provide by resolution of the board for the issuance of bonds and notes of the corporation for the purposes of paying all or any part of the cost of the project and its infrastructure improvements. Such cost shall including the cost of: (1) construction, reconstruction, renovation and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or to be acquired by the corporation, the towns, the commonwealth or any other political subdivision thereof; (2) all machinery and equipment including machinery and equipment needed to expand or enhance services from the towns, the commonwealth or a political subdivision thereof to the corporation; (3) financing charges and interest prior to and during construction, and for a period not exceeding 1 year after completion of the construction, interest and reserves for principal and interest, including costs of municipal bond insurance and any other type of financial guaranty and costs of issuance; (4) extensions, enlargements, additions and enhancements to infrastructure improvements; (5) architectural, engineering, financial and legal services; (6) plans, specifications, studies, surveys and estimates of costs and of revenues; (7) administrative expenses necessary or incident to the construction, acquisition, financing, operation and maintenance of the project; and (8) other expenses as may be necessary or incident to the construction, acquisition, operation, maintenance and financing of the infrastructure improvements, including the cost of issuing bonds or notes. The corporation may issue up to \$110,000,000 of its bonds which are secured by ad valorem property taxes to be collected by the corporation. The corporation may issue bonds which are secured by such other revenues and security as the board may determine, which shall not

be subject to the \$110,000,000 limitation. The corporation may issue bonds pursuant to chapter 40Q of the General Laws without the approval of any of the towns, which shall be subject to the \$110,000,000 limitation. A bond issued pursuant to said chapter 40Q shall not be subject to the adjustment for the "inflation factor" described in said chapter 40Q. The corporation may issue revenue bonds secured in whole or in part by betterments, assessments, special assessments, fees and other charges, notes, debentures, long term capital leases, grants and governmental assistance and long-term contracts, which shall not be subject to any maximum dollar amount. The principal of and interest on such bonds shall be payable solely from the funds which are identified by the corporation and are permitted by this act to provide for such payment. The bonds of each issue shall be dated, shall bear interest at such rates, which may be variable or fixed, and shall mature at times not exceeding 35 years from their dates of initial issuance, as the corporation may determine, and may be made redeemable before maturity, at the option of the corporation, at such prices and under such terms and conditions as the corporation may fix prior to the issuance of the bonds. The corporation shall determine the form of the bonds and the manner of execution of the bonds, and shall fix the denominations of the bonds and the places of payment of principal and interest, which may be at a bank or trust company within or without the commonwealth and such other locations as designated by the corporation. In the event an officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until the delivery. The bonds shall be issued in registered form. The corporation may sell the bonds in a manner and for a price, either at public or private sale, as it may determine to be for the best interests of the corporation.

(b) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary notes, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The corporation may also provide for the replacement of bonds that shall become mutilated or shall be destroyed or lost. The corporation may issue, from time to time, notes of the corporation in anticipation of federal, state or local grants for the cost of the project and acquiring, constructing or improving the infrastructure improvements. The notes shall be authorized, issued and sold in the same manner as provided in, and shall otherwise be subject, this act. Such notes shall mature at such times as provided by the issuing resolution of the corporation and may be renewed from time to time; provided, however, that all such notes and renewals thereof shall mature on or before 20 years from their date of issuance. Bonds and notes may be issued under this act subject only to those proceedings, conditions or things that are specifically required by this act.

(c) The corporation may provide by resolution for issuance of refunding bonds of the corporation for the purpose of refunding bonds then outstanding at maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the refunded bonds as the corporation deems to be in the public

interest. Refunding bonds may be issued in sufficient amounts to pay or provide for the principal of the bonds being refunded under this act, and the payment of a redemption premium thereon and interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the corporation, for the additional purpose of paying any cost of the project, including the acquisition, constructing or reconstructing the infrastructure improvements. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the corporation in respect to the same shall be governed by this act insofar as the same may be applicable.

(d) While bonds issued by the corporation remain outstanding, the powers, duties or existence of the corporation shall not be diminished or impaired in any way that will adversely affect the interests and rights of the holders of such bonds.

(e) The board may by resolution delegate to a person, other than a majority of the board, the power to determine any of the matters set forth in this section.

(f) Bonds and notes issued under this section, unless otherwise authorized by law, shall not be deemed to constitute a debt of the commonwealth or of the towns, or a pledge of the faith and credit of the commonwealth or of the towns, but such bonds shall be payable solely from the funds of the corporation or as otherwise provided in this act. Unless the towns or the commonwealth subsequently agree to pay the bonds or notes of the corporation, such bonds and notes shall contain on their faces a statement to the effect that neither the commonwealth nor the towns shall be obliged to pay the same or the interest thereon and that neither the faith and credit nor taxing power of the commonwealth or the towns is pledged to the payment of the principal of or the interest on such bonds or notes.

(g) All bonds or notes issued under this act shall have all the qualities and incidents of negotiable instruments as defined in section 3-104 of chapter 106 of the General Laws.

(h) Prior to the issuance of bonds with a maturity date later than the date the corporation is required to be terminated pursuant to section 33, the mayor of the town of Weymouth and boards of selectmen of the towns of Abington and Rockland, in consultation with the corporation, shall enter into an intermunicipal debt service agreement acceptable to the corporation, which shall provide for the continued payment of principal and interest on such bonds and the maintenance of all required reserves and any other obligations as may be set forth in the applicable bond instruments from ad valorem property taxes, betterments, assessments, special assessments, fees, other charges and other revenues generated in the NAS South Weymouth Redevelopment Area and the corporation and the towns may enter into and perform their respective obligations under such debt service agreement; provided, however, that such agreement shall not extend the duration of the corporation past the date on which it is to be terminated pursuant to section 33.

Section 21. (a) In the discretion of the corporation, bonds, refunding bonds or notes may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the commonwealth. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage the project or a part thereof.

(b) Either the resolution providing for the issuance of bonds or notes or the trust agreement may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, custody, safeguarding, investment, application of moneys, use of any surplus bond or note proceeds and establishment of reserves. Such resolution or trust agreement may contain, but shall not be limited to, covenants by the corporation in relation to the following: (i) the establishment, revision and collection of such taxes, betterments, assessments, special assessments, fees and other charges for services or facilities furnished or supplied by the corporation as shall provide revenues which together with other revenues of the project, if any, are sufficient to pay (1) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (2) the principal of and the interest on the bonds or notes, as the same shall become due and payable, (3) payments in lieu of taxes, betterments, assessments, special assessments, fees and other charges and (4) reserves for all such purposes; (ii) the purposes for which the proceeds of the sale of the bonds or notes shall be applied and the use and disposition thereof; (iii) the use and disposition of the gross revenues of the corporation from the project, additions thereto and extension and the infrastructure improvements thereof, including the creation and maintenance of funds for working capital and for renewals and replacements to the project; (iv) the amount, if any, of additional bonds or notes payable from the revenues of the project and the limitations, terms and conditions on which such additional bonds or notes may be issued; and (v) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of the corporation.

(c) It shall be lawful for a bank or trust company within or without the commonwealth to act as depository of the proceeds of bonds or revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. Such trust agreement may contain other provisions as the corporation may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the project. The pledge by any such trust agreement or resolution shall be valid and binding from the time when the pledge is made. The revenues or other moneys so pledged and then held or thereafter received by the corporation shall immediately be subject to the lien of such pledge without a physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against

the corporation, irrespective of whether such parties have notice thereof. The financing document by which any pledge is created by the corporation shall not be required to be filed or recorded to perfect such pledge except in the official records of the corporation and no Uniform Commercial Code filing shall be required to be made. A pledge or assignment made by the corporation is an exercise of its political and governmental powers, and revenues, funds, assets, property and contract or other rights to receive the same and the proceeds thereof which are subject to the lien of a pledge or assignment created under this act shall not be applied to purposes not permitted by the pledge or assignment.

(d) In addition to other security provided herein or otherwise by law, bonds, notes or obligations issued by the corporation under this act may be secured, in whole or in part, by a letter of credit, line of credit, bond insurance policy, liquidity facility or other credit facility for the purpose of providing funds for payments in respect of bonds, notes or other obligations required by the holder thereof to be redeemed or repurchased prior to maturity or for providing additional security for such bonds, notes or other obligations. In connection therewith, the corporation may enter into reimbursement agreements, remarketing agreements, standby bond purchase agreements and any other necessary or appropriate agreements. The corporation may pledge or assign the corporation's revenues as security for the reimbursement by the corporation to the providers of such letters of credit, lines of credit, bond insurance policies, liquidity facilities or other credit facilities of any payments made under the letters of credit, lines of credit, bond insurance policies, liquidity facilities or other credit facilities.

(e) In connection with, or incidental to, the issuance of bonds, notes or other obligations, the corporation may enter into such contracts as it may determine to be necessary or appropriate to place the bonds, notes or other obligations of the corporation, as represented by the bonds or notes, or other obligations in whole or in part, on such interest rate or cash flow basis as the corporation may determine, including without limitation, interest rate swap agreements, insurance agreements, forward payment conversion agreements, futures contracts, contracts providing for payments based on levels of, or changes in, interest rates or market indices, contracts to manage interest rate risk, including without limitation, interest rate floors or caps, options, puts, calls and similar arrangements. Such contracts shall contain such payment, security, default, remedy and other terms and conditions as the corporation may deem appropriate and shall be entered into with such parties as the corporation may select, after giving due consideration, where applicable, for the creditworthiness of the counter parties, including a rating by a nationally-recognized rating agency, the impact on a rating on outstanding bonds, notes or other obligations or other criteria the corporation may deem appropriate.

(f) The corporation shall have the power to purchase its bonds or notes out of any funds available therefor. The corporation may hold, pledge, cancel or resell such bonds or notes, subject to and in accordance with agreements with bondholders.

(g) Any moneys received by the corporation, whether as proceeds from the issuance of bonds or notes, or as revenue or otherwise, may be designated by the board as trust funds

to be held and applied solely as provided in this act.

Section 22. Bonds, refunding bonds and notes issued under this act shall be securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies and their commercial departments and within the limits set forth in chapter 172 of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereinafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them; and such bonds are shall be obligations that may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided in chapter 168 of the General Laws. Such bonds shall be securities that may properly and legally be deposited with and received by a state or municipal officer or an agency or political subdivision of the commonwealth for a purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

Section 23. A holder of bonds or notes issued under this act and a trustee under a trust, except to the extent the rights herein given may be restricted by the trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights under the laws of the commonwealth or granted hereunder or under the trust agreement, and may enforce and compel the performance of all duties required by this act or by the trust agreement, to be performed by the corporation or by an officer thereof.

Section 24. The towns and the commonwealth are pledged to agree with the holders of the bonds or notes that neither the towns nor the commonwealth shall limit or alter or cause to limit or alter the rights hereby vested in the corporation to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or infrastructure improvements, to establish and collect ad valorem property taxes, except as is currently or may be applicable to municipalities, betterments, assessments, special assessments, fees and other charges and to fulfill the terms of an agreements made with the holders of the bonds or notes nor impair the rights and remedies of the bondholders or noteholders, until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders or noteholders, are fully met and discharged.

Section 25. (a) The creation of the corporation and the carrying out of its corporate purposes shall be for the benefit of the people of the commonwealth and shall be a public purpose, and the corporation shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this act and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control or supervision or upon its activities.

(b) A bonds issued under this act, including an exchange, sale or transfer of such bonds, and any income derived therefrom, and the property of the agency shall at all times be free from taxation by the commonwealth or any political subdivision or entity thereof.

(c) Bonds or notes may be issued under this act without obtaining the consent of a department, division, commission, board, bureau or agency of the commonwealth or the towns, and without a proceedings or the happening of any other conditions or things other than those proceedings, conditions or things that are specifically required thereof by this act, and the validity of and security for bonds or notes issued by the corporation shall not be affected by the existence or nonexistence of any such consent or other proceeding conditions, or things.

Section 26. The corporation shall be liable in contract and in tort in the same manner as a municipal corporation. The directors, officers, employees and agents of the corporation, including members of the advisory board established pursuant to section 10, shall not be liable as such on their contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sale on execution, but if the corporation refuses to pay a judgment entered against it in a court of competent jurisdiction, the superior court, sitting within and for Norfolk county or Plymouth county, may direct the treasurer of the corporation to pay such judgment. The real estate owned by the corporation shall not be subject to liens under chapter 254 of the General Laws but sections 28 and 29 of chapter 149 of the General Laws shall be applicable to any construction work by the corporation.

Section 27. Notwithstanding any general or special law to the contrary, the corporation shall be deemed to be a public employer for purposes of chapter 258 of the General Laws.

Section 28. (a) The corporation may, if appropriate, make application to the United States Department of Housing and Urban Development or, as necessary, any other federal agency, to designate all or a portion of the NAS South Weymouth Redevelopment Area as an enterprise zone, pursuant to 42 U.S.C. § 11501 et seq., as amended, or an existing or successor statute for the purpose of creating jobs and encouraging development in the NAS South Weymouth Redevelopment Area.

(b) The NAS South Weymouth Redevelopment Area and the towns of Abington, Rockland and Weymouth are hereby designated economic target areas as defined in section 3D of chapter 23A of the General Laws. Pursuant to such designation, certain development project within the NAS South Weymouth Redevelopment Area and the entirety of the towns of Abington, Rockland and Weymouth shall be eligible for tax deductions, credits and abatements and other economic incentives as provided for in sections 3E to 3G of said chapter 23A. The corporation shall render such certifications as are required by law for the project within the central redevelopment area, including the designation of economic opportunity areas, and each town shall render such certifications within its respective sector of the perimeter area and portions of the towns not included in the NAS South Weymouth Redevelopment Area. The designation of the NAS South Weymouth Redevelopment Area and the towns of Abington, Rockland and Weymouth as economic target areas shall be in addition to the economic target areas that may be established pursuant to paragraph 5 of said

section 3E of said chapter 23A.

Section 29. The corporation shall be subject to all laws applicable to municipal redevelopment authorities created under section 4 of chapter 121B of the General Laws.

Section 30. The corporation or its agents may enter into project labor agreements covering construction performed on and during redevelopment of the NAS South Weymouth Redevelopment Area pursuant to paragraphs (t) and (ee) of section 6 of this act.

Section 31. The corporation shall keep an accurate account of its activities including its receipts and expenditures. The corporation shall prepare annual reports of its activities in the NAS South Weymouth Redevelopment Area during the preceding fiscal year and submit such reports to the governor, secretary, general court, advisory board, mayor of the town of Weymouth, the town manager of the town of Abington, the town administrator of the town of Rockland, the town council of the town of Weymouth, the boards of selectmen of the towns of Abington and Rockland and the town clerk of each of those towns. Each report shall set forth a complete operating and financial statement covering the corporation's operations in the NAS South Weymouth Redevelopment Area during the previous year. The corporation shall cause an audit of its books and accounts relating to the NAS South Weymouth Redevelopment Area to be made at least once in each fiscal year by certified public accountants. The audit shall be filed with the state auditor annually not later than 120 days after the end of the corporation's fiscal year and shall be in a form prescribed by the state auditor. The state auditor shall audit the corporation's books and accounts at least once every 2 fiscal years. The state auditor may investigate the budget, finances, transactions and relationships of the corporation at any time and may examine the corporation's records and prescribe methods of accounting and the rendering of periodic reports. The audits of the corporation shall be public records; provided, however, that the mayor of the town of Weymouth, the town manager of the town of Abington, or the town administrator of the town of Rockland may each conduct annual audits at the expense of the respective towns.

Section 32. Chapter 40B of the General Laws shall not apply to the provision of affordable housing within the NAS South Weymouth Redevelopment Area. Such affordable housing within the NAS South Weymouth Redevelopment Area shall be governed by the Reuse Plan and zoning bylaws and the regulations adopted thereunder. None of the land located within the NAS South Weymouth Redevelopment Area, nor any of the housing which may be constructed thereon from time to time, shall be included in any calculation applicable to said chapter 40B with respect to any of the towns. This section shall continue in full force and effect following the dissolution of the corporation pursuant to section 33.

Section 33. (a) The corporation shall be dissolved upon: (i) the bond termination date; and (ii) the approval of the dissolution and administration agreement by the towns as described in subsection (b); provided, however, that in no event shall the corporation be dissolved prior to August 13, 2018.

Within 30 days after: (i) the bond termination date; and (ii) such approval of the dissolution and administration agreement, the board shall file a certificate acknowledging such dissolution with the state secretary. The dissolution of the corporation shall take effect

upon the filing of such certificate, subject to the applicable provisions of section 51 of chapter 155 of the General Laws. In connection with the application of said section 51 of said chapter 55, any real property owned by the corporation at the time of dissolution shall be deemed to be distributed automatically to and become the property of the town in which it is located, consistent with the dissolution and administration agreement, and the personal property of the corporation shall be equitably allocated to the towns according to the terms of the dissolution and administration agreement; provided, however, that the corporation shall not issue any bonds after the date that the redevelopment of the NAS South Weymouth Redevelopment Area contemplated in the Reuse Plan and zoning by-laws is completed.

(b) At least 24 months prior to the bond termination date, the board shall prepare and distribute to the towns a dissolution and administration agreement. The dissolution and administration agreement shall provide, but shall not be limited to, the following: (i) provisions for the disposition of all real and personal property within the NAS South Weymouth Redevelopment Area which the corporation owns or has an interest in on the bond termination date; (ii) provisions for the assumption of all contractual obligations, including all lease agreements of the corporation, which do not expire on the bond termination date; (iii) provisions for the assessment, collection and distribution of tax and nontax revenues to the towns in accordance with section 19; (iv) provisions for the reimbursement of municipal services furnished by the towns to the NAS South Weymouth Redevelopment Area which continue after the bond termination date; (v) provisions for the transfer and assumption by the towns of the corporation's zoning administration, licensing and permitting authorities; and (vi) provisions for the resolution of any other matters relating to the corporation which may affect the interests of the towns. Within 120 days after receipt of the dissolution and administration agreement, the mayor of the town of Weymouth shall convene a meeting of the town council of the town of Weymouth and the boards of selectmen of the towns of Abington and Rockland shall convene a town meeting of their respective towns for the purpose of adopting by majority vote of the town council and each town meeting the dissolution and administration agreement. Each town shall vote to adopt or disapprove the agreement as submitted. No amendments to the agreement shall be made by the towns. Each town shall, within 30 days after adoption or rejection of the agreement at a town council meeting or a town meeting, as the case may be, provide the corporation with a written notification stating whether the town council or town meeting adopted or rejected the agreement. Any town that has rejected the agreement shall have 1 year from the date of such disapproval to reconsider its decision and rescind its rejection and adopt the dissolution and administration agreement. Once a town adopts the agreement, it shall not thereafter vote to disapprove or reject it. If all 3 towns have not adopted the agreement at least 1 year prior to the bond termination date, the corporation shall remain in existence and carry out its functions consistent with this act. If the towns fail to adopt the agreement, the general court may, at any time after the bond termination date, terminate the corporation's existence, provide for the distribution of the its assets and determine other provisions as required for the dissolution and administration agreement.

Section 34. Notwithstanding any provision of this act to the contrary, the corporation may enter into and perform its obligations under the Financing MOA and the Financing Agreement referenced therein, including without limitation, reimbursement to the commonwealth of any "deficiency payment," as defined in the Financing MOA, which obligation of the corporation shall constitute a general obligation of the corporation for which the full faith and credit of the corporation shall be pledged for the benefit of the commonwealth. The betterments, assessments, special assessments, fees and other charges established by the corporation in accordance with this act shall be fixed and adjusted so as to provide revenues at least sufficient to pay, in addition to all other amounts set forth in section 18, any amounts that the corporation may be obligated to pay or provide for, pursuant to the Financing MOA or the financing agreement referenced therein. The corporation may collect the data described in sections 3 and 4 of the Financing MOA for the purposes described therein. The corporation may also obtain a blanket performance bond or other security satisfactory to the secretary for administration and finance and payable to the agency securing the corporation's obligation to complete the project in an amount at least equal to the amount of bonds to be issued by the agency to finance the project.

Section 35. The South Shore Tri-Town Development Corporation shall offer new bonds after December 31, 2030 only upon a two-thirds majority vote from the town council of the town of Weymouth and the boards of selectmen of the towns of Abington and Rockland.

Section 36. Sections 23A to 23C, inclusive, of chapter 39 of the General Laws shall apply to the corporation.

SECTION 38. Section 13 of chapter 196 of the acts of 2004 is hereby amended by adding the following paragraph:-

The commission shall expire as of December 31, 2007.

SECTION 39. Section 2E of chapter 291 of the acts of 2004 is hereby amended by striking out item 6001-0405 and inserting in place thereof the following item:-

6001-0405 For the purposes of chapter 161B of the General Laws, including the purchase, long-term lease and rehabilitation of rolling stock, 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; provided, that not less than \$900,000 shall be made available to the Cape Ann Regional Transit Authority for reimbursement for expenses associated with the purchase, construction and rehabilitation of the Cape Ann maintenance facility; provided further, that not less than \$500,000 shall be expended to contract with the Massachusetts Alliance for Small Contractors to provide technical assistance to minority

and women-owned small businesses as well as other small business concerns in participating in public construction projects; provided further, that not less than \$1,000,000 shall be made available to create and support programs including, but not limited to, programs for: (a) building the capacity of minority and women-owned business enterprises to participate in public construction projects; (b) capturing data on minority and women-owned businesses by industry; and (c) implementing programs and measures to secure federal assistance to support such programs \$25,000,000

SECTION 40. Sections 3 and 4 of chapter 86 of the acts of 2008 are hereby repealed.

SECTION 41. Section 32 of chapter 86 of the acts of 2008 shall expire as of June 30, 2008.

SECTION 42. Notwithstanding any general or special law to the contrary, the harbor lines corrected by sections 35 and 36 shall be shown on a plan to be titled, “The Establishment of New Harbor Lines at Fort Point Channel” and shall bear the effective date of this act. This plan shall be prepared by the department of highways and shall be filed in the office of the department of environmental protection and made available for public inspection.

SECTION 43. Notwithstanding any general or special law to the contrary, the secretary of transportation and public works shall conduct a study regarding the feasibility of establishing a renewable fuels corridor on Cape Cod. The study shall evaluate potential locations for consumers to purchase alternative fuels and biofuels and shall include a plan for the implementation of the corridor. The secretary shall file a report on the findings of the study together with legislation, if any, with the clerks of the senate and the house of representatives, the joint committee on transportation and the senate and house committees on ways and means not later than December 31, 2008.

SECTION 44. Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency may, upon the request of and with the prior written approval of the secretary of administration and finance, issue bonds of the agency in an amount not to exceed \$43,000,000 for the purpose of financing all or a portion of the costs, including costs of issuance of such bonds and other financing costs, of an east-west parkway and other roadway improvements connecting between state highway route 18 in the city know as the town of Weymouth and state highway route 3 in the town of Rockland, and as further described in the Memorandum of Agreement on Financing for the South Shore Tri-Town Development Corporation’s Parkway entered into as of January 31, 2008, by and between the commonwealth, acting by and through the executive office for administration and finance and the executive office of transportation and public works and the South Shore Tri-Town Development Corporation, and as it may hereafter be amended from time to time,

hereinafter referred to as the "Financing MOA". Bonds issued under this section may be issued under and secured by a trust agreement or a financing document with such terms and conditions as the agency may determine in accordance with this act and chapter 23G of the General Laws and may be refunded from time to time upon the request of and with the prior written approval of administration and finance. No findings of the agency pursuant to chapter 23G or chapter 40D shall be required in connection with the issuance of bonds authorized by this section. Notwithstanding the foregoing, revenues paid to the agency from the commonwealth as provided in section 45 shall be applied solely to the payment of and security for bonds issued for the purposes described in this section, any amounts owed under agreements entered into pursuant to the Financing MOA and any ongoing administrative expenses of the agency related to such bonds. Bonds issued by the agency under this section shall not constitute a debt or a pledge of the faith and credit of the agency or the commonwealth but shall be payable solely from contract assistance pursuant to section 37.

All bonds issued by the agency shall state that the bonds are not a general obligation of the agency or an obligation of the commonwealth but shall be payable solely from the funds specifically pledged for their payment.

SECTION 45. Notwithstanding any general or special law to the contrary, the secretary of administration and finance, acting on behalf of the commonwealth, shall enter into an agreement with the Massachusetts Development Finance Agency providing that the commonwealth shall provide contract assistance for obligations of the agency for a period of not more than 30 years in amounts sufficient to pay debt service on the bonds of the agency issued pursuant to section 44, any amounts owed by the commonwealth pursuant to financing agreements entered into pursuant to the Financing MOA, as described in said section 44, and any ongoing administrative expenses of the agency related to such bonds. Such contract assistance agreement shall provide for the payment by the commonwealth of such amounts at such times during each fiscal year and upon such terms and under such conditions as the agreement, with the approval of the secretary of administration and finance, shall stipulate. The agency may pledge such agreement and the rights of the agency to receive amounts thereunder as security for the payment of bonds issued by the agency for such purposes. Such contract 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 46. Notwithstanding any general or special law to the contrary, the secretary of administration and finance and the secretary of transportation and public works, acting on behalf of the commonwealth, may execute and deliver the financing agreement referenced in the Financing MOA, as defined in section 44, and such other agreements and documents as the secretaries determine, to effectuate the issuance of the bonds authorized by said section 44 and to carry out the parkway project as contemplated in the Financing MOA.

SECTION 47. Notwithstanding any general or special law to the contrary, 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, \$585,300,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 48. Notwithstanding any general or special law to the contrary, 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, \$410,000,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 49. Notwithstanding any general or special law to the contrary, 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, \$284,000,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 50. Notwithstanding any general or special law to the contrary, 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, \$20,420,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 51. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary in carrying out section 2E, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$72,000,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 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. 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 52. Notwithstanding any general or special law to the contrary, to meet the expenditures necessary in carrying out section 2F, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$40,000,000. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 53. Notwithstanding any general or special law to the contrary, to meet a portion of the expenditures necessary in carrying out section 2G, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$33,366,500. 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. 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, notwithstanding any other provisions of this act, 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. 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 a nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of 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. 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 54. Notwithstanding any general or special law to the contrary, in carrying out sections 2A to 2G, 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. Such agreements may relate to such matters as an agency within such executive office shall determine, including, without limitation, the design, layout, construction, reconstruction or management of construction of all or any portion of such projects. In relation to any such agreements, the agency within such executive office may advance monies to such other 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 the agency within such executive office shall certify to the comptroller the amounts so advanced; provided further, that such agreements shall contain provisions satisfactory to the agency within such executive office for the accounting of such monies as expended by any other agency or authority; and 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 such executive office shall report to the house and senate committees on ways and means on any transfers completed pursuant to this section.

SECTION 55. (a) Notwithstanding any general or special law to the contrary, the department of highways shall expend the sums authorized in sections 2A, 2B and 2G for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on- and off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under 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 cause by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety and for the relocation of persons or businesses or for the replacement of dwellings or structures including, but not limited to, providing last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., Pub. L. 97-646, 84 Stat. 1864 (1971), 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 said sections 2A, 2B and 2G, consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing in this section 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 described in this section.

(b) Funds authorized in sections 2A, 2B and 2G 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, if 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.

(c) In addition to the foregoing, the department of highways may: expend funds made available by this act to acquire from a person by lease, purchase, eminent domain under chapter 79 of the General Laws or otherwise, land or rights in land 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.

(d) In carrying out this section, the department of highways 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 contracts or agreements with cities. 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 56. 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 transportation assistance which is or may become available to said executive office or department including, but not limited to, actions authorized under or in compliance with Title 23 of the United States Code, the Surface Transportation Act of 1987, Pub. L. 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, the Transportation Equity Act for the 21st Century, Pub. L. 105-178, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59, Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. Law 110-53 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 a federal law, administrative regulation or practice requires an 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.

SECTION 57. Notwithstanding any general or special law to the contrary, the Merrimack Valley Regional Transit Authority transportation center, to be built at the Lower Millyard in the city know as the town of Amesbury, shall be designated and known as the Senator Nicholas J. Costello Transportation Center, in honor of Nicholas Costello, former state senator of the Third Essex District and former mayor of Amesbury. The Merrimack Valley Regional Transit Authority shall erect and maintain suitable markers bearing the designation in compliance with applicable state and federal standards.

SECTION 58. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works shall update the Lower North Shore Transportation Improvement Study by preparing and including in the study the feasibility and costs associated with the following items: the widening of state highway route 1A from Curtis street to Mahoney circle; a grade separation at state highway route 1A and Boardman street; a grade separation at Mahoney circle; a grade separation at Revere street; a grade separation at Brown circle; a grade separation at Copeland circle; the establishment of a state highway route 1A and state highway route 16 connection, the establishment of a state highway route 1A and Chelsea street bridge connection; improvements to the interstate highway route 1 and state highway route 16 interchange; improvements at Butler circle; as well as the depression of tolls at the entrance to the Sumner tunnel and the exit of the Callahan tunnel. The report shall be submitted to the Joint Committee on Transportation not later than July 1, 2009.

SECTION 59. Notwithstanding any general or special law to the contrary, the owner, licensee, permittee or holder of an easement, contract or other right, in this section called the air space user, of or with respect to any structure, including bridges, located above the established grade line of the turnpike, the Ted Williams tunnel, the central artery north area and the central artery, as those terms are defined in chapter 81A of the General Laws, are hereby required to maintain, repair, restore, reconstruct, rehabilitate, or improve air rights structures and airspace at such airspace user's expense in accordance with the requirements of the Massachusetts turnpike authority's policy directive entitled "Tunnel Inspection and Testing Protocol for Roadways Covered by Air Rights Developments," effective as of December 14, 2007, as the same may be modified and/or amended by the authority from time to time, and with any directives issued by the authority in connection with such policy.

Without limiting the generality of its other powers, the authority may do all things necessary, convenient or desirable to enforce this section, to maintain, repair, restore, reconstruct, rehabilitate or improve air space structures and air space at the air space user's expense, to enter upon the property of an air space user to exercise any of the foregoing powers and such entry shall not be deemed trespass nor shall an entry for such purposes be deemed an entry for condemnation proceedings which may be then pending, to impose a civil penalty in an amount of up to \$5,000 per day on an air space users for failure to comply with this section, which penalty may be recovered only after notice and hearing conducted by the authority or its designee and subject to judicial review and enforcement pursuant to chapter

30A of the General Laws or such other civil proceedings as may be authorized by state or federal law. The full amount of any civil penalty shall be paid to the authority. Nothing in this section shall abrogate any private right created by contract or otherwise.

SECTION 60. Notwithstanding any general or special law to the contrary, all construction contracts funded in whole or in part by the funds authorized by this act or by chapter 86 of the acts of 2008 shall include a price adjustment clause for each of the following: fuel, both diesel and gasoline, asphalt, concrete and steel. A base price for each material shall be set by the awarding authority or agency and included in the bid documents at the time a project is advertised. The awarding authority or agency shall also identify in the bid documents the price index to be used for each material or supply. The adjustment clause shall provide for a contract adjustment to be made on a monthly basis when the monthly cost change exceeds +/- 5 per cent.

SECTION 61. Notwithstanding any general or special law to the contrary, section 61 and sections 62A to 62I, 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, authority and municipally-owned bridges, including the immediate approaches necessary to connect the bridges to the existing adjacent highway and rail system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, however, that said section 61 and said sections 62A to 62I, inclusive, of said chapter 30 shall apply to the repair, reconstruction, replacement or demolition project where such project requires a mandatory environmental impact report under the applicable provisions of 301 CMR 11.00; provided further, that all such work shall be subject to the requirements of the then current edition of the department of highways' Stormwater Handbook as approved by the department of environmental protection in accordance with applicable law, that notice shall be published in the Environmental Monitor of any application to said department of environmental protection for a water quality certification, and that the work shall be subject to performance standards prescribed by said department of environmental protection pursuant to section 401 of the Federal Clean Water Act if applicable to the project; provided further, that notwithstanding the foregoing, said section 61 and said sections 62A to 62I, 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. the case of any state highway, authority or municipal bridge crossing over a railroad right-of-way or railroad tracks, the department or authority, as applicable, 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 bridge, but the department and the authority and their 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 or authority may consider necessary or convenient to carry out this section. If a flagman is needed to carry out

this section, the railroad company, railway company or its assigns shall provide the flagman. For the purposes of this section, "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility or other area. Any project exempted from any provision of law pursuant to this section shall be subject to the public consultation process required by the then current version of the department of highways' Project Development and Design Guidebook.

SECTION 62. For the purposes of this section the following words shall have the following meanings:-

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

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

"Women business enterprise", an individual, business organization or nonprofit corporation which is certified as a women business enterprise by the office; provided, however, that based upon the history of discrimination against minority and women business enterprises as determined by the results of the disparity study conducted pursuant to subsection (s) of section 3 of chapter 33 of the acts of 1991 and any other disparity studies thereafter conducted by the executive office of transportation and public works and its agencies, the executive office of transportation and public works, the Massachusetts Bay Transportation Authority, the department of highways and the Massachusetts aeronautics commission shall promote equality in the market by encouraging the full participation of minority and women owned businesses in all areas of state contracting, including contracts for construction, design and goods and services. Each agency, commission, authority and political subdivision shall implement a narrowly-tailored affirmative market program as set forth in Executive Order 390 which shall include race and gender conscious contracting goals when necessary to eliminate disparity between minority and women owned businesses and other business entities in the relevant market. Each such agency, commission, authority and political subdivision shall develop a comprehensive 5-year plan, to be updated and approved by the secretary of administration and finance on an annual basis, to encourage the participation of minority and women owned business enterprises in all aspects of public contracting including, but not limited to, programs for building the capacity of minority and women owned business enterprises, programs for capturing information on Massachusetts businesses by industry and programs for implementing measures required to secure federal aid.

The secretary of transportation and public works and the executive officer of each such agency, commission, authority or political subdivision shall monitor the implementation of this section to ensure that the best efforts of each agency, commission, authority and political subdivision are utilized in the implementation of this section. Each such agency, commission and authority shall provide written quarterly reports to its respective secretary

and to the secretary of administration and finance and each such political subdivision shall provide written quarterly reports to the office granting or otherwise providing funds authorized in this act and to the secretary of administration and finance. The quarterly reports shall detail the total number of contracts entered into, the dollar value of each contract, the number of contracts entered into with minority and women owned business enterprises and the dollar value of each contract entered into with said enterprises.

Notwithstanding any general or special law to the contrary, each executive office, agency, commission, authority or political subdivision may initiate state office of minority and women business assistance certification of minority and women business enterprises in a manner consistent with the rules and regulations promulgated by said office. If an executive office, agency, commission, authority or political subdivision makes a referral that a business may be a minority or women owned business enterprise, such referral, together with supporting documentation and a letter indicating the intent of the executive office, agency, commission, authority or political subdivision to contract with the business, shall be sent to said office, which shall approve or disapprove said business within 25 business days. Upon the certification of a business as a minority or women owned business enterprise by the office, such certification shall be effective for all executive offices and agencies for the purposes of this section.

SECTION 63. Notwithstanding any general or special law to the contrary, the secretary of transportation and public works in consultation with the secretary of administration and finance shall establish a financing plan to end the current system of retroactive reimbursement of the regional transit authorities established pursuant to chapter 161B of the General Laws. The financing plan may include and the secretary may use capital bond funds in whole or in part to finance the transition of regional transit authorities to a current funding system. The Secretary may use any other available funds in addition to or in place of bond funds necessary to establish a current financing system.

SECTION 64. 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 after the effective date of this act.

SECTION 65. The department of highways shall submit a report to the clerks of the senate and house of representatives, 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 June 30, 2009, on the cost and feasibility of installing rumble strips on all state-owned highways. The report shall include the cost and feasibility of installing rumble strips on all rural highway projects where shoulders are constructed, reconstructed, or overlaid. The report shall include the evaluation of the placement of center line rumble strips at locations with a high head-on-crash accident rate and on which no reconstruction is scheduled in the near future.

SECTION 66. There shall be a special commission to study and develop recommendations for the fiscal feasibility of reducing debt and debt financing relative to the operation and maintenance of the Massachusetts turnpike. The commission shall review all options for the long-term financing of operations and maintenance of the turnpike including, but not limited to, the leasing or concessioning of the turnpike for a term not to exceed 50 years. Membership of the commission shall consist of the secretary of administration and finance or his designee, who shall also serve as chair; the secretary of transportation and construction or designee; the chair of the Massachusetts Turnpike Authority; the state comptroller or his designee; the state auditor or his designee; the president of the senate or her designee; the speaker of the house of representatives or his designee; the house minority leader or his designee; the senate minority leader or his designee; the chairs of the senate and house committees on ways and means or their designees; and the senate and house chairs of the joint committee on transportation. The commission shall convene its first meeting not later than August 15, 2008, and shall file a report, with any legislative or regulatory recommendations, with the clerks of the senate and the house of representatives and the joint committee on transportation not later than December 15, 2008.

SECTION 67. The Massachusetts Turnpike Authority shall issue quarterly reports to the secretary for administration and finance, the house and senate committees on ways and means, the joint committee on transportation and the joint committee on bonding, capital expenditures and state assets detailing the financial transactions and revenues associated with the sale, concession or lease of real property held in the name of or under the control of the authority, whether by purchase or otherwise, and any transactions relating to real property currently pending; provided further, that the quarterly report shall include the current market values of the real properties related to those transactions.

For the first quarterly report submitted pursuant to this section for fiscal year 2009, the authority shall include the current market value of all real property held in the name of or subject to the control of the authority and the current market value of any real property held in the name of or under the control of the authority that were acquired, whether by purchase or otherwise, during fiscal year 2008.

SECTION 68. Notwithstanding any general or special law to the contrary, the Massachusetts Turnpike Authority and the Massachusetts Bay Transportation Authority shall

undertake and complete, subject to the owners' consent and including providing the owners with assistance in securing any required zoning approvals or other permits and authorizations, the relocation of the outdoor advertising signs located within Bremen Street Park or the East Boston Greenway in the East Boston section of the city of Boston to land owned by the Massachusetts Turnpike Authority within the metropolitan highway system, as defined in chapter 81A of the General Laws and/or to land owned by the Massachusetts Bay Transportation Authority; provided, however, that no relocation expenses shall be paid to the owners of the outdoor advertising signs; and provided further, that the relocation shall be completed not later than December 31, 2009.

SECTION 69. Not later than 6 months after the effective date of this act, the secretary of transportation and public works shall submit to the clerks of the senate and house of representatives, the chairs of the joint committee on transportation and the chairs of the house and senate committees on ways and means a detailed timeline and funding schedule for the transfer of 80 per cent of all workers at the executive office of transportation and public works and the department of highways whose salaries and benefits are funded through the proceeds of bond sales to the operations accounts of those agencies by 2013.

SECTION 70. Notwithstanding any general or special law or rule or regulation to the contrary, the commissioner of highways shall undertake a pilot project within a district or sub-district of the department, as determined by the commissioner, for the purpose of measuring the effectiveness of performance-based contracting for the maintenance of reflective pavement markings and roadway signs of the department. Not later than 30 days after the completion of the pilot project, the department shall submit its findings to the house and senate chairs of the joint committee on transportation.

SECTION 71. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works, the department of highways and the department of conservation and recreation shall conduct an assessment of the condition of each bridge spanning the Charles River in the cities of Boston and Cambridge and in the town of Watertown. Said assessment shall include an analysis of projected traffic volumes for each such bridge through 2040. The findings of said assessment shall be submitted to the joint committee on transportation and the joint committee on environment, natural agriculture no later than December 31, 2009.

SECTION 72. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works, the department of highways and the conservation and recreation shall consult with the cities of Boston and Cambridge and other stakeholders including, but not limited to, state elected officials representing Boston and Cambridge, medical institutions in the Leverett circle area, and residential community organizations in Cambridge and in the West End, Beacon Hill, and Back Bay neighborhoods of Boston to develop and implement: (i) a coordinated schedule and comprehensive phasing plan for implementation during the reconstruction of the Longfellow reconstruction or replacement of the Storrow Drive tunnel, in order to promote mobility in the Kendall square, Leverett circle and Cambridge street areas of said cities during reconstruction or replacement

of said facilities; (ii) a comprehensive emergency mobility plan in the event of a construction phase emergency in connection with the reconstruction of the Longfellow bridge and the Storrow drive tunnel; and (iii) a comprehensive, integrated traffic mitigation plan addressing traffic impacts associated with the simultaneous or overlapping reconstruction or replacement of the Longfellow bridge and the Storrow drive tunnel. Said plans shall each be submitted to the joint committee on transportation and the joint committee on environment, natural resources and agriculture no later than December 31, 2009.

SECTION 73. Notwithstanding any general or special law, regulation or executive order to the contrary, no expenditure of public funds for the purpose of designing or constructing all or part of the "Urban Ring project," so-called, shall be authorized unless the joint committee on transportation, the house and senate committees on ways and means, the representative to the General Court and the senator to the General Court within whose legislative district such project would occur receives notice 90 days prior to said expenditure. Said notification shall include, but not be limited to, a full accounting of all proposed construction, demolition or alteration of any structures or roadways, alteration of any natural features and any proposed takings of private property. Said department shall respond to any requests from said committees or members of the general court within 10 days of receiving a request and shall provide any documents, figures or plans requested unless the secretary determines in writing that distribution of requested materials would constitute a threat to public safety. Such determination shall be transmitted to the joint committee on transportation, the house and senate committees on ways and means, the representative to the general court and the senator to the general court within whose legislative district such project would occur within 10 days of receipt of a request.

SECTION 74. Notwithstanding any general or special law to the contrary, Massachusetts Department of Highways, hereinafter "the department", may hire outside consultants, that have been previously reviewed to determine their capabilities to perform, for review and analysis of applications for access or signal permits where the department determines it appropriate to expedite such review, provided that the applicant for said permit fully funds the cost of an appropriate consultant for the review and analysis of the application.

The department must choose consultants who meet the minimum qualifications of either an educational degree in or related to the field at issue, or 3 or more years of practice in the field at issue or a related field. The fees for the outside consultants shall be borne solely by the permit applicant. Such fees shall be reasonable and reflect the actual cost for the services of the consultants.

The applicant paying the fee is entitled to an administrative appeal to the Commissioner regarding the selected consultant or the fees. Any such appeal is limited by law to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The required time limits for action upon an application by the department shall be extended by the duration of the administrative appeal. A decision upon said appeal shall be made by the department within 30 days of the filing of the appeal.

Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law.

Notwithstanding any general or special law to the contrary, the department shall deposit all fees for outside consultants into a separate expendable trust fund which shall be designated and known as the Commonwealth of Massachusetts Highway Access Expendable Trust. The Highway Access Expendable Trust, including accrued interest, if any, shall be expended at the direction of the department without further appropriation; provided, however, that such funds are to be expended by the department solely for the purpose of hiring outside consultants to assist the department in its permit application reviews. The fees may not be used to pay for the services of department employees. Any excess amount in the account attributable to a specific project, including any accrued interest, shall be repaid to the applicant or to the applicant's successor in interest upon satisfactory proof of the filing of the final action and decision of the department. No expenditure shall cause the fund to be in deficit at the end of the fiscal year. A final report of said account activities and interest shall be made for each project and provided to the applicant or to the applicant's successor in interest on the applicant's written request.

The department shall revise such regulations as may be necessary to effectuate the purposes of this section.

SECTION 75. (a) The secretary of transportation and public works, in consultation with the secretary of administration and finance, shall direct the Massachusetts Turnpike Authority and the Massachusetts Port Authority to determine the amount which may be available to the commonwealth in federal capital credits in accordance with the toll credit for non-federal share program under Section 1905 of the SAFTEA-LU Authorization Act.

The secretary of transportation and public works shall further in accordance with 23 U.S.C. 120(j)(2) make the determination of maintenance of effort required for the commonwealth to apply for toll credit from the Federal Highway Administration. The secretary shall follow the guidance issued by said administration's toll credit for non federal share Section 1905 of SAFTEA-LU Guidance memorandum issued February 8, 2007. The secretary shall further determine if the commonwealth has any unobligated balance of federal funds for any transportation agencies which are included in the commonwealth's federal funds obligation including, but not limited to, highway, transit or intelligent transportation program funds. If any such unobligated funds are available, the secretary shall take all steps necessary to maximize available federal credits by implementing the federal toll credit provision of Section 1905 of the federal SAFTEA-LU Authorization Act; provided, however, that not less than 25 per cent of the funds collected from this program shall be dedicated to capital and other appropriate expenditures for regional transit authorities.

(b) No revenue derived from this section shall be expended until such time as sufficient funds have been made available by the Commonwealth to forward fund, so called, the regional transit authorities, provided, however, that 25% of the revenue derived from this section shall be provided for capital and other eligible activities for regional transit authorities not including any costs associated with forward funding. The portion of the revenue to

be provided for the activities of regional transit authorities shall be deposited in the Regional Transit Authorities Forward Funding Trust Fund.

SECTION 76. Parcel 2102442005 in Suffolk county shall be designated and known as Robert Q. Crane Park. The department of conservation and recreation shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

SECTION 77. Section 4G of chapter 16 of the General Laws shall apply to an underground utility or utility location project eligible for federal reimbursement having commenced on or after January 1, 2008.

SECTION 78. Section 37 shall take effect on the effective date of this act.
This bill was returned on August 8, 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 2G: 6000-0400 6000-0850

SECTIONS 15, 66, 67, 68, and 73.

SECTION 2C: *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
6001-0804	25,000,000	90,000,000	“, provided further, that not less than \$25,000,000 shall be expended for the Blue Line Extension to Lynn: provided, however, that the extension of the Blue Line to Lynn shall be restricted to existing commuter rail rights of way excluding narrow gauge rail line rights of way; provided further, that funds may be used for the acquisition of interests in land”

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 Section 74.

The remainder of the bill was approved by the Governor on August 8, 2008 at nine o'clock and thirty eight minutes, A.M.

Chapter 304. AN ACT PROVIDING FOR CAPITAL FACILITY REPAIRS AND IMPROVEMENTS FOR THE COMMONWEALTH.

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:

SECTION 1. To provide for a program of capital facility repairs and improvements to protect and improve the capital facilities of the commonwealth and for a program of capital asset acquisitions for general government operations, the sums set forth in sections 2A, 2B, 2C and 2D, inclusive, 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, which sums shall be in addition to any other amounts previously appropriated for these purposes.

NO SECTION 2
SECTION 2A.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Office of the Secretary

1100-7400	For the recapitalization of the Massachusetts Community Development Finance Corporation established pursuant to section 2 of chapter 40F of the General Laws; provided, that the corporation shall prepare a 5-year strategic operations plan which shall include, but not be limited to, (i) identification of the financial resources required to meet the mission and on-going lending operations of the corporation; (ii) a plan to reduce or eliminate the need for public subsidies to meet the mission of the corporation; and (iii) identification of the corporate relationship to and purpose of any affiliated or subsidiary corporations, including a description of how the affiliation or subsidiary relationship is consistent with the objective of fulfilling the mission of the corporation; and provided further, that the corporation shall submit the strategic operations plan to the executive office for administration and finance and to the house and senate committees on ways and means not later than December 31, 2008	\$10,000,000
1100-9200	For costs associated with the purchase and procurement of equipment for general government operations	\$250,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

- 8000-0700 For equipment for the department of correction and other agencies within the executive office of public safety and security including, but not limited to, medical equipment, security equipment and communications equipment \$25,000,000
- 8000-2020 For the design, construction and implementation of the department of state police mobile data network and an automated motor vehicle citation system, including the use of "MDT" devices \$15,000,000
- 8100-2025 For the replacement of state police cruisers; provided, that the state police shall develop a 5-year plan which specifies the number of vehicles to be replaced each fiscal year over a 5-year period; provided further, that the department shall report annually to the house and senate committees on ways and means the number of vehicles and condition of each vehicle replaced under this plan; provided further, that the report shall also include, but not be limited to, the total amount spent in each fiscal year; and provided further, that the first report shall be filed by January 1, 2009 \$40,000,000
- 8100-9000 For the purchase of state police helicopters; provided, that the state police shall trade in 1 helicopter from the current inventory of helicopters each time a replacement medium lift helicopter is purchased, and the value of the trade-in shall be used to reduce the negotiated purchase price of the replacement helicopter \$25,000,000

SECTION 2B.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Information and Technology Division

- 1790-3000 For costs associated with planning and studies, the preparation of plans and specifications, purchase and procurement of information technology-related equipment and related projects; provided, that any federal reimbursement received by a state agency in connection with projects funded from this item may be retained by the state agency and expended for the purposes of the project, without further appropriation, in addition to the amounts appropriated in this item; provided further, that any state agency receiving federal reimbursements for a project funded from this item shall file a quarterly report with the executive office for administration and finance, the house and

senate committees on ways and means, and the joint committee on bonding, capital expenditures, and state assets that details, by project, an annual estimate of anticipated federal reimbursement to be received on behalf of and expended for the project, as well as year-to-date actual federal reimbursement received and year-to-date actual expenditures of the reimbursement, by project; and provided further that \$1,800,000 shall be expended for information technology systems upgrades at the appeals court and the supreme judicial court \$451,800,000

SECTION 2C

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

1100-8020 For the Massachusetts Opportunity Relocation and Expansion Jobs Capital Program related to site remediation, preparation and ancillary infrastructure improvement projects; provided, that the local executive government body and a for-profit entity involved in the project shall jointly submit a request for funding to the secretary of housing and economic development which shall include sufficient documentation including, but not limited to, a project plan with specific goals and objectives that fully documents the proposed project and demonstrates that the businesses associated with the project will generate substantial sales from outside the commonwealth and will result in the creation of a net increase of at least 100 new permanent full-time jobs in Massachusetts within 24 months after receipt of a grant and commits that the jobs are to be maintained for at least a 5-year period and the jobs do not replace existing jobs elsewhere in the commonwealth; and provided further, that twice annually the secretary shall issue a written report to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on economic development and emerging technologies which shall include detailed descriptions of any infrastructure improvement projects funded under this program, an accounting of the variance, if any, between proposed jobs and actual creation of jobs, the current and estimated amount of taxable

income expected from each project and all funds expended for this purpose; provided further, that not less than \$25,000,000 shall be granted to gateway cities and cities with more than 40,000 inhabitants but fewer than 175,000 inhabitants where: (1) the unemployment rate is at least 1.5 per cent higher than the statewide average; or (2) the median income of the city is 80 per cent or less of the state median income; and provided further, that not less than \$15,000,000 shall be expended on projects in cities in which both criteria are applicable \$100,000,000

0640-0300 For the Massachusetts Cultural Facilities Fund established in section 42 of chapter 23G of the General Laws for the acquisition, design, construction, repair, renovation, rehabilitation or other capital improvement or deferred maintenance to a cultural facility \$50,000,000

Division of Capital Asset Management and Maintenance

1102-2008 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfers, or by eminent domain under chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition, disposition and remediation of state-owned and former county facilities and grounds and for costs associated with repair and maintenance of buildings and building systems and equipment at various facilities of the commonwealth; provided, that all maintenance and repair work funded in this item shall be listed in the capital asset management information system administered by the division of capital asset management and maintenance; provided further, that, where appropriate, the commissioner of capital asset management and maintenance may transfer funds in accordance with the delegation of project control and supervision process under section 40B of chapter 7 of the General Laws; provided further, that funds so transferred shall be distributed based on the severity of the need that the repair will address and other criteria developed by the division, in consultation with the secretary of administration and finance; provided further, that costs payable from this item shall include, but not be limited to, the costs of

engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; provided further, that not less than \$1,000,000 shall be expended to the town of Weymouth for the general maintenance and any other costs associated with daily operations of the Tufts, Franklin Pratt, North Branch and Fogg Libraries located in the town of Weymouth; provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further that, upon certification by the commissioner of education pursuant to section 4 of chapter 463 of the acts of 2004, \$60,000,000 shall be expended for costs associated with the construction of the Essex North Shore Agricultural and Technical School in the town of Danvers; provided further, that not less than \$24,000,000 shall be expended for the construction of the Massachusetts Psychiatric Hospital in the city of Worcester; and provided further, that \$1,000,000 shall be expended for infrastructure improvements and maintenance equipment at the Murphy Skating Rink in the South Boston section of the city of Boston \$461,000,000

1100-3001 For a grant program to cities and towns for the purpose of providing funding for the repair, renovation or construction of municipal facilities or infrastructure or of any cultural, social, recreational or other facilities serving a municipal purpose, including those owned or operated by nonprofit organizations, technology upgrades and purchase of equipment, under rules adopted by the executive office for administration and finance based upon the following criteria: an assessment of fiscal and budgetary constraints facing the municipality; an analysis of the municipality's proposed budget and financing of the repair, renovation, or construction project; the municipality's need for the project; the benefits to the municipality that will result from the project; and an overall evaluation of the merits of the grant proposal; provided, that the executive office of administration and finance may expend not more than 1 per cent of the total amount available for the cost of administering this program; provided further, that not less than \$100,000 shall be expended for the construction of a concrete foundation for refrigerant pipes at the Bourne Ice Rink; pro-

vided further, that not less than \$1,000,000 shall be expended for the Municipal Stadium safety project; provided further, that not less than \$1,200,000 shall be expended for improvements to the Newburyport senior center in Newburyport; provided further, that not less than \$7,000,000 shall be expended for improvements to the Haverhill Stadium in Haverhill; provided further, that not less than \$100,000 shall be expended for renovations of Lakeville town hall; provided further, that not less than \$100,000 shall be expended for renovations of Freetown town hall; provided further, that not less than \$100,000 shall be expended for renovations of Middleborough town hall; provided further, that not less than \$75,000 shall be expended for construction of a parking lot at the Council on Aging in Middleborough; provided further, that not less than \$3,500,000 shall be expended for waterfront development in Beverly; provided further, that not less than \$10,000,000 shall be expended for clean up of the former Belchertown state school property; provided further, that not less than \$4,000,000 shall be expended for restoration of the Loew's Poli Palace Theatre; provided further, that not less than \$500,000 shall be expended for repairs to the Hamilton Center in Newton Lower Falls; provided further, that not less than \$30,000,000 shall be expended for repair or replacement of water pipes located under state highway routes 1 and 99 in Saugus and that said appropriation shall also be used for reimbursement to the town of Saugus for the cost of breaks to said pipes located under said state highways; provided further, that not less than \$2,000,000 shall be expended for the Hope House in the city of Boston; provided further, that not less than \$2,000,000 shall be expended for the Watertown Boys' and Girls' Club, Inc.; provided further that not less than \$1,500,000 shall be expended for repairing the irrigation system at the Leo J. Martin golf course in the city of Boston; provided further, that not less than \$250,000 shall be expended for the Amesbury Carriage Museum in the city of Amesbury; provided further, that not less than \$1,000,000 in matching funds shall be expended for the construction of a new senior citizen center in the town of Canton; provided further, that not less than \$250,000 shall be spent on renovations and improvements to the Dalton Town Hall; provided further,

that not less than \$2,500,000 shall be expended for the renovation and restoration of the Everett Hall Theatre in the Hyde Park section of Boston; provided further, that not less than \$40,000 shall be expended for the construction and maintenance of trails in the Town of Bourne; provided further, that not less than \$250,000 shall be expended for rehabilitation and renovations to the Gardner Senior Center; provided further, that not less than \$500,000 shall be expended for the Town of Ashland, to create a quiet zone at the grade level crossing on Cherry Street in Ashland, to improve economic development and public safety in the Town of Ashland; provided further, that not less than \$800,000 shall be expended for the reconstruction of Route 133 from Chestnut Street to Carlton Drive and Route 97 from the Groveland line to Moulton Street in the Town of Georgetown; provided further, that not less than \$300,000 shall be expended for Bailey Lane Bridge Replacement and Road Improvements in the Town of Georgetown; provided further, that not less than \$3,000,000 shall be expended to the town of Burlington for the design, construction, and implementation of a capital infrastructure improvement project adjacent to Route 3 and Middlesex Turnpike in the town of Burlington; provided further, that not less than \$500,000 shall be expended for infrastructure improvements related to pedestrian safety, vehicle access and parking for the proposed Andover Youth Center in the Town of Andover; provided further, that not less than \$100,000 shall be expended for renovations of Charlton Town Hall; provided further, that not less than \$50,000 shall be expended for renovations of East Brookfield Town Hall; provided further, that not less than \$250,000 shall be expended to establish a pilot program for implementing automatic meter-reading technology, to be administered jointly by the Braintree Electric Light Department and the Braintree Water and Sewer Department; provided further, that not less than \$500,000 shall be expended for improvements to the Water and Sewer building in the town of Braintree; provided further, that not less than \$200,000 shall be expended to the Daniels Farmstead Foundation; provided further, that not less than \$150,000 shall be expended for the construction of a new Salt Shed in the city

of Fitchburg; provided further, that not less than \$250,000 shall be expended for upgrades to the elevator at the Council on Aging Center in Billerica; provided further, that not less than \$250,000 shall be expended on renovations for the Athol Senior Center; provided further, that not less than \$1,000,000 be expended for the restoration of the Lynch Park Carriage House in the city of Beverly; provided further, that not less than \$250,000 shall be expended for ADA compliance at the town hall in Egremont; provided further, that not less than \$200,000 shall be expended on the Beebe Woods/Highfield Drive Walking Path and parking facility in the Town of Falmouth; provided further, that not less than \$200,000 shall be expended on the design, renovation and reconstruction of the Surf Drive Bath House and the Old Silver Beach Bath House in the Town of Falmouth; provided further, that not less than \$2,000,000 shall be expended for the Town of Framingham to construct a Downtown Parking Garage in close proximity to Framingham Memorial Building, serving Town Government, commercial, and related regional Public Service and Public Safety operations; provided further, that not less than \$1,000,000 shall be expended for capital improvements to the Bridgewater senior center in the town of Bridgewater; provided further, that \$750,000 shall be expended for the Loring Skating Arena in the town of Framingham; provided further, that not less than \$1,000,000 shall be expended for the Presentation School in Brighton; provided further, that not less than \$2,000,000 shall be expended on Fenway Community Health Center; provided further, that not less than \$600,000 shall be expended for Project Place in Boston; provided further, that not less than \$250,000 shall be expended for communications consoles for the Braintree police department; provided further, that not less than \$250,000 shall be expended for creation and development of a senior center in Canton; provided further, that not less than \$1,000,000 shall be expended for design and construction of a performing arts center in Milton; provided further, that not less than \$1,800,000 shall be expended for design and construction of a senior center in East Bridgewater; provided further, that not less than \$5,000,000 shall be expended for design and construction of a department

of public works operations center in East Bridgewater; provided further, that not less than \$10,000,000 shall be expended for a municipal maintenance facility in Canton; provided further, that not less than \$100,000 shall be expended for repairs to the Chester town hall; provided further, that not less than \$500,000 shall be expended for renovations to the old town hall in Easthampton; provided further, that not less than \$24,000,000 shall be expended for the Westfield intermodal and downtown revitalization initiative; provided further, that not less than \$500,000 shall be expended for air conditioning at city hall in Lynn; provided further, that not less than \$4,917,000 shall be expended for waterfront development in Lynn; provided further, that not less than \$2,253,395 shall be expended for reconstruction of the Ward bath house in Lynn; provided further, that not less than \$1,000,000 shall be expended for improvements to the Grand Army of the Republic building in Lynn; provided further, that no less than \$350,000 shall be expended for design and renovation of Topsfield town hall; provided further, that \$500,000 shall be expended for capital improvements to the Trailside museum; provided further, that not less than \$200,000 shall be expended for Watertown Landing; provided further, that the sum of \$200,000 shall be made available on a matching basis with the town for the extension and repair of sidewalks on Route #113 in the town of West Newbury; provided further, that not less than \$100,000 be expended for improvements to the Department of Public Works Maintenance Facilities in the city of West Springfield; provided further, that not less than \$1,000,000 shall be expended for the construction of a senior center in the Town of Westminster; provided further, that not less than \$1,000,000 be expended to the Department of Public Works located in the Town of Weymouth; provided further, that \$500,000 shall be expended for repairs and renovations to the Sanborn House Cultural Facility in the Town of Winchester; provided further, that \$100,000 shall be expended for the Veterans memorial Honor Roll in the Town of Winchester; provided further, that \$3,000,000 shall be expended for the design and construction of a parking garage in the Town of Winchester; provided further, that not less than \$1,000,000 shall be expended for capital improvements to the Winthrop

senior center in the town of Winthrop; provided further, that not less than \$176,000 shall be expended for development grants to the Waters Farm Living History Museum; provided further, that not less than \$200,000 shall be expended for renovations at the town hall in the town of Spencer; provided further, that not less than \$30,000 shall be expended for the restoration of the historic North Purchase street school house; provided further that not less than \$25,000 shall be expended for a comprehensive study to develop sign and graphic standards for the Plymouth Historic District; provided further, that not less than \$25,000 shall be expended for landscape design and permitting for rehabilitation of the Training Green in Plymouth; provided further, that not less than \$3,500,000 shall be expended for design and construction projects recommended by the Plymouth Public Space Action Plan (2007); provided further, that not less than \$250,000 shall be expended for dog recreation space at Ronan park in the Dorchester section of the city of Boston; provided further, that not less than \$100,000 shall be expended for new facilities and improvements at Almont park in the Mattapan section of the city of Boston; provided further, that not less than \$100,000 shall be expended for new facilities and improvements at Walker Playground at Norfolk Park in the Mattapan section of the city of Boston; provided further, that not less than \$4,000,000 shall be expended for design and construction projects on Water Street as recommended by the Plymouth Public Space Action Plan (2007); provided further, that not less than \$155,000 shall be expended for street lights in the town of Bourne; provided further, that not less than \$3,200,000 shall be expended for renovations at the Falmouth Town Library; provided further, that not less than \$300,000 shall be expended for the historic restoration of the Rockland Memorial Library; provided further, that not less than \$15,000 shall be expended for technology upgrades at the Plymouth Public Library; provided further, that not less than \$80,000 shall be expended for the Modernization of the Plymouth Fire Prevention Bureau; provided further, that not less than \$100,000 shall be expended for the establishment of the Plymouth Historical Records Management Program; provided further, that not less than \$500,000 shall be expended for the restoration of the historic Blanchard street school house, and

for ADA improvements at the town hall, senior center, and library in the town of Uxbridge; provided further, that not less than \$737,000 shall be expended to reimburse the town of Southbridge for its purchase of the former National Guard armory from the commonwealth; provided further, that not less than \$300,000 shall be expended for ADA compliance and entry way improvements at the town hall in Charlton; provided further, that not less than \$665,735 shall be expended for Old Town Hall renovations in Barre; provided further, that not less than \$1,000,000 shall be expended for development of a senior center in Rutland; provided further, that not less than \$1,500,000 shall be expended for development of a senior center in Templeton; provided further, that not less than \$3,500,000 shall be expended for improvements to town hall in Framingham; provided further, that not less than \$8,000,000 shall be expended for construction of a parking garage in Natick; provided further, that not less than \$100,000 shall be expended for the Hartshorne House in Wakefield; provided further, that not less than \$1,300,000 shall be expended for the preservation of the Museum of African American History; provided further, that not less than \$1,000,000 shall be expended for a senior center in Malden; provided further, that not less than \$1,000,000 shall be expended for construction of a new facility for the Lena Park Community Development Corporation; provided further, that not less than \$1,000,000 shall be expended for the preservation of the historic registry in Stoneham; provided further, that not less than \$600,000 shall be expended for the relocation of the salt storage shed in Andover; provided further, that not less than \$1,500,000 shall be expended for ADA improvements at the town hall in Dracut; provided further, that not less than \$8,000,000 shall be expended for Quabbin development in Belchertown; provided further, that not less than \$1,500,000 shall be expended for Essex Town Hall exterior; provided further, that not less than \$350,000 shall be granted to Gloucester for an economic development study for a previously-identified area of the city with the potential for job creation; provided further, that not less than \$171,000 shall be expended for reimbursements of replaced culverts damaged in the May 2006 flooding in Rowley; provided further, that not less than

\$250,000 shall be expended for sidewalk construction and for improvements at Sharon Yokaitis park along Mount Vernon street in the Dorchester section of the city of Boston; provided further, that not less than \$100,000 shall be expended for Hart's Hill Housing in the town of Wakefield; provided further, that not less than \$40,000 shall be expended for a new World War II Memorial in the town of Wakefield; provided further, that not less than \$45,000 shall be expended for information technology document management solutions in the town of Wakefield; provided further, that not less than \$40,000 shall be expended for technology upgrades for fire department vehicles in the town of Marblehead; provided further, that not less than \$5,000 shall be expended for technology upgrades for fire department vehicles in the town of Swampscott; provided further, that not less than \$25,000 shall be expended to enhance the real-time forensic ability of the Swampscott Police Department with the use of Live Scan finger printing; provided further, that not less than \$200,000 shall be expended to fund wind or solar energy generation systems at the transfer station in the town of Marblehead and a designated building in the town of Swampscott; provided further, that not less than \$1,000,000 shall be expended for the renovation of the community safety building in Arlington; provided further, that not less than \$250,000 shall be expended for repairs to the Brattle Street culvert in Arlington; provided further, that not less than \$50,000 shall be expended for the West Medford Community Center; provided further, that not less than \$30,000 shall be expended on a security system for the Fort Taber Military Museum; provided further, that not less than \$3,000,000 shall be expended for the Frederick Douglass House and Museum located in the city of New Bedford for costs associated with renovation, enhancement, reconstruction, improvement, expansion, demolition, acquisition, property repair, and exhibits and collections; provided further, that not less than \$350,000 shall be expended on design and repair of the Parting Ways Building in the town of Acushnet; provided further, that not less than \$50,000 shall be expended for Market Ministries programs related to facilities maintenance, improvements, restoration, renovation, and educational capital expenditures; provided further, that not less than \$1,000,000 shall be expended for preservation

and expansion of the Levi Standish House in the city of New Bedford; provided further, that not less than \$2,000,000 shall be expended for the rehabilitation of the New Bedford Armory; provided further, that not less than \$2,000,000 shall be expended for capital improvements at the New Bedford Whaling Museum; provided further, that not less than \$3,000,000 shall be expended on capital improvements to the Zeiterion Theater including, but not limited to, demolition, acquisition, renovation, restoration, design, and construction, including a ballroom, expanded stage facilities and other capital improvements; provided further, not less than \$2,000,000 shall be expended for equal capitalization of the Western Massachusetts Enterprise Fund, Inc. and the South Eastern Economic Development Corporation; provided further, that the corporations shall prepare 5-year strategic operations plans which shall include, but not be limited to: (i) identification of financial resources required to meet the mission and ongoing lending operations of the corporation; and (ii) a plan of action for reducing or eliminating the need for public subsidies to meet the mission of the corporation not later than December 31, 2008; provided further, that not less than \$750,000 shall be expended for the benefit of the town of Dartmouth to acquire the former state police barracks for appropriate town use including, but not limited to, a municipal, health, or educational facility; provided further, that not less than \$1,500,000 shall be expended for expansion, renovation, capital improvements, relocation, or demolition for the Fairhaven Council on Aging; provided further that not less than \$2,000,000 shall be expended for planning and design for improvements to the public safety buildings in the town of Ashland; provided further, that not less than \$1,200,000 shall be expended for repairs and improvements to the senior center in the town of Medway; provided further, that not less than \$750,000 shall be expended for renovations and repairs to the senior center in the town of Holliston; provided further, that not less than \$1,500,000 for repairs and renovations to the Danforth Museum in the town of Framingham; provided further, that not less than \$2,500,000 shall be expended for the rehabilitation of the historical town hall in the town of Hopkinton; provided further, that not less than \$1,000,000 shall be expended for a new senior center in

Falmouth; provided further, that not less than \$20,000 shall be expended for an engineering study to be conducted on wharves in Mattapoisett; provided further, that not less than \$1,000,000 shall be expended for capital improvements to the Revere Senior center in the city of Revere; provided further, that not less than \$450,000 shall be expended for the purpose of installing sound barriers along route 290 in the Maynard street section of the town of Northborough; provided further, that not less than \$400,000 shall be expended for the purpose of clean up and remediation of 199 Coburn Street in the town of Northborough; provided further, that not less than \$500,000 shall be provided to the Quincy Public School system to be used for technology upgrades; provided, that \$100,000 shall be expended for the reconstruction and installation of public access improvements to the Larabee School building in the town of Southampton; provided further, that not less than \$1,000,000 shall be expended for upgrading and expanding the Martin Luther King Jr. Community Center in Springfield; provided further, that not less than \$500,000 shall be expended for education and technology computer upgrades in Randolph; provided further, that not less than \$1,500,000 shall be expended for the rehabilitation and upgrading of Parcel A of the Dunbar Community Center in Springfield; provided further, that not less than \$1,000,000 shall be expended for the rehabilitation and upgrading of the Girls Club/Family Center in Springfield; provided further, that not less than \$300,000 shall be expended for renovation's to Royalston's Whitney Hall and Royalston Town hall to meet full compliance for accessibility under the Americans with Disabilities Act; provided further, that not less than \$2,000,000 shall be expended for improvements to Waconah Park in Pittsfield; provided further, that not less than \$500,000 shall be expended for the historic renovation and other improvements to World War memorial Stadium in the city of Newburyport; provided further, that not less than \$195,000 shall be expended for the development of streetscape improvements and additional parking in the downtown area of North Andover; provided further, that not less than \$200,000 shall be expended for improvements to the Stevens Estate in North Andover; provided further, that not

less than \$190,000 shall be expended for the study, design and development of a windmill on the Stevens Estate property in North Andover for the purpose of providing an alternative energy source; provided further, that not less than \$1,000,000 shall be expended for the design and construction of a center for senior citizens in the town of Scituate; provided further, that not less than \$100,000 be expended for the design of a new senior center in the town of Sherborn; provided further, that the sum of \$200,000 shall be expended for municipal infrastructure to mitigate beach erosion problems in the Plum Island section of the town of Newbury; provided further, that \$100,000 shall be expended for a study to determine the feasibility of development and construction of an Underground Railroad, Civil Rights and Black heritage Museum and Cultural Center in Springfield; provided further, that \$1,000,000 shall be expended for the Geriatric Authority of Holyoke; provided further, that \$100,000 shall be expended for the renovation/restoration of the City Hall of Holyoke; provided further, that not less than \$1,000,000 shall be expended for the design and construction of a Cape Verdean Community Center at the former Morse Cutting Tools site or any other location deemed appropriate by the community in New Bedford; provided further, that not less than \$3,000,000 shall be expended for the design and construction of the Casa da Saudade/Portuguese Cultural Center in New Bedford; provided further, that not less than \$500,000 shall be expended for improvements to the former Thompson School in New Bedford; provided further, that not less than \$1,000,000 be expended for the construction of a new Senior Center and Community Center in the town of Natick; provided further, that not less than \$1,000,000 be expended for the construction of a new public safety building in the town of Millis; provided further, that not less than \$2,500,000 shall be expended for the Boys and Girls Club of Marshfield for the construction of a new facility on land designated by the town of Marshfield; provided further, that not less than \$250,000 shall be expended for roof and ceiling repairs for the historic Mendon Town Hall; provided further, that \$500,000 shall be expended for the Restoration and Renovation of the Methuen Historic Museum in the City of Methuen; provided further, that \$1,000,000 shall be expended

for the widening of the Howe Street Bridge in the City of Methuen; provided further, that not less than \$250,000 shall be expended for the design and construction of a public safety and public works facility in the Town of New Braintree; provided further, that not less than \$500,000 shall be expended for upgrades for the Milton Youth Center; provided further, that not less than \$350,000 shall be expended for a youth sports facilities grant for the City of Melrose; provided further, that not less than \$50,000 shall be expended for renovations and repairs of the historic Bancroft Memorial Library in Hopedale; provided further, that not less than \$1,000,000 shall be expended for a senior center in Hopedale; provided further, that not less than \$500,000 shall be expended for restoration of the W.E.B. Du Bois Homesite in the town of Great Barrington; provided further, that not less than \$150,000 shall be expended for safety improvements at railroad crossings in the town of Lincoln; provided further, that \$100,000 shall be expended to renovate, abate lead paint and repaint the exterior of the Old Town Hall building in the town of Chelmsford; provided further, that \$1,000,000 shall be expended for the purchase of fire apparatus for public safety in the town of Concord; provided further, that not less than \$75,000 shall be expended to the city of Greenfield for a Phase II feasibility and planning study for the downtown upper story development project; provided further, that not less than \$800,000 shall be expended to the city of Greenfield for the redevelopment and marketing of the First National Bank Building; provided further, that not less than \$2,000,000 shall be expended to aid in the construction of the Greenfield Transportation Center; provided further, that not less than \$173,000 shall be expended for a historical renovation of the New Salem Academy Building; provided further, that \$300,000 shall be expended for the repair and improvements to the green energy systems at Smith Academy in the town of Hatfield; provided further, that not less than \$100,000 shall be expended for hazardous material removal in the North Attleborough school district; provided further, that not less than \$350,000 shall be expended for Georgetown Square traffic signal updates and loop detection installation in the town of Georgetown; provided further, that not less than \$800,000 shall be expended for the acquisition of a ladder truck in the

city of Gloucester; provided further, that not less than \$225,000 shall be expended for the purchase of an aerial bucket truck for the fire and tree departments in the town of Norwell; provided further that not less than \$4,000,000 shall be expended on the design and construction of a parking garage or parking improvements in the city of Fall River; provided further, that not less than \$150,000 shall be expended for modernization and technology upgrades for fire department vehicles in the city of Everett; provided further, that not less than \$70,000 shall be expended for technology upgrades at the recreation center in the city of Everett; provided further, that not less than \$30,000 shall be expended for technology upgrades at the YMCA in the city of Chelsea; provided further, that not less than \$100,000 shall be expended for maintenance improvements for the police headquarters in the city of West Springfield; provided further, that not less than \$50,000 shall be expended for the Cahoon Museum in the town of Barnstable for outreach and education promoting green building technologies for students in Kindergarten through grade 7; provided further, that not less than \$100,000 be expended for maintenance improvements for the fire department facilities in the city of West Springfield; provided further, that not less than \$100,000 shall be expended for maintenance improvements for the municipal office building in the city of West Springfield; provided further, that not less than \$30,000 shall be expended for directional signs to the Cotuit Historic and Arts District; provided further, that not less than \$300,000 shall be expended for renovations and improvements to the Greenwood memorial bathhouse in the city of Gardner; provided further, that not less than \$250,000 shall be expended for rehabilitation and renovations to Ashby town hall; provided further, that \$500,000 shall be expended for the renovation of historic Lincoln Hall as a community space in the Town of Boxford; provided further, that not less than \$500,000 shall be expended for improvements to 90 Pond Street in the town of Braintree; provided further, that not less than \$250,000 shall be expended for the enhancement and improvement of the Sylvanus Thayer Birthplace and historical campus in the town of Braintree; provided further, that \$500,000 shall be expended for technology upgrades for fire

department vehicles in the town of Sharon; provided further, that not less than \$350,000 shall be expended for capital improvements at the Supportive Housing for Homeless Veterans at the National Guard Armory in the city of Worcester; provided further, that not less than \$100,000 shall be expended for relocation and improvements to the Abington senior center; and provided further, that not less than \$900,000 shall be expended for updates to the Cape Cod Regional Radio System in the town of Barnstable \$286,725,000

JUDICIARY
Trial Court

1102-5600 For capital needs at court facilities, including, but not limited to, expenditures for the planning, design, and acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws, the preparation of plans and specifications, the construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair and improvements, including furnishings and equipment and temporary relocation costs, as needed for priority projects identified by the division of capital asset management and maintenance and the administrative office of the trial court; for building repairs necessary to correct unsafe and overcrowded conditions, for the remediation of life safety code violations, for the remediation of access code and civil rights violations, for the remediation of environmental hazards and for security improvements and other necessary repairs at court facilities owned by the commonwealth or by political subdivisions of the commonwealth; provided further, that expenditures made from this item shall include, but not be limited to, expenditures for the projects identified through the court capital repair needs assessment database as developed and maintained by the division of capital asset management and maintenance and reviewed and approved by the administrative office of the trial court; provided further, that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or

by consultants; provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further, that not less than \$125,000,000 shall be made available for costs of the reconstruction or replacement of court facilities located in the city of Lowell; provided further, that \$5,000,000 shall be expended for repairs and renovations for the district court facility in the city of Haverhill; provided further, that not less than \$40,000,000 shall pay for costs of the renovation of the superior court building located in the city of Taunton; provided further, that not less than \$50,000,000 shall pay for costs of the renovation of the court facility located in the town of Greenfield; provided further, that not less than \$750,000 shall be made available for the completion of the master plan for Norfolk county, including for the reconstruction or replacement of court facilities located in the town of Dedham; provided further, that not less than \$600,000 shall be expended for repairs and renovations to the district court facility in Leominster; provided further, that not less than \$72,000,000 shall be expended for the costs of the renovation of the probate and family court building located in the city of Salem; provided further, that not less than \$20,000,000 shall be expended to complete a master plan in Norfolk county which shall include the plan for the development and construction of a centralized Norfolk county courthouse campus in Dedham Square and for the planning, design and construction of such facilities in accordance with said master plan; provided further, that not less than \$100,000 shall be expended for upgrades at the Pittsfield district court; provided further, that \$35,000,000 shall be expended for renovations and construction at the Hampden county hall of justice in the city of Springfield; provided further, that \$100,000 shall be allocated for immediate capitol improvements to the exterior of the district court building in the city of Somerville including, but not limited to, painting, resurfacing and refurbishing; provided, that such funds shall be designated to the district court in the city of Somerville and shall not be subject to subclauses (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws;

provided further, that not less than \$500,000 shall be expended for costs of renovation and expansion of the probate and family court facilities in the town of Barnstable; provided further, that not less than \$150,000 shall be expended on the replacement of the roof of the district court building in the town of Edgartown; provided further, that not less than \$5,000,000 shall pay for costs of the renovation of the district court building located in the East Boston section of the city of Boston; provided further, that not less than \$400,000 shall be expended for costs of an addition to the District Court facility located in the Town of Falmouth; provided further, that \$350,000 be expended for the master plan and engineering of a regional justice center and intermodal transportation center to be located on King Street in the city of Northampton; provided further, that not less than \$60,000,000 shall be pay for costs of the renovation of the probate and family court building located in the city of Salem; and provided further that not less than \$50,000 shall be expended for a feasibility study to investigate, in the city of Cambridge, the relocation of Middlesex county court and ancillary facilities, the cost of rehabilitating, renovating and improving the existing court and ancillary facilities and the possibility of entering into a land swap with other parcels in the city of Cambridge to relocate the facilities \$658,350,000

Information Technology Division

1790-2500 For costs associated with planning and studies, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws and for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition for a data center that will be located in western Massachusetts in either Hampden, Hampshire, Berkshire or Franklin county, provided, that the division shall, no later than 120 days before any transfer or lease authorized herein, submit the costs associated with such data center and a report thereon to the inspector general; provided, further, that the inspector general shall review the costs and such review shall include an examination of the methodology used for such costs and within 90 days of receipt

of the report, the inspector general shall prepare a review of such costs and file the review with the division; provided, that the division shall forward copies of the inspector general's review to the house and senate committees on ways and means and to the chairmen of the joint committee on state administration and regulatory oversight at least 30 days before any transfer or conveyance; provided, that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to this project rendered by division of capital asset management and maintenance employees or consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of this project; provided further, that not less than \$2,000,000 shall be expended for the relocation of the data center of the Chief Justice for Administration and Management from Boston to Cambridge \$78,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

4000-2020 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition for health and human services facilities, all as the commissioner of capital asset management and maintenance, in consultation with the secretary of health and human services and the appropriate commissioners of the departments within the executive office, shall consider appropriate; provided, that all juvenile detention facility projects approved for design and construction by the division of capital asset management and maintenance shall be consistent in priority and need with a master plan to be developed by the division of capital asset management and maintenance in consultation with the department of youth services; provided further, that projects that are not included in the master plan may be approved for funding by the division of capital asset management and maintenance

if the commissioner of capital asset management and maintenance determines that circumstances following the development of the master plan resulted in a compelling need for funding the projects; provided further, that costs payable from this item shall include, but not limited be to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects \$80,000,000

Board of Library Commissioners

7000-9090 For a program of grants to cities and towns for approved public library projects under sections 19G to 19I, inclusive, of chapter 78 of the General Laws; provided, that not more than \$500,000 shall be expended by the board of library commissioners for the administrative costs directly attributable to the projects funded in this item, including the costs of temporary personnel; provided further, that no permanent personnel shall be compensated from this item; provided further, that \$37,500,000 shall be expended for the phase IID of the McKim Building renovation and improvement project; provided, however, that receipt of \$22,500,000 of which shall be contingent on a match of not less than \$1 in non-profit, private, city or federal funds for each additional dollar in state funding; and provided further, that the board shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means which details, by subsidiary, all temporary personnel and administrative costs charged to this item \$137,500,000

EXECUTIVE OFFICE FOR PUBLIC SAFETY AND SECURITY

Office of the Secretary

8000-3500 For a grant program to cities and towns to provide funding for the repair, renovation or construction of municipal public safety facilities, under rules adopted by the executive office of public safety and security based upon the following criteria: an assessment of fiscal and budgetary constraints facing the

municipality; an analysis of the municipality's proposed budget and financing of the repair, renovation, or construction project; the municipality's need for the project; the benefits to the municipality that will result from the project; and an overall evaluation of the merits of the grant proposal; provided, that the executive office may expend not more than 1 per cent of the total amount available for the cost of administering this program; provided further, that not less than \$150,000 shall be expended for the design of a new police station in Lakeville; provided further, that not less than \$100,000 shall be expended for repairs to the police station in Middleborough; provided further, that not less than \$300,000 shall be expended for planning and design of a new public safety facility for police and fire departments in Avon; provided further, that not less than \$750,000 shall be expended for emergency repairs to HVAC systems at fire department headquarters in Stoughton; provided further, that not less than \$150,000 shall be expended for relocation of or improvements to the Milford Public Safety Dispatch Center; provided further, that not less than \$1,800,000 shall be expended for renovation of the fire department facility in North Brookfield; provided further, that not less than \$50,000 shall be expended for a feasibility study to determine the cost of constructing a new handicapped-accessible fire station in the town of Leicester; provided further, that not less than \$8,000,000 shall be expended for construction of a new police station in Lawrence; provided further, that not less than \$2,000,000 shall be expended for construction of a new police station in Salisbury; provided further, that not less than \$580,000 shall be expended for fire department facilities in Randolph; provided further, that not less than \$100,000 shall be expended to the Avon Housing Authority for capital repairs for public safety purposes; provided further, that \$250,000 shall be expended for the repair/renovation of Holyoke Fire Department facilities; provided further, that not less than \$1,000,000 shall be expended for construction of a new police station in the town of Mendon; provided further, that \$250,000 be expended for improvements to the Academy of Music located in the city of Northampton; provided further; that \$250,000 be expended for the enhancement and recon-

struction of police department facilities in the town of Southampton; provided further, that not less than \$1,000,000 shall be expended to covert the former National Guard Armory Building in the Town of Stoughton into a public safety facility; provided further, that \$2,000,000 shall be expended for costs associated with improvements to the firehouses located in the Town of Weymouth; provided further, that \$500,000 shall be expended for renovations and improvements to the public safety building and fire station in the Town of Winchester; provided further, that not less than \$550,000 shall be expended for a class I fire department pump replacement in Sharon; provided further, that not less than \$6,700,000 shall be expended for a fire station in Ware; provided further, that \$100,000 shall be expended for the purchase of police radio communications equipment for public safety in the town of Carlisle; provided further, that not less than \$100,000 shall be expended for breathing, protective gear, exhaust systems and defibrillator units for the fire department of the town of North Attleborough; provided further, that \$750,000 shall be expended for the construction of a new public safety building in the town of Rehoboth; provided further, that not less than \$1,000,000 shall be expended for a joint fire and police public safety complex in the town of Granby; provided further, that \$500,000 shall be expended for improvements for municipal recreation fields in the town of Bedford; provided further, that not less than \$200,000 be expended on the recreational facilities at Woburn high school; and provided further, that not less than \$500,000 shall be expended for the improvement and maintenance of the Marshall Fields in the town of Billerica \$46,430,000

Department of Fire Services

8000-4900 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition for a fire training facility in the city of Springfield, all as the commissioner of capital asset management and maintenance,

in consultation with the state fire marshal, shall consider appropriate; provided, that costs payable from this item shall include, but not limited be to, the costs of engineering and other services essential to this project rendered by division of capital asset management and maintenance employees or by consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of this project \$10,000,000

Office of the Chief Medical Examiner

8500-1000 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition, including furnishings and equipment, for regional facilities for the office of the chief medical examiner, all as the commissioner of capital asset management and maintenance, in consultation with the chief medical examiner, shall consider appropriate; provided, that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects \$15,000,000

Jails and Correctional Facilities

8900-7500 For costs associated with planning and studies, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition and other capital improvements at department of correction facilities for the purpose of preventing prisoner suicides, including the capital improvements as detailed in Appendix A of the Hayes Report, a summary of observations, findings and recommendations of Lindsay Hayes, project director of the National Center on Institutions and Alternatives; provided,

that costs payable from this item shall include, but not be limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects \$15,000,000

EXECUTIVE OFFICE HOUSING AND ECONOMIC DEVELOPMENT
Department of Business and Technology

7007-6300 For costs associated with planning and studies, for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition and other capital improvements at facilities operated by Zoo New England, including the Franklin Park Zoo and the Stoneham Zoo; provided further, that not less than \$5,000,000 shall be expended for Buttonwood Park and Zoo \$35,000,000

SECTION 2D.

EXECUTIVE OFFICE FOR PUBLIC SAFETY AND SECURITY
Jails and Correctional Facilities

8900-8500 For costs associated with planning and studies, dispositions, acquisition of land and buildings and interests therein by purchase, lease for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws and for the preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition for state and county jails and correctional facilities; provided, that all projects approved for funding under this item by the division of capital asset management and maintenance shall be consistent in priority and need with a corrections' master plan to be developed by the division of capital asset management and maintenance in consultation with the department of correction and the Massachusetts Sheriffs Association, and approved by the secretary of public safety and security and the secretary of administration and finance including, but not limited to, the following projects as provided for therein: a pre-release center and regional lock-up facility in Barnstable

county, capital improvements to facilities in Berkshire and Bristol counties, the relocation of the "E911" communications center and improvements to the facilities in the county of Dukes County, additional capacity in Essex county, additional capacity at the Western Massachusetts Regional Women's Correctional Center in Hampden county, the replacement of modular facilities in Hampshire county, the construction of additional capacity in Middlesex county, the construction of additional capacity, a storage warehouse, and parking facility improvements in Norfolk county, capital improvements to facilities in Plymouth county, capital improvements to facilities in Suffolk county and the construction of additional capacity in Worcester county; provided further, that projects that are not included in the master plan may be approved for funding by the division of capital asset management and maintenance if the commissioner of capital asset management and maintenance determines that circumstances following the development of the master plan resulted in a compelling need for funding the projects; provided further, that costs payable from this item include, but are not limited to, the costs of engineering and other services essential to these projects rendered by division of capital asset management and maintenance employees or by consultants; and provided further, that amounts expended for division employees may include the salary and salary-related expenses of these employees to the extent that they work on or in support of these projects; provided further, that not less than \$100,000,000 shall be expended for costs associated with planning and studies, preparation of plans and specifications, repairs, construction, renovations, improvements, asset management and demolition and other capital improvements at the Middlesex Sheriff's office facilities to address severe and persistent overcrowding and staff training needs and for the costs associated with planning and studies, preparation of plans and specifications, acquisition of land and buildings therein by purchase for construction of a jail facility with adequate capacity in the southern portion of Middlesex county to replace the Middlesex jail in the city of Cambridge \$550,000,000

0330-9999 For the purchase or lease of equipment or other items for a program of intermediate sanctions as authorized in item 0330-8968 of section 2 of chapter 12 of the acts of 1996 in-

cluding, but not limited to, the purchase of mobile substance abuse testing vans and other drug testing equipment, the acquisition and build out of leased or purchased space for day reporting centers, including modular units, and the purchase of equipment that may qualify as alternatives to incarceration; provided, that no funds appropriated in this item shall be expended for the costs of state personnel or contracted personnel; provided further, that not more than 2 per cent of the funds authorized herein shall be expended for the administration of any projects funded herein; and provided further, that the executive director of the office of community corrections shall submit a report detailing any such administrative expenditures to the house and senate committee on ways and means \$10,000,000

SECTION 3. Chapter 6 of the General Laws is hereby amended by striking out section 98, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 98. (a) As used in this section, “state entities” means the commonwealth, state authorities as defined in section 1 of chapter 29 and other state entities with responsibility for managing and overseeing public funds.

(b) It shall be the duty of the board to promote transparency, public accountability and adherence to best practices by all state entities with respect to investments, borrowing or other financial transactions made or entered into by state entities and involving public funds. The board shall make an annual written report to the secretary of administration and finance, the state treasurer, the state auditor, the house and senate committees on ways and means and the chairpersons of the joint committee on bonding, capital expenditures and state assets with respect to its findings regarding investments, borrowing and other financial transactions carried out by state entities and its activities to promote transparency, public accountability and best practices with respect thereto.

- (c) In order to carry out its duty, the board may:
- (1) adopt regulations or guidelines requiring state entities to report, adopt appropriate policies, and adhere to best practices with respect to investments, borrowing and other financial transactions;
 - (2) make recommendations to state entities or state officers and propose legislative changes to improve the management of public funds;
 - (3) employ staff and engage professionals to review and advise it on financial transactions entered into by state entities; and
 - (4) conduct oversight hearings with respect to investment, borrowing and other financial transactions made or entered into by state entities.

SECTION 4. The first sentence of subsection (e) of section 38C of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the

following words:- ; or (iv) the contract is for the demolition of buildings.

SECTION 5. Chapter 29 of the General Laws is hereby amended by inserting after section 2XXX the following section:-

Section 2YYY. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Courts Capital Project Fund, hereinafter in this section referred to as the fund. The fund shall be credited: (i) the portion of any net cash proceeds from the conveyance, lease or other disposition of any surplus court facilities vacated and determined to be surplus by the commissioner of the division of capital asset management and maintenance as a result of or in anticipation of the construction of new court facilities or the consolidation of court facilities in the cities of Cambridge, Lowell, Salem and Worcester; (ii) any appropriations; (iii) bond proceeds; or (iv) other monies authorized by the general court and specifically designated to be credited thereto. The comptroller shall disburse amounts in the fund at the direction of the secretary of administration and finance, without further appropriation, for the purpose of paying costs of, or paying down any portion of the debt incurred to pay costs related to the acquisition, temporary leasing or the construction of any replacement court facilities. The inspector general of the commonwealth shall make an annual oversight inquiry and report on the Capital Courts Project Fund and its disbursements. Said report shall be provided to the clerks of the house of representatives and senate, chairs of house and senate committees on ways and means and chairs of the joint committee on bonding, capital expenditures, and state assets.

SECTION 6. Section 38C of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Scheduled, periodic payments to be made by the commonwealth pursuant to any such contract in existence on August 1, 2008 or any such contract related to bonds or notes of the commonwealth which shall be entered into by the state treasurer after August 1, 2008 shall constitute general obligations of the commonwealth to which the full faith and credit of the commonwealth shall have been pledged.

SECTION 7. Clause (l) of section 4 of chapter 81A of the General Laws, as so appearing, is hereby amended by adding the following words:- provided, however, that the authority shall issue semi-annual reports to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on transportation and the joint committee on bonding, capital expenditures and state assets, detailing the financial transactions and revenues associated with the sale, concession or lease of real property held in the name of or under the control of the authority, whether by purchase or otherwise, and any transactions relating to real property currently pending; and provided further, that the semi-annual report shall include the current market values of the real properties related to the transactions.

SECTION 8. The second paragraph of section 87RR of chapter 112 of the General Laws is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Notwithstanding section 148B of chapter 149, a salesman or broker may

be affiliated with a broker either as an employee or as an independent contractor, as determined by their written agreement and customary work practices, but shall be under such supervision of the broker as will ensure compliance with this section; provided, however, that the broker shall be responsible with the licensee for a violation of section 87AAA committed by the licensee.

SECTION 9. Section 9 of chapter 160 of the acts of 1851 is hereby repealed.

SECTION 10. (a) There shall be transferred from item 6000-7967 of section 2A of chapter 28 of the acts of 1996, the amount of \$85,000,000 into item 1100-2500 for improvements to coastal facilities in designated and nondesignated port areas.

SECTION 11. Upon the transfer of the funds pursuant to section 25, section 2A of chapter 28 of the acts of 1996 shall be repealed.

SECTION 12. Sections 4, 5 and 6 of chapter 28 of the acts of 1996 are hereby repealed.

SECTION 13. Section 15 of chapter 463 of the acts of 2004 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Any remaining proceeds shall be used to reduce any incurred indebtedness of the Essex North Shore Agricultural and Technical School District to the former municipalities of the North Shore Vocational Regional School District in accordance with the capital cost allocation provisions of said district's regional agreement.

SECTION 14. Said chapter 463 is hereby further amended by striking out section 11 and inserting in place thereof the following:-

Section 11. The district shall be considered an eligible institution for financing assistance provided by the health and educational facilities authority established under chapter 614 of the acts of 1968. The school committee shall establish and maintain a capital reserve fund for the purpose of financing necessary facility maintenance and capital improvements. The capital reserve fund shall be subject to the limits on stabilization funds in section 16G 1/2 of chapter 71 of the General Laws. Except as provided in this section, the General Laws regulating borrowing by regional districts and limitations on borrowing by regional districts, including but not limited to chapter 70B of the General Laws and clauses (e), (g), and (n) of section 16 of chapter 71 of the General Laws, shall apply to the district. The Essex North Shore Agricultural and Technical School District may issue bonds for the constructing, reconstructing, equipping school buildings and other facilities related thereto for a term not to exceed thirty years.

SECTION 15. Section 11 of chapter 27 of the acts of 2007 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) 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 paying, at maturity or upon acceleration or redemption, any bonds then outstanding and issued by an entity other than the commonwealth under section 39I of chapter 190 of the acts of 1982, chapter 425 of the acts of 1991, section 7 of chapter 16 of

the acts of 1999 or section 6 of chapter 53 of the acts of 1999, or issued by the city of Chelsea under chapter 40D of the General Laws to finance costs of the information technology center in said city, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of maturity, acceleration or redemption of these bonds. The state treasurer shall not issue any refunding bonds unless he finds that the present value, discounted at the rate that he considers appropriate, of the principal and interest payments due on the refunding bonds is less than the present value, discounted at that rate, of the principal and interest payments to be paid, from the proceeds of these refunding bonds and investment earnings thereon, on the bonds to be refunded, 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. These refunding bonds may be issued at such time before the maturity, acceleration or redemption of the bonds to be refunded thereby that the state treasurer, with the approval of the governor, considers advisable. The issuance of these bonds, the security therefore, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the commonwealth with respect thereto shall be governed by chapter 29 of the General Laws relating to the issuance of bonds by the commonwealth, insofar as these provisions may be appropriate therefor. In connection with any issuance of refunding bonds under this section, the secretary of administration and finance and other officers of the commonwealth who are parties to the contract for financial assistance, lease or other agreements related to the bonds being refunded and the state treasurer may enter into amendments to the contract, lease or other agreements and any other documents that they consider necessary or desirable to effectuate the issuance of the bonds. Without limiting the generality of this section, the provisions of section 49 of said chapter 29 applicable to sinking funds established with trustees shall apply to the deposit of refunding bond proceeds with a trustee, except that these proceeds shall be held for the benefit of the holders of the bonds to be refunded thereby.

SECTION 16. 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, \$365,000,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvements Loan Act of 2008, and shall be issued for a maximum term of years, not exceeding 10 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2023. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 17. 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, \$451,800,000. All such bonds issued by the commonwealth shall be designated

on their face, Capital Improvements 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 under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2033. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 18. 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, \$1,973,005,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvement 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. The bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 19. 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, \$560,000,000. All such bonds issued by the commonwealth shall be designated on their face, Capital Improvement 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. The bonds shall be payable not later than June 30, 2048. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 20. (a) In order to facilitate the reuse of the properties identified in subsection (b), upon a determination by the commissioner that no state agency or executive office has a current or foreseeable need for the real property, the commissioner of capital asset management and maintenance may: (1) subject to sections 40E to 40F¹/₂, inclusive, and sections 40I and 40J of chapter 7 of the General Laws, convey, lease for a term not to exceed 99 years, transfer or otherwise dispose of any facility or real property identified in subsection (b) to the host municipality for a direct public use as defined in section 40F of the General Laws; provided, however, that said host municipality shall have no less than 90 days to accept the commissioner's offer to acquire the property; or (2) upon a refusal of the host municipality of the commissioner's offer pursuant to clause 1 and subject to sections 40E to 40F¹/₂, inclusive, and sections 40H to 40J, inclusive, of chapter 7 of the General Laws, the

commissioner of the division of capital asset management and maintenance may convey, lease for a term not to exceed 99 years, transfer or otherwise dispose of any facility or real property identified in subsection (b).

(b) This section shall apply to the following properties:— (i) any court facilities vacated and determined to be surplus by the commissioner of capital asset management and maintenance and the chief justice for administration and management as a result of or in anticipation of the construction of new court facilities or the consolidation of court facilities in the city of Lowell, but the transfer, sale, lease or other disposition shall be in accordance with chapter 290 of the acts of 2004 as amended by sections 59 through 70 of chapter 122 of the acts of 2006; (ii) any court facilities vacated and determined to be surplus by the commissioner of capital asset management and maintenance and the chief justice for administration and management as a result of or in anticipation of the construction of new court facilities or the consolidation of court facilities in the city of Cambridge; (iii) any court facilities vacated and determined to be surplus by the commissioner of capital asset management and maintenance and the chief justice for administration and management as a result of or in anticipation of the construction of new court facilities or the consolidation of court facilities in the city of Worcester; and (iv) any court facilities vacated and determined to be surplus by the commissioner of capital asset management and maintenance and the chief justice for administration and management as a result of or in anticipation of the construction of new court facilities or the consolidation of court facilities in the city of Salem.

The exact boundaries of each parcel conveyed, leased, transferred or otherwise disposed of pursuant to this section shall be determined by the commissioner of the division of capital asset management and maintenance after completion of a survey. The consideration for said conveyance, lease transfer or other disposition shall be the full and fair market value of said parcel as determined by the commissioner of the division of capital asset management and maintenance pursuant to 1 or more independent professional appraisals. This parcel shall be conveyed by deed without warranties or representations by the commonwealth.

(c) Notwithstanding any general or special law to the contrary, the grantee or lessee of any property identified in subsection (b) 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 conveyance authorized pursuant to this act as such costs may be determined by the commissioner of the division of capital asset management and maintenance.

(d) Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisal required pursuant to subsection (b). 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 the division 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 the division of capital asset management and maintenance shall, 30 days before the execution of any conveyance, lease, transfer or other disposition pursuant to this section, or any subsequent amendment thereto, submit the proposed conveyance, lease, transfer or other disposition or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of the proposed conveyance or amendment. The commissioner of the division of capital asset management and maintenance 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.

(e) Notwithstanding any general or special law to the contrary, the net cash proceeds of the sale, lease, transfer or other disposition of any court facility identified in subsection (b) shall be deposited into the Courts Capital Project Fund established pursuant to section 2YYY of chapter 29 of the General Laws. For purposes of this paragraph, the term "net cash proceeds" shall mean all payments made to the commonwealth as and when paid, less any transaction-related expenses and expenses incurred in connection with the custody of the property by the division of capital asset management and maintenance including, but not limited to, costs associated with the disposal or pre-development of the property from which the funds originated including, but not limited to, appraisals, surveys, site evaluation, site preparation, plans, recordings, smart growth review and feasibility and other marketing studies and any other expenses relating to the disposal or project management services in connection with any reuse or redevelopment of the property.

SECTION 21. (a) To carry out the purposes of items 1102-2008, 1102-5600, 4000-2020, 8000-4900 and 8500-1000 of section 4 and item 8900-8500 of section 5, the commissioner of capital asset management and maintenance may, notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, but subject to this subsection, acquire, by purchase, lease or leaseback for a term, including any extensions, not to exceed 50 years, gift or other transfer, or by eminent domain under chapter 79 of the General Laws, any interests in land and buildings considered necessary by the commissioner to carry out the purposes of this act including, but not limited to, easements for drainage, access, utilities and environmental mitigation and may grant and retain such easements and interests as considered necessary by the commissioner to carry out the purposes of this act.

(b) The commissioner shall solicit proposals for any facility acquisition through requests for proposals. Each request for proposals shall, at a minimum, include: (1) a description of the facility for which proposals are sought; (2) a statement as to whether the commissioner seeks to purchase or lease the facilities; (3) a statement as to whether the commissioner seeks to acquire improved or unimproved land, buildings and interests therein; (4) a statement as to whether the selected proposer shall be required to undertake the design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or

management of a new or existing facility; (5) the proposed contractual terms and conditions, some of which may be considered mandatory or nonnegotiable, (6) the evaluation criteria that will be utilized by the commissioner; (7) the time and date for receipt of proposals; (8) the address of the office to which proposals shall be delivered; and (8) such other matters as may be determined by the commissioner. Public notice of each request for proposals shall be published at least 3 weeks before the time specified in the notice for the receipt of proposals in the central register published by the state secretary. At the opening of the proposals, the commissioner shall prepare a register of proposals which shall include the name of each proposer. The register of proposals shall be open for public inspection. Notwithstanding any general or special law to the contrary, until the completion of the selection process, the contents of the proposals and the selection process shall not be disclosed to competing proposers and shall not be public documents.

(c) Any design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or management of a facility undertaken under this section shall be subject to chapters 7, 30 and 149 of the General Laws and any other general or special law or regulation governing the design, construction, renovation, reconstruction, alteration, improvement, demolition, expansion or management of real or personal property by the commonwealth.

SECTION 22. The information technology division, in consultation with the operational services division, shall require that the procurement of services and equipment funded under item 1790-3000 of section 3 shall comply with the procurement policies filed by the state comptroller under section 13 of chapter 27 of the acts of 2007 to ensure an open and fair competitive process. Executive agencies that have or seek funding under said item 1790-3000 shall submit to the information technology division, at intervals to be determined by the division, documentation and deliverables necessary to enable it to oversee, ascertain and evaluate project management, status, progress, performance and expenditures. The information technology division shall specify this documentation and deliverables, which may include, without limitation, project management plans and methodology, technology designs and specifications, accountings of amounts expended or to be expended for all goods and services including, without limitation, hardware, software, consultant services and personnel, an assessment of whether the project is within budget and on schedule for completion, an explanation of any deviations in completion schedules and funding needs from those that were originally established for the projects, project plans and other document deliverables. The information technology division may make funding or continued funding for executive department agency projects contingent upon its approval of these documentation and deliverables.

SECTION 23. 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: 1102-8819, 5011-8841, 5011-8842, 8200-8842, 9300-3905, 1100-9101, 1102-7886, 1102-7887, 1102-7888, 1102-8880, 1102-8883, 1102-8888, 4238-8871, 5095-8870, 5095-8872, 9300-3909, 0330-8890,

0330-8891, 1102-6896, 1102-7891, 1102-7893, 1102-7894, 1102-7896, 1102-7897, 1102-8869, 1102-8890, 1102-8894, 4180-7890, 4180-7891, 4536-7890, 4537-7891, 4010-8831, 1599-8000, 4000-8000, 4000-8100, 5500-8300, 5500-8400, 5500-8500, 5500-8893, 5500-9000, 5500-9100, 5500-9220, 5800-8100, 5800-8120, 5800-8300, 5800-8810, 5800-9000, 8000-7950, 0330-8968, 8195-8968, 8995-8968, 1102-1960, 1102-8968, 1102-8969, 1102-9980, 4200-8968, 8199-7966, 8199-7967, 8900-7967, 1100-7982, 1102-7977, 1102-7979, 1102-9981, 1599-3914, 0330-2204, 0330-2206, 0330-2208, 0330-2209, 0526-8998, 8900-1981, 0526-0101, 0526-0111, 1102-1991, 1102-1992, 1102-2992, 1102-4994, 1102-5996, 7066-0013, 1102-7943, 1102-7944, 1102-7947, 1102-7948, 1102-8245, 1102-8940, 1102-8944, 1102-8945, 1102-8947, 1102-8981, 1599-1999, 4180-0013, 8000-0018, 8000-0019, 8100-9961, 1102-2204, 1102-4940, 1102-7949, 1102-7960, 1102-8949, 1102-9960, 0330-9010, 0333-0010, 1102-2010, 1102-2011, 1102-3010, 1102-3013, 1102-3014, 1599-0023, 1790-2011, 1790-2012, 4000-2011, 4590-9999, 8000-2010, 8000-2011, 8000-2014, 8000-2019, 8100-0024, 8100-9962, 8800-2096, 0332-8811, 0431-8833, 1102-8791, 1102-8872, 1599-0267.

SECTION 24. Section 23 shall take effect 90 days after the effective date of this act.

SECTION 25. 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 bonding, capital expenditures and state assets. 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 8 years after the effective date of this act.

SECTION 26. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Turnpike Authority may issue bonds for the purpose of refunding up to \$334,900,000 aggregate principal amount of outstanding metropolitan highway system bonds of the authority that are related to certain interest rate swaptions previously entered into by the authority. Any bonds so issued shall be subject to the provisions of chapter 81A of the General Laws and the terms of any applicable trust agreement entered into by the authority and in effect as of the effective date of this section.

(b) If the authority certifies in writing to the secretary of administration and finance that it has received notice of exercise from the counterparty to any interest rate swaptions not

exercised by the counterparty before the effective date of this act, then on and after October 1, 2008, the authority may issue bonds for the purpose of refunding up to \$465,100,000 aggregate principal amount of outstanding metropolitan highway system bonds of the authority that are related to such swaptions. Any bonds so issued shall be subject to chapter 81A of the General Laws and the terms of any applicable trust agreement entered into by the authority and in effect as of the effective date of this section.

(c) The commonwealth, acting by and through the secretary of administration and finance with the approval of the governor, upon the request of the authority, may provide credit support as described in this paragraph. The commonwealth may provide funds to the authority in order to enable the authority to pay the principal of or interest on bonds of the authority issued in accordance with this section or to pay any reimbursement obligation owing to the provider of insurance or other credit or liquidity support for such bonds. Any agreement entered into by the commonwealth and the authority under this paragraph shall require the authority to submit annual reports, within 120 days after the end of each fiscal year of the authority, to the secretary of administration and finance, the state treasurer, the state auditor, the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation and the chairpersons of the joint committee on bonding, capital expenditures and state assets detailing the fiscal condition of the authority and its progress in eliminating the need for credit support from the commonwealth. Any such agreement shall contain such other terms, conditions and covenants of the commonwealth as the secretary of administration and finance, with the approval of the governor, may determine to be necessary or appropriate; provided, however, that all obligations of the commonwealth under this paragraph shall be subject to appropriation and any such agreement shall recite that the full faith and credit of the commonwealth are not pledged in support of the obligations of the commonwealth hereunder; and provided further, that any such agreement shall provide that the authority shall be obligated to reimburse the commonwealth for any payments made under such agreement on such terms and conditions as the parties to the agreement shall approve.

SECTION 27. (a) The commonwealth, acting by and through the secretary of the executive office for administration and finance with the approval of the governor, upon the request of the Massachusetts Turnpike Authority, may guarantee all or a portion of payment obligations of the authority payable in connection with hedging transactions entered into by the authority before the effective date of this act with respect to metropolitan highway system bonds of the authority; provided, however, that the authority certifies in writing to the secretary of administration and finance that it has received notice from the counterparty under any such hedging transactions that it intends to exercise its rights of termination under the counterparty's agreement with the authority or that circumstances have occurred that would allow it to terminate its agreement with the authority in the absence of specified remedial action by the authority. The secretary of administration and finance, with the approval of the governor and without further authorization, may approve the form, terms and

conditions of the guaranty authorized by this subsection, including without limitation, the duration of the guaranty and the specific obligations and aggregate amount to be guaranteed by the commonwealth, and may execute and deliver, on behalf of the commonwealth, such guaranty and any related agreements with or for the benefit of the counterparties containing such terms, conditions and covenants of the commonwealth as the secretary of administration and finance shall approve. The authority and the commonwealth, acting by and through the secretary of administration and finance, may enter into a reimbursement agreement providing for repayment to the commonwealth of any amounts paid under the guaranty and containing such terms and conditions as the parties thereto shall approve. Any guarantee or agreement entered into by the commonwealth and the authority under this paragraph shall require the authority to submit annual reports, within 120 days after the end of each fiscal year of the authority, to the secretary of administration and finance, the state treasurer, the state auditor, the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation and the chairpersons of the joint committee on bonding, capital expenditures and state assets detailing the fiscal condition of the authority and its progress in eliminating the need for the commonwealth's guarantee or other credit support. Unless otherwise provided by the secretary of the executive office of administration and finance in the terms of the guaranty, the full faith and credit of the commonwealth shall be pledged for the guaranty provided for in this subsection. If the authority fails or is otherwise unable to pay when due any amount guaranteed that is secured by a pledge of the full faith and credit of the commonwealth pursuant to this section, the commonwealth shall pay such amount upon notice to the state treasurer at any time on or after the due date thereof.

(b) Within 15 days of the date of the written certification referred to in subsection (a), the chairman or executive director of the authority and the secretary of administration and finance shall jointly certify in writing to the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation, and the chairpersons of the joint committee on bonding, capital expenditures and state assets that, in their judgment, no feasible alternatives to a pledge of the commonwealth's full faith and credit as provided in subsection (a) exist, and shall jointly report to the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation, and the chairpersons of the joint committee on bonding, capital expenditures and state assets on all efforts undertaken to avoid the need for a full faith and credit guarantee of the commonwealth under subsection (a).

SECTION 28. For the first semi-annual report submitted pursuant to clause (l) of section 4 of chapter 81A of the General Laws for fiscal year 2009, the Massachusetts Turnpike Authority shall include the current market value of all real property held in the name of or subject to the control of the authority pursuant to said chapter 81A and the current market value of any real property held in the name of or under the control of the authority that were acquired, whether by purchase or otherwise, during fiscal year 2008.

SECTION 29. The state treasurer and all quasi-public entities and independent authorities shall submit biannual reports on their borrowing practices to the secretary of administration and finance, the state auditor, the chair of the finance advisory board established in section 97 of chapter 6 of the General Laws, the chairpersons 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. The report shall be due on April 30 and October 31 in each calendar year and shall include all transactions entered into, other than fixed-rate borrowing, during the 6 months immediately preceding the filing of the report. The report shall include: (1) a list of all transactions related to derivative financial products; (2) the terms and conditions of each derivative financial product transaction; (3) the parties involved in negotiating each derivative financial product transaction; (4) copies of all agreements entered into between the parties relative to derivative financial product transactions; (5) the financial impact of each transaction including, but not limited to, the interest rates, fluctuation in interest rates and payments associated therewith; and (6) a written rationale for the determination to enter into any such transaction. The report shall be signed under oath by the state treasurer or by the chief financial officer of the quasi-public entity or independent authority filing the report. For purposes of this section, "derivative financial products" shall mean financial instruments with values derived from or based upon the value of other assets or on the level of an interest rate index including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors, collars, inverse floaters, auction rate securities or any other financial transaction other than fixed-rate, long-term borrowing.

SECTION 30. (a) Notwithstanding any special or general law to the contrary, there shall be a special task force to examine the structure and continued viability of the Massachusetts Turnpike Authority.

(b) The task force shall be comprised of 9 members: the state treasurer; the state auditor; the secretary of administration and finance; the secretary of transportation and public works; the executive director of the Massachusetts Turnpike Authority; and 4 members appointed by the governor, 1 of whom shall be a forensic accountant, 1 of whom shall be a practicing or former bond attorney who shall have no conflicts of interest as a result of participating on the task force, 1 of whom shall be a financial expert with 10 or more years of financial experience at a company with more than 100 employees that is located in the commonwealth, and 1 of whom shall be a person with expertise in transportation construction or financing and with experience in complex transportation issues and toll roads. The secretary of transportation and public works shall chair the task force.

(c) Within 60 days after the task force is established, the task force shall make a preliminary report to the secretary of administration and finance, the state treasurer, the state auditor, the attorney general, inspector general, the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation and the chairpersons of the joint committee on bonding, capital expenditures and state assets. The report shall present a preliminary analysis of the Turnpike Authority's fiscal situation.

This analysis shall include, but not be limited to, a full accounting of all administrative costs borne by the authority, including but not limited to: debt service; banking fees; salaries and benefits paid to employees and outside contractors; an inventory of all vehicles and rolling stock owned by the authority; a review of the authority's real property holdings and its value; and any other financial information related to the operation of the authority.

(d) The task force shall also study and make recommendations on stabilizing the current fiscal situation of the authority and future actions to ensure the long-term sustainability of the authority.

(e) The office of the treasurer and the executive office of administration and finance, in conjunction with the office of the executive director of the Massachusetts Turnpike Authority, shall provide such staff and resources as may be necessary for the task force to perform its functions. The task force shall convene its first meeting on or before October 1, 2008 and shall file a final report on its findings, including any legislative or regulatory recommendations on how to stabilize the current and future fiscal condition of the authority. Said report shall be filed with the clerks of the senate and the house of representatives and the chairpersons of the house and senate committees on ways and means, the chairpersons of the joint committee on transportation and the chairpersons of the joint committee on bonding, capital expenditures and state assets on or before June 30, 2009.

SECTION 31. (a) Notwithstanding any general or special law to the contrary, but subject to section 40J of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may, in consultation with the administrative office of the trial court, lease to the city of Northampton, for a term, including extensions, not to exceed 99 years, a certain parcel of land on the west side of Gothic street in the city of Northampton containing approximately .47 acres, said parcel being shown on a plan on file with the division of capital asset management and maintenance. The exact boundaries of the parcel shall be determined by the commissioner based upon a survey prepared in accordance with subsection (e).

(b) A lease agreement entered into by the commonwealth pursuant to this section shall provide that the parcel shall be used solely for municipal and public parking facilities and accessory uses directly related to the lessee's purposes as determined by the commissioner, in consultation with the administrative office of the trial court. The lease agreement shall also provide that if the parcel ceases to be used for the purposes described in this section, the commonwealth may terminate the lease under such terms and conditions as the lease may prescribe.

(c) Any lease agreement entered into by the commonwealth pursuant to this section shall provide, by reservation or otherwise, for 55 dedicated parking spaces for use by the administrative office of the trial court at no cost to the commonwealth. The consideration for the lease shall be the provision of those dedicated parking spaces and the city of Northampton's responsibility for all costs and expenses associated with the parking facilities as provided in subsection (e). The lease shall also provide for a mutually-acceptable method

of determining substitute or in-kind consideration to be paid or provided by the city of Northampton to the commonwealth in the event that the administrative office of the trial court ceases to use all or a portion of the dedicated parking, taking into consideration the cost to the city of providing 55 replacement spaces as covered parking, parking lot maintenance, parking enforcement and other costs associated with providing parking lot operations over the term of the lease. The commissioner shall determine, from time to time, in consultation with the administrative office of the trial court and the city of Northampton, the sufficient number of parking spaces based on size and configuration of parking spaces at the time, and the location and access thereto, for use by the administrative office of the trial court and the terms and conditions governing such use and operation; provided, however, that the total area of such parking spaces on the parcel shall not materially exceed the area dedicated to the initial 55 parking spaces.

(d) Any lease agreement entered into by the commonwealth pursuant to this act shall be on such other terms and conditions as the commissioner, in consultation with the administrative office of the trial court, deems appropriate; provided, however, that any such lease agreement shall contain a provision that requires the lessee to indemnify and hold the commonwealth, the division of capital asset management and maintenance and the administrative office of the trial court harmless from any personal injury or property damage caused or suffered by the lessee, its representatives, clients, agents, invitees or other member of the public. The indemnity and hold harmless provision shall cover all costs, expenses, liabilities and legal fees in connection with any injury, loss, damage, liability or claim or any proceeding brought thereon or in defense thereof.

(e) The lessee shall be responsible for procuring all work including, without limitation, legal services, surveys, title and the preparation of plans and specifications as deemed necessary or appropriate by the commissioner to implement this section and shall pay all costs and expenses therefor. The lessee shall also be responsible for all costs, liabilities and expenses of any kind for the development, construction, improvement, repair, maintenance, management and operation of the parking facilities on the parcel.

SECTION 32. Section 27 shall be take effect on October 1, 2008 and shall expire on January 15, 2009.

This bill was returned on August 10, 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:

SECTIONS 8, 10, 11, 12, 28, and 30.

SECTION 2C: *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
1102-2008	1,000,000	460.000.000	“; provided further, that not less than \$1,000,000 shall be expended to the town of Weymouth for

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Item	Reduce by	Reduce to	Wording Stricken
			the general maintenance and any other costs associated with daily operations of the Tufts, Franklin Pratt, North Branch and Fogg Libraries located in the town of Weymouth”
1100-3001	727,000	285,988,000	“; provided further, that not less than \$737,000 shall be expended to reimburse the town of Southbridge for its purchase of the former National Guard armory from the commonwealth”
7000-9090	37,500,000	100,000,000	“provided further, that \$37,500,000 shall be expended for the phase IID of the McKim Building renovation and improvement project; provided, however, that receipt of \$22,500,000 of which shall be contingent on a match of not less than \$1 in non-profit, private, city or federal funds for each additional dollar in state funding”
8000-3500	1,750,000	44,680,000	“; provided further, that not less than \$100,000 shall be expended to the Avon Housing Authority for capital repairs for public safety purposes”
			and
			“; provided further, that \$250,000 be expended for improvements to the Academy of Music located in the city of Northampton”
			and
			“; provided further, that \$100,000 shall be expended for the purchase of police radio communications equipment for public safety in the town of Carlisle; provided further, that not less than \$100,000 shall be expended for breathing, protective gear, exhaust systems and defibrillator units for the fire department of the town of North Attleborough”
			and
			“; provided further, that \$500,000 shall be expended for improvements for municipal recreation fields in the town of Bedford; provided

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Item	Reduce by	Reduce to	Wording Stricken
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further, that not less than \$200,000 be expended on the recreational facilities at Woburn high school; and provided further, that not less than \$500,000 shall be expended for the improvement and maintenance of the Marshall Fields in the town of Billerica”

The remainder of the bill was approved by the Governor on August 10, 2008 at twelve o'clock and three minutes, P.M.

Chapter 305. AN ACT TO PROMOTE COST CONTAINMENT, TRANSPARENCY AND EFFICIENCY IN THE DELIVERY OF QUALITY HEALTH CARE.

Whereas, The deferred operation of this act would tend to defeat its purposes, which is to expand forthwith access to health care for residents of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted, etc., as follows:

SECTION 1. Subsection (d) of section 38C of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The division shall enter into interagency agreements as necessary with the office of Medicaid, the group insurance commission, the department of public health, the division of insurance, the health care quality and cost council, and other state agencies holding utilization, cost or claims data relevant to the division’s review under this section.

SECTION 2. Section 16J of chapter 6A, as so appearing, is hereby amended by inserting after the definition of “Physician Group Practice” the following definition:—
“Third party administrator”, an entity that administers payments for health care services on behalf of a client plan in exchange for an administrative fee.

SECTION 3. Chapter 6A of the General Laws is hereby amended by striking out sections 16K, as so appearing, and 16L, as amended by section 1 of chapter 205 of the acts of 2007, and inserting in place thereof the following 2 sections:-

Section 16K. (a) There shall be established a health care quality and cost council within, but not subject to control of, the executive office of health and human services. The council shall promote public transparency of the quality and cost of health care in the commonwealth, and shall seek to improve health care quality, reduce racial and ethnic health

disparities and contain health care costs by: (i) disseminating health care quality and cost data to consumers, health care providers and insurers via a consumer health information website pursuant to subsection (e) and (g); (ii) establishing quality improvement and cost containment goals pursuant to subsection (h); and (iii) establishing standard performance measures, quality performance benchmarks and statewide health information technology adoption goals for health care providers and insurers pursuant to subsection (i).

(b) The council shall consist of 16 members and shall be comprised of: (i) 9 ex-officio members, including the secretary of health and human services, who shall serve as the chair, the secretary of administration and finance, the state auditor, the inspector general, the attorney general, the commissioner of insurance, the commissioner of health care finance and policy, the commissioner of public health, and the executive director of the group insurance commission, or their designees; and (ii) 7 representatives of nongovernmental organizations be appointed by the governor, including 1 representative of a health care quality improvement organization recognized by the federal Centers for Medicare and Medicaid Services, 1 representative of the Institute for Healthcare Improvement recommended by the organization's board of directors, 1 representative of the Massachusetts Chapter of the National Association of Insurance and Financial Advisors, 1 representative of the Massachusetts Association of Health Underwriters, Inc., 1 representative of the Massachusetts Medicaid Policy Institute, Inc., 1 expert in health care policy from a foundation or academic institution, and 1 representative of a non-governmental purchaser of health insurance. At least 1 member of the council shall be a clinician licensed to practice in the commonwealth. Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties which may include reimbursement for reasonable travel and living expenses while engaged in council business. Chapter 268A shall apply to all council members; provided, however, that the council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in which any council member is in anyway interested or involved; provided further that such interest or involvement is disclosed in advance to the council and recorded in the minutes of the proceedings of the council; and provided further, that no council member having such interest or involvement may participate in any decision relating to such organization.

(c) All meetings of the council shall be in compliance with chapter 30A, except that the council, through its by-laws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

The council may, subject to chapter 30B and subject to appropriation, procure equipment, office space, goods and services.

The council shall receive staff assistance from the executive office of health and human services and may, subject to appropriation, appoint an executive director and employ such additional staff or consultants as it deems necessary. The executive office shall provide administrative support to the council as requested.

The council shall promulgate rules and regulations and may adopt by-laws necessary for the administration and enforcement of this section.

(d) The council shall disseminate the data it collects under this section to consumers, health care providers and insurers through: (i) a publicly-accessible consumer health information website; (ii) reports on performance provided to health care providers; and (iii) any other analysis and reporting the council deems appropriate.

When collecting data, the council shall, to the extent possible, utilize existing public and private data sources and agency processes for data collection, analysis and technical assistance. The council may enter into an interagency service agreement with the division of health care finance and policy for data collection analysis and technical assistance.

The council may, subject to chapter 30B, contract with an independent health care organization for data collection, analysis or technical assistance related to its duties; provided, however, that the organization has a history of demonstrating the skill and expertise necessary to: (i) collect, analyze and aggregate data related to quality and cost across the health care system; (ii) identify quality improvement areas through data analysis; (iii) work with Medicare, MassHealth, and other insurers' data; (iv) collaborate in the design and implementation of quality improvement and clinical performance measures; (v) establish and maintain security measures necessary to maintain confidentiality and preserve the integrity of the data; and (vii) identify and, when necessary, develop appropriate measures of quality and cost for public reporting of quality and cost information.

Insurers and health care providers shall submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy, as required by the council's regulations. The council, through its rules and regulations, may determine what type of data may reasonably be required and the format in which it shall be provided.

The council may request that third-party administrators submit data to the council, to an independent health care organization with which the council has contracted, or to the division of health care finance and policy. The council, through its rules and regulations, may determine the format in which the data shall be provided. The council shall publicly post a list of third-party administrators that refuse to submit requested data.

If any insurer or health care provider fails to submit required data to the council on a timely basis, the council shall provide written notice to the insurer or health care provider. An insurer or health care provider that fails, without just cause, to provide the required information within 2 weeks following receipt of the written notice may be required to pay a penalty of \$1,000 for each week of delay; provided, however, that the maximum annual penalty under this section shall be \$50,000.

(e) The council shall, in consultation with the advisory committee established by section 16L, establish and maintain a consumer health information website. The website shall contain information comparing the quality and cost of health care services and may also contain general health care information as the council deems appropriate. The website shall be designed to assist consumers in making informed decisions regarding their medical care

and informed choices among health care providers. Information shall be presented in a format that is understandable to the average consumer. The council shall take appropriate action to publicize the availability of its website.

The council shall, in consultation with its advisory committee, develop and adopt, on an annual basis, a reporting plan specifying the quality and cost measures to be included on the consumer health information website and the security measures used to maintain confidentiality and preserve the integrity of the data. In developing the reporting plan, the council, to the extent possible, shall collaborate with other organizations or state or federal agencies that develop, collect and publicly report health care quality and cost measures and the council shall give priority to those measures that are already available in the public domain. As part of the reporting plan, the council shall determine for each service the comparative information to be included on the consumer health information website, including whether to: (i) list services separately or as part of a group of related services; or (ii) combine the cost information for each facility and its affiliated clinicians and physician practices or to list facility and professional costs separately.

The council shall, after due consideration and public hearing, adopt or reject the reporting plan or any revisions. If the council rejects the reporting plan or any revisions, the council shall state its reasons for the rejection. The reporting plan and any revisions adopted by the council shall be promulgated by the council. The council shall submit the reporting plan and any periodic revisions to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing and the clerks of the house and senate.

The website shall provide updated information on a regular basis, at least annually, and additional comparative quality and cost information shall be published as determined by the council, in consultation with the advisory committee. To the extent possible, the website shall include: (i) comparative quality information by facility, clinician or physician group practice for each service or category of service for which comparative cost information is provided; (ii) general information related to each service or category of service for which comparative information is provided; (iii) comparative quality information by facility, clinician or physician practice that is not service-specific, including information related to patient safety and satisfaction; and (iv) data concerning healthcare-acquired infections and serious reportable events reported under section 51H of chapter 111.

(f) The council, through its rules and regulations, shall provide access to data it collects pursuant to this section under conditions that: (i) protect patient privacy; (ii) prevent collusion or anti-competitive conduct; and (iii) prevent the release of data that could reasonably be expected to increase the cost of health care. The council may limit access to data based on its proposed use, the credentials of the requesting party, the type of data requested or other criteria required to make a determination regarding the appropriate release of the data. The council shall also limit the requesting party's use and release of any data to which that party has been given access by the council. The council shall provide the division

of health care finance and policy with a database of health care claims data submitted pursuant to this section under an interagency service agreement for the purpose of conducting data analysis and preparing reports to assist in the formulation of health care policy and the provision and purchase of health care services.

Data collected by the council under this section shall not be a public record under clause twenty-sixth of section 7 of chapter 4 or under chapter 66, except as specifically otherwise provided by the council.

The council shall, through interagency service agreements, allow the use of its data by other state agencies, including division of health care finance and policy, for review and evaluation of mandated health benefit proposals as required by section 38C of chapter 3.

(g) The council, in consultation with its advisory committee, shall disseminate to health care providers their individualized de-identified data, including comparisons with other health care providers on the quality, cost and other data to be published on the consumer health information website.

(h) The council, in consultation with its advisory committee, shall develop annual health care quality improvement and cost containment goals. The goals shall be designed to promote high-quality, safe, effective, timely, efficient, equitable and patient centered health care. The council shall also establish goals that are intended to reduce racial and ethnic health care disparities and in so doing shall seek to incorporate the recommendations of the health disparities council and the office of health equity. For each goal, the council shall: identify the steps needed to achieve the goal; estimate the cost of implementation; project the anticipated short-term or long-term financial savings achievable by the health care providers, insurers or the commonwealth; and estimate the expected improvements in the health status of health care consumers in the commonwealth. The council may recommend legislation or regulatory changes to achieve these goals.

(i) The council, in consultation with its advisory committee, relevant state agencies, and public and private health care organizations, shall develop and annually publish: (i) standard performance measures, including, common and consistent reporting of quality measures and common use of measures used for pay-for-performance reimbursement; (ii) quality performance benchmarks for health care providers and insurers that: (1) are clinically important, evidence-based, standardized and timely; (2) include both process and outcome measures; (3) encourage health care providers and insurers to improve health care quality; and (4) are developed based on the work of national organizations, including the National Quality Forum and the Hospitals Quality Alliance; and (iii) goals for statewide adoption of health information technology.

(k) The council shall conduct annual public hearings at which health care providers, insurers, relevant state agencies, and public and private health care organizations shall report their progress towards achieving the quality improvement and cost containment goals, adopting the standard performance measures and meeting the quality performance benchmarks. The council shall provide health care providers, insurers, state agencies and the

general court with the following, at least 60 days prior to the public hearings: (i) recommended action required by each entity to achieve the specified quality and cost containment goals; and (ii) recommendations for adoption of each standard performance measure, quality performance benchmark and health information technology adoption goal established by the council.

(l) The council shall file a report, not less than annually, with the chairs of the house and senate committees on ways and means and the chairs of the joint committee on health care financing and the clerks of the house and senate on its progress in achieving the goals of improving quality and containing or reducing health care costs data provided pursuant to chapter 111N. The report shall include, at a minimum, a review of the progress towards achieving the quality improvement and cost containment goals, adoption of standard performance measures, meeting the quality performance benchmarks, and achieving the health information technology adoption goals.

The council shall provide its advisory committee with reasonable opportunity to review and comment on all reports before their public release.

Reports of the council shall be published on the consumer health information website.

Section 16L. (a) There shall be established an advisory committee to the health care quality and cost council, established by section 16K, to allow the broadest possible involvement of the health care industry and others concerned about health care quality and cost.

(b) The advisory committee shall consist of at least 29 members to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts Medical Society, 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts AFL-CIO Council, Inc., 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc., 1 of whom shall be a representative of Health Care For All, Inc., 1 of whom shall be a representative of the Massachusetts Public Health Association, 1 of whom shall be a representative of the Massachusetts Association of Behavioral Health Systems, Inc., 1 of whom shall be a representative of the Massachusetts Extended Care Federation, Inc., 1 of whom shall be a representative of the Massachusetts Council of Human Service Providers, Inc., 1 of whom shall be a representative of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a representative of Associated Industries of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Business Roundtable, Inc., 1 of whom shall be a representative of the Massachusetts Taxpayers Foundation, 1 of whom shall be a representative of the Massachusetts chapter of the National Federation of Independent Business, 1 of whom shall be a representative of the Retailers Association of Massachusetts, 1 of whom shall be a representative of the Massachusetts Biotechnology Council, Inc., 1 of whom shall be a representative of the Blue Cross Blue Shield of Massachusetts Foundation,

Inc., 1 of whom shall be a representative of the Massachusetts chapter of the American Association of Retired Persons, 1 of whom shall be a representative of the Massachusetts Coalition of Taft-Hartley Trust Funds, Inc., and additional members including, but not limited to, a representative of the mental health field, a representative of pediatric health care, a representative of primary health care, a representative of medical education, a representative of racial or ethnic minority groups concerned with health care, a representative of hospice care, a representative of the nursing profession and a representative of the pharmaceutical field. Members of the advisory committee shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

(c) The members of the advisory committee shall annually elect a chair, vice chair and secretary and may adopt by-laws governing the affairs of the advisory committee.

(d) The advisory committee shall have the following duties: (i) advise the council on the consumer health information website and health care provider and insurer reports; (ii) advise the council on the annual health care quality improvement and cost containment goals, transparency standards and quality performance benchmarks; and (iii) review and comment on all reports of the council before public release, including the annual reporting plan and any revisions and the annual report to the general court.

(e) A written record of all meetings of the committee shall be maintained by the secretary and a copy filed within 15 days after each meeting with the council.

SECTION 4. Chapter 40J of the General Laws is hereby amended by inserting after section 6C the following 2 sections:-

Section 6D. (a) There shall be established an institute for health care innovation, technology and competitiveness, to be known as the Massachusetts e-Health Institute. The executive director of the corporation shall appoint a qualified individual to serve as the director of the institute, who shall be an employee of the corporation, report to the executive director and manage the affairs of the institute. The institute shall advance the dissemination of health information technology across the commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.

(b) There shall be established a health information technology council within the corporation. The council shall advise the institute on the dissemination of health information technology across commonwealth, including the deployment of electronic health records systems in all health care provider settings that are networked through a statewide health information exchange.

The council shall consist of 9 members, as follows: 1 shall be the secretary of health and human services, who shall serve as the chair; 1 shall be the secretary of administration and finance, or a designee; 1 shall be the executive director of the health care quality and cost council; 1 shall be the director of the office of Medicaid; 5 shall be appointed by the governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an expert in law and health policy, and 1 shall be an expert in health information privacy and

security. The council may consult with such parties, public or private, as it deems desirable in exercising its duties under this section, including persons with expertise and experience the development and dissemination of electronic health records systems, and the implementation of electronic health record systems by small physician groups or ambulatory care providers, as well as persons representing organizations within the commonwealth interested in and affected by the development of networks and electronic health records systems, including, but not limited to, persons representing local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, physicians, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with expertise in health information technology and other stakeholders as identified by the secretary of health and human services. Appointive members of the council shall serve for terms of 2 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

The members of the council shall be deemed to be directors for purposes of the fourth paragraph of section 3. Chapter 268A shall apply to all council members except that the council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in which any council member is in anyway interested or involved; provided, however, that such interest or involvement shall be disclosed in advance to the council and recorded in the minutes of the proceedings of the council; and provided further, that no member shall be deemed to have violated section 4 of said chapter 268A because of his receipt of his usual and regular compensation from his employer during the time in which the member participates in the activities of the council.

(c) The institute, in consultation with the council, shall advance the dissemination of health information technology by: (i) facilitating the implementation and use of electronic health records systems by health care providers in order to improve health care delivery and coordination, reduce unwarranted treatment variation, eliminate wasteful paper-based processes, help facilitate chronic disease management initiatives and establish transparency; (ii) facilitating the creation and maintenance of a statewide interoperable electronic health records network that allows individual health care providers in all health care settings to exchange patient health information with other providers; and (iii) identifying and promoting an accelerated dissemination in the commonwealth of emerging health care technologies that have been developed and employed and that are expected to improve health care quality and lower health care costs, but that have not been widely implemented in the commonwealth.

(d) The institute director shall prepare and annually update a statewide electronic health records plan, and an annual update thereto. Each plan shall contain a budget for the application of funds from the E-Health Institute Fund for use in implementing each such plan. The institute director shall submit such plans and updates, and associated budgets, to the council for its approval. Each such plan and the associated budget shall be subject to approval of the board following action on it by the council.

Components of each such plan, as updated, shall be community-based implementation plans that assess a municipality's or region's readiness to implement and use electronic health record systems and an interoperable electronic health records network within the referral market for a defined patient population. Each such implementation plan shall address the development, implementation and dissemination of electronic health records systems among health care providers in the community or region, particularly providers, such as community health centers that serve underserved populations, including, but not limited to, racial, ethnic and linguistic minorities, uninsured persons, and areas with a high proportion of public payer care.

Each plan as updated shall: (i) allow seamless, secure electronic exchange of health information among health care providers, health plans and other authorized users; (ii) provide consumers with secure, electronic access to their own health information; (iii) meet all applicable federal and state privacy and security requirements, including requirements imposed by 45 C.F.R. §§160, 162 and 164; (iv) meet standards for interoperability adopted by the institute with the approval of the council; (v) give patients the option of allowing only designated health care providers to disseminate their individually identifiable information; (vi) provide public health reporting capability as required under state law; and (vii) allow reporting of health information other than identifiable patient health information for purposes of such activities as the secretary of health and human services may from time to time consider necessary.

(e) The corporation may contract with implementing organizations to: (i) facilitate a public-private partnership that includes representation from hospitals, physicians and other health care professionals, health insurers, employers and other health care purchasers, health data and service organizations, and consumer organizations; (ii) provide resources and support to recipients of grants awarded under subsection (f) to implement each program within the designated community pursuant to the implementation plan; (iii) certify and disburse funds to subcontractors, when necessary; (iv) provide technical assistance to facilitate successful practice redesign, adoption of electronic health records, and utilization of care management strategies; (v) ensure that electronic health records systems are fully interoperable and secure and that sensitive patient information is kept confidential by exclusively utilizing electronic health records products that are certified by the Certification Commission for Healthcare Information Technology; and (vi) certify, with approval of the corporation and the council, a group of subcontractors who shall provide the necessary hardware and software for system implementation. Prior to the institute's issuing requests for proposals for contracts to be entered into pursuant to this section, the institute's director shall consult with the council with respect to the content of all such proposals. All contracts with implementing organizations entered into by the corporation must first be approved by the council.

(f) Funding for the institute and council's activities shall be through the E-Health Institute Fund, established in section 6E. The institute, in consultation with the council, shall develop mechanisms for funding health information technology, including a grant program

to assist health care providers with costs associated with health information technologies, including electronic health records systems, and coordinated with other electronic health records projects seeking federal reimbursement.

The institute shall consult with the office of Medicaid to maximize all opportunities to qualify any expenditures for federal financial participation. Applications for funding shall be in the form and manner determined by the institute director and the council, and shall include the information and assurances required by the institute director and the council. The institute director and the council may consider, as a condition for awarding grants, the grantee's financial participation and any other factors it deems relevant.

All grants shall be recommended by the institute director and subsequently approved by both the executive director and the council. The institute director shall work with implementation organizations to oversee the grant-making process as it relates to an implementing organization's responsibilities under its contract with the corporation. Each recipient of monies from this program shall: (i) capture and report certain quality improvement data, as determined by the institute in consultation with the health care quality and cost council; (ii) implement the system fully, including all clinical features, not later than the second year of the grant; and (iii) make use of the system's full range of features.

(g) The council shall receive staff assistance from the corporation.

(h) The institute shall file an annual report, not later than January 30, with the joint committee on health care financing, the joint committee on economic development and emerging technologies, and the house and senate committees on ways and means concerning the activities of the council in general and, in particular, describing the progress to date in implementing a statewide electronic health records system and recommending such further legislative action as it deems appropriate.

Section 6E. There shall be established and set up on the books of the corporation the E-Health Institute Fund, hereinafter referred to as the fund, for the purpose of supporting the advancement of health information technology in the commonwealth, including, but not limited to, the full deployment of electronic health records. There shall be credited to the fund any appropriations, proceeds of any bonds or notes of the commonwealth issued for the purpose, or other monies authorized by the general court and designated thereto; any federal grants or loans; any private gifts, grants or donations made available; and any income derived from the investment of amounts credited to the fund. The director of the institute shall seek, to the greatest extent possible, private gifts, grants and donations to the fund. The corporation shall hold the fund in an account or accounts separate from other funds. The fund shall be administered by the executive director without further appropriation; provided, however, that any disbursement or expenditure from the fund for grants or for contracts with implementing organizations, as provided in section 6D, shall be approved by the health information technology council established under said section 6D. Amounts credited to the fund shall be available for reasonable expenditure by the corporation, subject to the approval of the health information technology council where such approval is required under this chapter, for such purposes as the corporation determines are necessary to support the dissem-

ination and development of health information technology in the commonwealth, including, but not limited to, for the grant program established in said section 6D and for contracts with implementing organizations provided for in said section 6D.

Section 6F. Any plan approved by the board and every grantee and implementing organization that receives monies for the adoption of health information technology shall:

(1) establish a mechanism to allow patients to opt-in to the health information network and to opt-out at any time;

(2) maintain identifiable health information in physically and technologically secure environments by means including, but not limited to: prohibiting the storage or transfer of unencrypted and non-password protected identifiable health information on portable data storage devices; requiring data encryption, unique alpha-numerical identifiers and password protection; and other methods to prevent unauthorized access to identifiable health information;

(3) provide individuals the option of, upon request, obtaining a list of individuals and entities that have accessed their identifiable health information; and

(4) develop and distribute to authorized users of the health information network and to prospective network participants, written guidelines addressing privacy, confidentiality and security of health information and inform individuals of what information about them is available, who may access their information, and the purposes for which their information may be accessed.

Section 6G. In the event of an unauthorized access to or disclosure of individually identifiable patient health information by or through the statewide health information network or by or through any technology grantees or implementing organizations funded in whole or in part from the E-Health Institute Fund established pursuant to section 6E, the operator of such network or grantee or contractor shall: (i) report the conditions of such unauthorized access or disclosure as required by the Massachusetts e-Health Institute; and (ii) provide notice, as defined in section 1 of chapter 93H, as soon as practicable, but not later than 10 business days after such unauthorized access or disclosure, to any person whose patient health information may have been compromised as a result of such unauthorized access or disclosure, and shall report the conditions of such unauthorized access or disclosure.

SECTION 5. Chapter 111 of the General Laws is hereby amended by inserting after section 4M the following section:—

Section 4N. (a) The department shall, in cooperation with Commonwealth Medicine at the University of Massachusetts medical school, develop, implement and promote an evidence-based outreach and education program about the therapeutic and cost-effective utilization of prescription drugs for physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs. In developing the program, the department shall consult with physicians, pharmacists, private insurers, hospitals, pharmacy benefit managers, the MassHealth drug utilization review board and the University of Massachusetts medical school.

(b) The program shall arrange for physicians, pharmacists and nurses under contract with the department to conduct face-to-face visits with prescribers, utilizing evidence-based materials and borrowing methods from behavioral science, educational theory and, where appropriate, pharmaceutical industry data and outreach techniques; provided, however, that to the extent possible, the program shall inform prescribers about drug marketing that is intended to circumvent competition from generic or other therapeutically-equivalent pharmaceutical alternatives or other evidence-based treatment options.

The program shall include outreach to: physicians and other health care practitioners who participate in MassHealth, the subsidized catastrophic prescription drug insurance program authorized in section 39 of chapter 19A or the commonwealth care health insurance program; other publicly-funded, contracted or subsidized health care programs; academic medical centers; and other prescribers.

The department shall, to the extent possible, utilize or incorporate into its program other independent educational resources or models proven effective in promoting high quality, evidenced-based, cost-effective information regarding the effectiveness and safety of prescription drugs, including, but not limited to: (i) the Pennsylvania PACE/Harvard University Independent Drug Information Service; (ii) the Academic Detailing Program of the University of Vermont College of Medicine Area Health Education Centers; (iii) the Oregon Health and Science University Evidence-based Practice Center's Drug Effectiveness Review project; and (iv) the North Carolina evidence-based peer-to-peer education program outreach program.

(c) The department may establish and collect fees for subscriptions and contracts with private payers. The department may seek funding from nongovernmental health access foundations and undesignated drug litigation settlement funds associated with pharmaceutical marketing and pricing practices.

SECTION 6. Section 25B of said chapter 111, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of "Expenditure minimum with respect to substantial capital expenditures."

SECTION 7. Said section 25B of said chapter 111, as so appearing, is hereby further amended by inserting after the definition of "Department" the following definitions: -

"Expenditure minimum with respect to substantial capital expenditures", with respect to expenditures and acquisitions made by or for: (1) acute care hospitals and comprehensive cancer centers as defined in section 1 of chapter 118G, only, \$7,500,000, except that expenditures for, or the acquisition of, major movable equipment not otherwise defined by the department as new technology or innovative services shall not require a determination of need and shall not be included in the calculation of the expenditure minimum; and (2) health care facilities, other than acute care hospitals, and facilities subject to licensing under chapter 111B, with respect to: (a) expenditures for, or the acquisition of, medical, diagnostic or therapeutic equipment, \$400,000; and (b) all other expenditures and acquisitions, \$800,000; provided, however, that expenditures for, or the acquisition of, any replacement of medical, diagnostic or therapeutic equipment defined as new technology or innovative ser-

vices for which a determination of need has issued or which was exempt from determination of need, shall not require a determination of need and shall not be included in the calculation of the expenditure minimum; provided further, that expenditures and acquisitions concerned solely with outpatient services other than ambulatory surgery, not otherwise defined as new technology or innovative services by the department, shall not require a determination of need and shall not be included in the calculation of the expenditure minimum, unless the expenditures and acquisitions are at least \$25,000,000, in which case a determination of need shall be required. Notwithstanding the above limitations, acute care hospitals only may elect at their option to apply for determination of need for expenditures and acquisitions less than the expenditure minimum.

SECTION 8. Said chapter 111 is hereby further amended by inserting after section 25K the following 3 sections:—

Section 25L. (a) There shall be in the department a health care workforce center to improve access to health care services. The center, in consultation with the health care workforce advisory council established by section 25M and the commissioner of labor and workforce development, shall: (i) coordinate the department's health care workforce activities with other state agencies and public and private entities involved in health care workforce training, recruitment and retention; (ii) monitor trends in access to primary care providers, nurse practitioners practicing as primary care providers, and other physician and nursing providers, through activities including: (1) review of existing data and collection of new data as needed to assess the capacity of the health care workforce to serve patients, including patient access and regional disparities in access to physicians or nurses and to examine physician and nursing satisfaction; (2) review existing laws, regulations, policies, contracting or reimbursement practices, and other factors that influence recruitment and retention of physicians and nurses; (3) making projections on the ability of the workforce to meet the needs of patients over time; (4) identifying strategies currently being employed to address workforce needs, shortages, recruitment and retention; (5) studying the capacity of public and private medical and nursing schools in the commonwealth to expand the supply of primary care physicians and nurse practitioners practicing as primary care providers; (iii) establish criteria to identify underserved areas in the commonwealth for administering the loan repayment program established under section 25N and for determining statewide target areas for health care provider placement based on the level of access; and (iv) address health care workforce shortages through the following activities, including: (1) coordinating state and federal loan repayment and incentive programs for health care providers; (2) providing assistance and support to communities, physician groups, community health centers and community hospitals in developing cost-effective and comprehensive recruitment initiatives; (3) maximizing all sources of public and private funds for recruitment initiatives; (4) designing pilot programs and make regulatory and legislative proposals to address workforce needs, shortages, recruitment and retention; and (5) making short-term and long-term programmatic and policy recommendations to improve workforce performance, address identified workforce shortages and recruit and retain physicians and nurses.

(c) The center shall maintain ongoing communication and coordination with the health care quality and cost council, established by section 16K of chapter 6A, and the health disparities council, established by section 16O of said chapter 6A.

(d) The center shall annually submit a report, not later than March 1, to the governor; the health care quality and cost council established by section 16K of chapter 6A, the health disparities council established by section 16O of chapter 6A; and the general court, by filing the report with the clerk of the house of representatives, the clerk of the senate, the joint committee on labor and workforce development, the joint committee on health care financing, and the joint committee on public health. The report shall include: (i) data on patient access and regional disparities in access to physicians, by specialty and sub-specialty, and nurses; (ii) data on factors influencing recruitment and retention of physicians and nurses; (iii) short and long-term projections of physician and nurse supply and demand; (iv) strategies being employed by the council or other entities to address workforce needs, shortages, recruitment and retention; (v) recommendations for designing, implementing and improving programs or policies to address workforce needs, shortages, recruitment and retention; and (vi) proposals for statutory or regulatory changes to address workforce needs, shortages, recruitment and retention.

Section 25M. (a) There shall be a healthcare workforce advisory council within, but not subject to the control of, the health care workforce center established by section 25L. The council shall advise the center on the capacity of the healthcare workforce to provide timely, effective, culturally competent, quality physician and nursing services.

(b) The council shall consist of 16 members who shall be appointed by the governor: 1 of whom shall be a representative of the Massachusetts Extended Care Federation; 1 of whom shall be a physician with a primary care specialty designation who practices in a rural area; 1 of whom shall be a physician with a primary care specialty who practices in an urban area; 1 of whom shall be a physician with a medical subspecialty; 1 of whom shall be an advanced practice nurse, authorized under section 80B of said chapter 112, who practices in a rural area; 1 of whom shall be an advanced practice nurse, authorized under said section 80B of said chapter 112, who practices in an urban area; 1 of whom shall be a representative of the Massachusetts Organization of Nurse Executives; 1 of whom shall be a representative of the Massachusetts Academy of Family Physicians; 1 of whom shall be a representative of the Massachusetts Workforce Board Association; 1 of whom shall be a representative of the Massachusetts League of Community Health Centers, Inc.; 1 of whom shall be a representative of the Massachusetts Medical Society; 1 of whom shall be a representative of the Massachusetts Center for Nursing, Inc.; 1 of whom shall be a representative of the Massachusetts Nurses Association; 1 of whom shall be a representative of the Massachusetts Association of Registered Nurses; 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc.; and 1 of whom shall be a representative of Health Care For All, Inc. Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred

in the performance of their duties. Vacancies of unexpired terms shall be filled within 60 days by the appropriate appointing authority.

The members of the council shall annually elect a chair, vice chair and secretary and may adopt by-laws governing the affairs of the council.

The council shall meet at least bimonthly, at other times as determined by its rules, and when requested by any 8 members.

(c) The council shall advise the center on: (i) trends in access to primary care and physician subspecialties and nursing services; (ii) the development and administration of the loan repayment program, established under section 25N, including criteria to identify underserved areas in the commonwealth; (iii) solutions to address identified health care workforces shortages; and (iv) the center's annual report to the general court.

Section 25N. (a) There shall be a health care workforce loan repayment program, administered by the health care workforce center established by section 25L. The program shall provide repayment assistance for medical school loans to participants who: (i) are graduates of medical or nursing schools; (ii) specialize in family health or medicine, internal medicine, pediatrics, psychiatry, or obstetrics/gynecology; (iii) demonstrate competency in health information technology, including use of electronic medical records, computerized physician order entry and e-prescribing; and (iv) meet other eligibility criteria, including service requirements, established by the board. Each recipient shall be required to enter into a contract with the commonwealth which shall obligate the recipient to perform a term of service of no less than 2 years in medically underserved areas as determined by the center.

(b) The center shall promulgate regulations for the administration and enforcement of this section which shall include penalties and repayment procedures if a participant fails to comply with the service contract.

The center shall, in consultation with the health care workforce advisory council and the public health council, establish criteria to identify medically underserved areas within the commonwealth. These criteria shall consist of quantifiable measures, which may include the availability of primary care medical services within reasonable traveling distance, poverty levels, and disparities in health care access or health outcomes.

(c) The center shall evaluate the program annually, including exit interviews of participants to determine their post-program service plans and to solicit program improvement recommendations.

(d) The center shall, not later than July 1, file an annual report with the governor, the clerk of the house of representatives, the clerk of the senate, the house committee on ways and means, the senate committee on ways and means, the joint committee on health care financing, the joint committee on mental health and substance abuse and the joint committee on public health. The report shall include annual data and historical trends of: (i) the number of applicants, the number accepted, and the number of participants by race, gender, medical or nursing specialty, medical or nursing school, residence prior to medical or nursing school, and where they plan to practice after program completion; (ii) the service placement locations and length of service commitments by participants; (iii) the number of participants who fail

to fulfill the program requirements and the reason for the failures; (iv) the number of former participants who continue to serve in underserved areas; and (v) program expenditures.

SECTION 9. Said chapter 111 is hereby further amended by inserting after section 51G the following section:-

Section 51H. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Facility”, a hospital, institution for the care of unwed mothers or clinic providing ambulatory surgery as defined by section 25.

“Healthcare-associated infection”, a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that: (i) occurs in a patient in a facility, (ii) was not present or incubating at the time of the admission during which the reaction occurs, and (iii) if occurring in a hospital, meets the criteria for a specific infection site as defined by the federal Centers for Disease Control and Prevention and its national health care safety network.

“Serious reportable event”, an event that results in a serious adverse patient outcome that is clearly identifiable and measurable, reasonably preventable, and that meets any other criteria established by the department in regulations.

(b) A facility shall report data and information about healthcare-associated infections and serious reportable events. A serious reportable event shall be reported by a facility no later than 15 working days after its discovery. Reports shall be made in the manner and form established by the department in its regulations. The department may require facilities to register in and report to nationally recognized quality and safety organizations.

(c) The department shall, through interagency service agreements, transmit data collected under this section to the Betsy Lehman center for patient safety and medical error reduction and to the health care quality and cost council for publication on its consumer health information website. Any facility failing to comply with this section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its license revoked or suspended by the department.

(d) The department shall promulgate regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a serious reportable event. A health care facility shall not charge or seek reimbursement for a serious reportable event that the facility has determined, through a documented review process, and under regulations promulgated by the department, was (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 10. Said chapter 111 is hereby further amended by inserting after section 51G the following section:-

Section 51H. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Facility”, a hospital, institution for the care of unwed mothers or clinic providing ambulatory surgery as defined by section 25.

“Healthcare-associated infection”, a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that: (i) occurs in a patient in a facility, (ii) was not present or incubating at the time of the admission during which the reaction occurs, and (iii) if occurring in a hospital, meets the criteria for a specific infection site as defined by the federal Centers for Disease Control and Prevention and its national health care safety network.

“Serious adverse drug event”, any preventable event that causes inappropriate medication use in a hospital or ambulatory surgical center that leads to harm to a patient, as further defined in regulations of the department.

“Serious reportable event”, an event that results in a serious adverse patient outcome that is clearly identifiable and measurable, reasonably preventable, and that meets any other criteria established by the department in regulations.

(b) A facility shall report data and information about healthcare-associated infections, serious reportable events, and serious adverse drug events. A serious reportable event shall be reported by a facility no later than 15 working days after its discovery. Reports shall be made in the manner and form established by the department in its regulations. The department may require facilities to register in and report to nationally recognized quality and safety organizations.

(c) The department, through interagency service agreements, shall transmit data collected under this section to the Betsy Lehman center for patient safety and medical error reduction and to the health care quality and cost council for publication on its consumer health information website. Any facility failing to comply with this section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its license revoked or suspended by the department.

(d) The department shall promulgate regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a serious reportable event. A health care facility shall not charge or seek reimbursement for a serious reportable event that the facility has determined, through a documented review process, and under regulations promulgated by the department, was (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 11. Said chapter 111 is hereby further amended by inserting after section 53D the following 3 sections:-

Section 53E. The department shall promulgate regulations for the establishment of a patient and family advisory council at each hospital in the commonwealth. The council shall advise the hospital on matters including, but not limited to, patient and provider relationships, institutional review boards, quality improvement initiatives and patient education

on safety and quality matters. Members of a council may act as reviewers of publicly reported quality information, members of task forces, members of awards committees for patient safety activities, members of advisory boards, participants on search committees and in the hiring of new staff, and may act as co-trainers for clinical and nonclinical staff, in-service programs, and health professional trainees or as participants in reward and recognition programs.

Section 53F. The department shall require acute care hospitals to have a suitable method for health care staff members, patients and families to request additional assistance directly from a specially-trained individual if the patient's condition appears to be deteriorating. The acute care hospital shall have an early recognition and response method most suitable for the hospital's needs and resources, such as a rapid response team. The method shall be available 24 hours per day.

Section 53G. Any entity that is certified or seeking certification as an ambulatory surgical center by the Centers for Medicare and Medicaid Services for participation in the Medicare program shall be a clinic for the purpose of licensure under section 51, and shall be deemed to be in compliance with the conditions for licensure as a clinic under said section 51 if it is accredited to provide ambulatory surgery services by the Accreditation Association for Ambulatory Health Care, Inc., the Joint Commission on Accreditation of Healthcare Organizations, the American Association for Accreditation of Ambulatory Surgery Facilities or any other national accrediting body that the department determines provides reasonable assurances that such conditions are met. No original license shall be issued pursuant to said section 51 to establish any such ambulatory surgical clinic unless there is a determination by the department that there is a need for such a facility. For purposes of this section, "clinic" shall not include a clinic conducted by a hospital licensed under said section 51 or by the federal government or the commonwealth. The department shall promulgate regulations to implement this section.

SECTION 12. The first paragraph of section 70 of said chapter 111, as appearing in the 2006 Official Edition, is hereby amended by striking out the second and third sentences and inserting in place thereof the following 4 sentences:- These records may be handwritten, printed, typed or in electronic digital media or converted to electronic digital media as originally created by such hospital or clinic, by the photographic or microphotographic process, or any combination thereof. The hospital or clinic may destroy records only after the applicable retention period has elapsed and after notifying the department of public health, in accordance with its regulations, that the records will be destroyed. The department, through its regulations, shall establish an appropriate notification process. On the notice of privacy practices distributed to its patients, a hospital or clinic shall provide: (i) information concerning the provisions of this section and (ii) the hospital or clinic's records termination policy.

SECTION 13. Said section 70 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 66, the word "thirty" and inserting in place thereof the following figure:- 20.

SECTION 14. The General Laws are hereby amended by inserting after Chapter 111M the following chapter:-

CHAPTER 111N

PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURER CONDUCT

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

“Department”, the department of public health.

“Health care practitioner”, a person who prescribes prescription drugs for any person and is licensed to provide health care, or a partnership or corporation comprised of such persons, or an officer, employee, agent or contractor of such person acting in the course and scope of his employment, agency or contract related to or in support of the provision of health care to individuals.

“Marketing code of conduct” practices and standards that govern the marketing and sale of prescription drugs or medical devices by a pharmaceutical or medical device manufacturing company to health care practitioners.

“Medical device”, an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, which is: (1) recognized in the official National Formulary or the United States Pharmacopeia or any supplement thereto; (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease, in persons or animals; or (3) intended to affect the structure or function of the body of a person or animal, and which does not achieve its primary intended purposes through chemical action within or on such body and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

“Person”, a business, individual, corporation, union, association, firm, partnership, committee or other organization.

“Pharmaceutical or medical device manufacturer agent”, a pharmaceutical or medical device marketer or any other person who for compensation or reward does any act to promote, oppose or influence the prescribing of a particular prescription drug, medical device, or category of prescription drugs or medical devices; provided, however, that “pharmaceutical or medical device manufacturer agent” shall not include a licensed pharmacist, licensed physician or any other licensed health care practitioner with authority to prescribe prescription drugs who is acting within the ordinary scope of the practice for which he is licensed.

“Pharmaceutical or medical device manufacturing company”, any entity that participates in a commonwealth health care program and which is engaged in the production, preparation, propagation, compounding, conversion or processing of prescription drugs or medical devices, either directly or indirectly, by extraction from substances of natural origin,

or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling or distribution of prescription drugs; provided, however, that “pharmaceutical or medical device manufacturing company” shall not include a wholesale drug distributor licensed under section 36A of chapter 112 or a retail pharmacist registered under section 37 of said chapter 112.

“Pharmaceutical or medical device marketer”, a person who, while employed by or under contract with a pharmaceutical or medical device manufacturing company that participates in a commonwealth health care program, engages in detailing, promotional activities or other marketing of prescription drugs or medical devices in the commonwealth to any physician, hospital, nursing home, pharmacist, health benefits plan administrator, other health care practitioner or person authorized to prescribe, dispense or purchase prescription drugs; provided, however, that the “pharmaceutical or medical device marketer” shall not include a wholesale drug distributor licensed under section 36A of chapter 112, a representative of such a distributor who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug or a retail pharmacist registered under section 37 of said chapter 112 if such person is not engaging in such practices under contract with a manufacturing company.

“Physician”, a person licensed to practice medicine by the board of registration in medicine under section 2 of chapter 112 who prescribes prescription drugs, or the physician’s employees or agents.

“Prescription drugs”, drugs upon which the manufacturer or distributor has placed or is required by federal law and regulations to place the following or a comparable warning: “Caution federal law prohibits dispensing without prescription”.

Section 2. Notwithstanding any general or special law to the contrary, the department shall adopt a standard marketing code of conduct for all pharmaceutical or medical device manufacturing companies that employ a person to sell or market prescription drugs or medical devices in the commonwealth. The marketing code of conduct shall be based on applicable legal standards and incorporate principles of health care including, without limitation, requirements that the activities of the pharmaceutical or medical device manufacturer agents be intended to benefit patients, enhance the practice of medicine and not interfere with the independent judgment of health care practitioners. In promulgating regulations for a marketing code of conduct, the department adopt regulations that shall be no less restrictive than the most recent version of the Code on Interactions with Healthcare Professionals developed by the Pharmaceutical Research and Manufacturers of America and the Code on Interactions with Healthcare Professionals developed by the Advanced Medical Technology Association.

The marketing code of conduct adopted by the department shall not allow:

- (1) the provision of or payment for meals for health care practitioners that:
 - (a) are part of an entertainment or recreational event;

(b) are offered without an informational presentation made by pharmaceutical marketing agent or without the pharmaceutical marketing agent being present;

(c) are offered, consumed, or provided outside of the health care practitioner's office or hospital setting; or

(d) are provided to a healthcare practitioner's spouse or other guest;

(2) the provision or payment of entertainment or recreational items of any value, including, but not limited to, tickets to the theater or sporting events, sporting equipment, or leisure or vacation trips, to any health care practitioner who is not a salaried employee of the company;

(3) sponsorship or payment for continuing medical education, in this section referred to as CME, also known as independent medical education, that does not meet the Accreditation Council for Continuing Medical Education Standards For Commercial Support, or that provides payment directly to a health care practitioner;

(4) financial support for the costs of travel, lodging or other personal expenses of non-faculty healthcare practitioners attending any CME event, third-party scientific or educational conference, or professional meetings, either directly to the individuals participating in the event or indirectly to the event's sponsor, except in cases as determined by the department.

(5) funding to compensate for the time spent by health care practitioners participating in any CME event, third-party scientific or educational conferences, or professional meetings;

(6) the provision of or payment for meals directly at any CME event, third-party scientific or educational conferences, or professional meetings;

(7) payments in cash or cash equivalents to healthcare practitioners either directly or indirectly, except as compensation for bona fide services;

(8) any grants, scholarships, subsidies, support, consulting contracts, or educational or practice related items to a healthcare practitioner in exchange for prescribing prescription drugs or using medical devices or for a commitment to continue prescribing prescription drugs or using medical devices.

The marketing code of conduct adopted by the department shall allow:

(1) the provision, distribution, dissemination or receipt of peer reviewed academic, scientific or clinical information;

(2) the purchase of advertising in peer reviewed academic, scientific or clinical journals;

(3) prescription drugs provided to a health care practitioner solely and exclusively for use by the health care practitioner's patients;

(4) compensation for the substantial professional or consulting services of a health care practitioner in connection with a genuine research project or a clinical trial;

(5) payment for reasonable expenses necessary for technical training on the use of a medical device if that expense is part of the vendor's purchase contract for the device.

The department shall update the marketing code of conduct no less than every two years. The department may promulgate regulations or other guidelines as necessary to implement this section.

Section 3. No pharmaceutical or medical device manufacturer company or pharmaceutical or medical device manufacturer agent shall knowingly and willfully violate the marketing code of conduct as adopted by the department.

Section 4. (a) A pharmaceutical or medical device manufacturing company that employs a person to sell or market a drug, medicine, or medical device in the commonwealth shall adopt and comply with the most recent marketing code of conduct as adopted by the department.

(b) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall adopt a training program to provide regular training to appropriate employees including, without limitation, all sales and marketing staff, on the marketing code of conduct.

(c) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall conduct annual audits to monitor compliance with the marketing code of conduct.

(d) A pharmaceutical or medical device manufacturing company that employs a person to sell or market a prescription drugs or medical devices in the commonwealth shall adopt policies and procedures for investigating instances of noncompliance with the marketing code of conduct and take corrective action in response to noncompliance and the reporting of instances of noncompliance to the appropriate state authorities.

(e) A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall identify a compliance officer responsible for operating and monitoring the marketing code of conduct.

Section 5. A pharmaceutical or medical device manufacturing company that employs a person to sell or market prescription drugs or medical devices in the commonwealth shall annually submit to the department: (i) a description of its training program; (ii) a description of its investigation policies; (iii) the name, title, address, telephone number and electronic mail address of its compliance officer; and (iv) certification that it has conducted its annual audit and is in compliance with the marketing code of conduct.

Section 6. (1) By July 1 of each year, every pharmaceutical or medical device manufacturing company that employs a person to sell or market a drug, medicine, chemical, device or appliance in the commonwealth shall disclose to the department of public health the value, nature, purpose and particular recipient of any fee, payment, subsidy or other economic benefit with a value of at least \$50, which the company provides, directly or through its agents, to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, health care practitioner or other person in the commonwealth authorized to prescribe, dispense, or purchase prescription drugs or medical devices in the commonwealth.

The disclosure shall be accompanied by the payment of a fee, to be determined by the department, to pay the costs of administering this section.

(2) The department of public health shall make all disclosed data publicly available and easily searchable on its website.

(3) The department of public health shall report to the attorney general any payment, entertainment, meals, travel, honorarium, subscription, advance, services or anything of value provided in violation of the market code of conduct as adopted by the department of public health.

Section 7. This chapter shall be enforced by the attorney general, the district attorney with jurisdiction over a violation or the department of public health. A person that violates this chapter shall be punished by a fine of not more than \$5,000 for each transaction, occurrence or event that violates this chapter.

SECTION 15. The first paragraph of section 2 of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following after the second sentence of the first paragraph:- The board shall require, as a standard of eligibility for licensure, that applicants show a predetermined level of competency in the use of computerized physician order entry, e-prescribing, electronic health records and other forms of health information technology, as determined by the board.

SECTION 16. Section 9E of said chapter 112, as so appearing, is hereby amended by striking out, in line 6, the word "two" and inserting in place thereof the following figure:- 4.

SECTION 17. Said chapter 112 is hereby further amended by inserting after section 39C the following section:-

Section 39E. Stores or pharmacies engaged in the drug business, as defined in section 37, shall inform the department of public health of any improper dispensing of prescription drugs that results in serious injury or death, as defined by the department in regulations, as soon as is reasonably and practically possible, but not later than 15 working days after discovery of the improper dispensing. The department of public health shall promulgate regulations for the administration and enforcement of this section.

SECTION 18. Chapter 118E of the General Laws is hereby amended by adding the following section:-

Section 55. (a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, the executive office of health and human services and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted pursuant to, and consistent with, the current Health Insurance Portability and Accountability Act compliant code sets as adopted by the Centers for Medicare and Medicaid Services; the International Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines

and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. The executive office and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing the coding standards.

(b) Subject to subsection (c), the executive office and its subcontractors shall, without local customization, use the standardized claim formats for processing health care claims as adopted by the National Uniform Claim Committee and the National Uniform Billing Committee and implemented pursuant to the federal Health Insurance Portability and Accountability Act. The executive office and its subcontractors shall, without local customization, adopt and routinely process all changes to such formats which shall be effective on the same date as the implementation date established by the entity implementing the formats.

(c) Except for the requirements for consistency and uniformity in coding patient diagnostic information and patient care service and procedure information, this section shall not modify or supersede the executive office's or its subcontractor's payment policy or utilization review policy. Nothing in this section shall preclude the executive office or a subcontractor thereof from adjudicating a claim pursuant to its billing guidelines, payment policies or provider contracts.

(d) The executive office and its subcontractors shall accept and recognize at least 85 per cent of all claims submitted by health care providers pursuant to this section.

SECTION 19. Section 55 of said chapter 118E, as inserted by section 19, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The executive office and its subcontractors shall accept and recognize all claims submitted by health care providers pursuant to this section.

SECTION 20. Section 1 of chapter 118G of the General Laws is hereby amended by inserting after the definition of "Pediatric specialty unit", as appearing in the 2006 Official Edition, the following definition:-

"Private health care payer", a carrier authorized to transact accident and health insurance under chapter 175, a nonprofit hospital service corporation licensed under chapter 176A, a nonprofit medical service corporation licensed under chapter 176B, a dental service corporation organized under chapter 176E, an optometric service corporation organized under chapter 176F, a self-insured plan, to the extent allowable under federal law governing health care provided by employers to employees, or a health maintenance organization licensed under chapter 176G.

SECTION 21. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Provider" the following definition:-

"Public health care payer", the Medicaid program established in chapter 118E; any carrier or other entity that contracts with the office of Medicaid or the commonwealth health insurance connector to pay for or arrange the purchase of health care services on behalf of

individuals enrolled in health coverage programs under Titles XIX or XXI, or under the commonwealth care health insurance program, including prepaid health plans subject to the provisions of section 28 of chapter 47 of the acts of 1997; the group insurance commission established under chapter 32A; and any city or town with a population of more than 60,000 that has adopted chapter 32B.

SECTION 22. Section 2 of said chapter 118G, as so appearing, is hereby amended by striking out the second paragraph, as most recently amended by section 38 of chapter 58 of the acts of 2006, and inserting in place thereof the following paragraph:-

The commissioner shall appoint and may remove such agents and subordinate officers as the commissioner may deem necessary and may establish such subdivisions within the division as he deems appropriate to fulfill the following duties: (i) to collect, analyze and disseminate health care data to assist in the formulation of health care policy and in the provision and purchase of health care services; (ii) to work with other state agencies including, but not limited to, the department of public health and the department of mental health, the health care quality and cost council, the division of medical assistance and the division of insurance to collect and publish data concerning the cost of health insurance in the commonwealth and the health status of individuals; (iii) to hold annual hearings concerning health care provider and payer costs and cost trends, and to provide an analysis of health care spending trends with recommendations for strategies to promote an efficient health delivery system; and (iv) to administer the health safety net office and trust fund established under sections 35 and 36.

SECTION 23. Section 6 of said chapter 118G, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following 4 paragraphs:-

The division may promulgate regulations necessary to ensure the uniform reporting of information from private and public health care payers that enables the division to analyze: (i) changes over time in health insurance premium levels; (ii) changes in the benefit and cost-sharing design of plans offered by these payers; and (iii) changes in measures of plan cost and utilization; provided that this analysis shall facilitate comparison among plans and between public and private payers.

The division shall require the submission of data and other information from each private health care payer offering small or large group health plans including, without limitation: (i) average annual individual and family plan premiums for each payer's most popular plans for a representative range of group sizes, as further determined in regulations, and average annual individual and family plan premiums for the lowest cost plan in each group size that meets the minimum standards and guidelines established by the division of insurance under section 8H of chapter 26; (ii) information concerning the actuarial assumptions that underlie the premiums for each plan; (iii) summaries of the plan designs for each plan; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan; (v) information concerning the payer's current level of reserves and surpluses; and (vi) information on provider payment methods and levels.

The division shall require the submission of data and other information from public health care payers including, without limitation: (i) average premium rates for health insurance plans offered by public payers and information concerning the actuarial assumptions that underlie these premiums; (ii) average annual per-member per-month payments for enrollees in MassHealth primary care clinician and fee for service programs; (iii) summaries of plan designs for each plan or program; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan or program; (v) where appropriate, information concerning the payer's current level of reserves and surpluses; and (vi) information on provider payment methods and levels, including information concerning payment levels to each hospital for the 25 most common medical procedures provided to enrollees in these programs, in a form that allows payment comparisons between Medicaid programs and managed care organizations under contract to the office of Medicaid.

The division shall, before adopting regulations under this section, consult with other agencies of the commonwealth and the federal government, affected providers, and affected payers, as applicable, to ensure that the reporting requirements imposed under the regulations are not duplicative or excessive. If reporting requirements imposed by the division result in additional costs for the reporting providers, these costs may be included in any rates promulgated by the division for these providers. The division may specify categories of information which may be furnished under an assurance of confidentiality to the provider; provided that such assurance shall only be furnished if the information is not to be used for setting rates.

SECTION 24. Said chapter 118G is hereby further amended by inserting after section 6 the following section:—

Section 6½. (a) The division shall hold annual public hearings based on the information submitted under sections 6 and 6A concerning health care provider and private and public health care payer costs and cost trends, with particular attention to factors that contribute to cost growth within the commonwealth's health care system and to the relationship between provider costs and payer premium rates. The attorney general may intervene in such hearings.

(b) The attorney general may review and analyze any information submitted to the division under section 6 and 6A. The attorney general may require that any provider or payer produce documents and testimony under oath related to health care costs and cost trends or documents that the attorney general deems necessary to evaluate factors that contribute to cost growth within the commonwealth's health care system and to the relationship between provider costs and payer premium rates. The attorney general shall keep confidential all nonpublic information and documents obtained under this section and shall not disclose such information or documents to any person without the consent of the provider or payer that produced the information or documents except in a public hearing under this section, a rate hearing before the division of insurance, or in a case brought by the attorney general, if the attorney general believes that such disclosure will promote the health care cost containment

goals of the commonwealth and that such disclosure should be made in the public interest after taking into account any privacy, trade secret or anti-competitive considerations. Such confidential information and documents shall not be public records and shall be exempt from disclosure under section 10 of chapter 66.

(c) Hearings shall be held by the commissioner or a designee, or a hearings officer, if authorized by the commissioner. Public notice of any hearing shall be provided at least 60 days in advance.

(d) The division shall, 30 days before the date of any hearing, publish a preliminary report of its findings based on information provided under section 6. The division may contract with an outside organization with expertise in issues related to the topics of the hearings to produce this preliminary report. The division shall use this preliminary report as a basis for designing the format and content of the hearing.

(e) The division shall identify as witnesses for the public hearing a representative sample of providers and payers, including: (i) at least 3 academic medical centers, including the 2 acute hospitals with the highest level of net patient service revenue; (ii) at least 3 disproportionate share hospitals, including the 2 hospitals whose largest per cent of gross patient service revenue is attributable to Title XVIII and XIX of the federal Social Security Act or other governmental payers; (iii) community hospitals from at least 3 separate regions of the state; (iv) freestanding ambulatory surgical centers from at least 3 separate regions of the state; (v) community health centers from at least 3 separate regions of the state; (vi) the 5 private health care payers with the highest enrollments in the state; (vii) any managed care organization that provides health benefits under Title XIX or under the commonwealth care health insurance program; (viii) the group insurance commission; (ix) at least 3 municipalities that have adopted chapter 32B; and (x) any witness identified by the attorney general.

(f) Witnesses shall provide testimony under oath and subject to examination and cross examination by the division and the attorney general at the public hearing in a manner and form to be determined by the division, including without limitation: (i) in the case of providers, testimony concerning payment systems, payer mix, cost structures, administrative and labor costs, capital and technology costs, adequacy of public payer reimbursement levels, reserve levels, utilization trends, and cost-containment strategies, the relation of private payer reimbursement levels to public payer reimbursements for similar services, efforts to improve the efficiency of the delivery system, efforts to reduce the inappropriate or duplicative use of technology; and (ii) in the case of private and public payers, testimony concerning factors underlying premium cost and rate increases, the relation of reserves to premium costs, the payer's efforts to develop benefit design and payment policies that enhance product affordability and encourage efficient use of health resources and technology, efforts by the payer to increase consumer access to health care information, and efforts by the payer to promote the standardization of administrative practices, and any other matters as determined by the division.

(g) The division shall compile an annual report concerning spending trends and underlying factors, along with any recommendations for strategies to increase the efficiency of the health care system. The report shall be based on the division's analysis of information provided at the hearings by providers and insurers, data collected by the division under sections 6 and 6A of this chapter, and any other information the division considers necessary to fulfill its duties under this section, as further defined in regulations promulgated by the division. The division shall consult with the health care quality and cost council when developing any measures or criteria to be used in its analysis. The report shall be submitted to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on health care financing and shall be published and available to the public no later than December 31st.

SECTION 25. Section 36 of chapter 123 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 4 sentences:- Each facility, subject to this chapter and section 19 of chapter 19, that provides mental health care and treatment shall maintain patient records, as defined in the first paragraph of section 70 of chapter 111, for at least 20 years after the closing of the record due to discharge, death or last date of service. A facility shall not destroy such records until after the retention period has elapsed and only upon notifying the department of public health that the records will be destroyed, provided that the department shall promulgate regulations further defining an appropriate notification process. On the notice of privacy practices distributed to its patients, each facility shall provide: (i) information concerning the provisions of this section; and (ii) the hospital or clinic's records termination policy.

SECTION 26. Chapter 176O of the General Laws is hereby amended by inserting after section 5 the following 2 sections:-

Section 5A. (a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, a carrier and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted pursuant to, and consistent with the current Health Insurance Portability and Accountability Act compliant code sets: the International Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. A carrier and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing the coding standards.

(b) Subject to subsection (c), a carrier and its subcontractors shall, without local customization, use the standardized claim formats for processing health care claims as adopted by the National Uniform Claim Committee and the National Uniform Billing Committee and

implemented pursuant to the Health Insurance Portability and Accountability Act. A carrier and its subcontractors shall, without local customization, adopt and routinely process all changes to such formats which shall be effective on the same date as the implementation date established by the entity implementing the formats.

(c) Except for the requirements for consistency and uniformity in coding patient diagnostic information and patient care service and procedure information, this section shall not modify or supersede a carrier's or its subcontractor's payment policy, utilization review policy or benefits under a health benefit plan. Nothing in this section shall further preclude a carrier or a subcontractor thereof from adjudicating a claim pursuant to its billing guidelines, payment policies, provider contracts or health benefit plans.

(d) Carriers and subcontractors thereof shall accept and recognize at least 85 per cent of all claims submitted by health care providers pursuant to this section.

Section 5B. To ensure uniformity and consistency in the submission and processing of claims for health care services pursuant to section 5A, the bureau of managed care within the division of insurance, after consultation with a statewide advisory committee including, but not limited to, representatives of the Massachusetts Hospital Association, the Massachusetts Medical Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health Information Management Association, the Massachusetts Health Data Consortium, a representative of America's Health Insurance Plans, a representative of a MassHealth contracted managed care organization, the executive office of health and human services, the division of health care finance and policy, the health care quality and cost council, the house of representatives and the senate, shall adopt policies and procedures to enforce said section 5A. The policies and procedures shall include a system for reporting inconsistencies related to a carrier's compliance with said section 5A. The bureau shall work jointly with the executive office of health and human services to resolve reports of noncompliance with the requirements of section 61 of chapter 118E. The bureau shall convene the advisory committee annually to review and discuss issues reported by health care providers pursuant to this section and to discuss further recommendations to improve the uniformity and consistency of the reporting of patient diagnostic information and patient care service and procedure information as it relates to the submission and processing of health care claims.

SECTION 27. Section 5A of said chapter 176O, as appearing in section 23, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Carriers and their subcontractors shall accept and recognize all claims submitted by health care providers pursuant to this section.

SECTION 28. The General Laws are hereby amended by inserting after chapter 176Q the following chapter:-

CHAPTER 176R
CONSUMER CHOICE OF NURSE PRACTITIONER SERVICES

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

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; an organization entering into a preferred provider arrangement under chapter 176I; a contributory group general or blanket insurance for persons in the service of the commonwealth under chapter 32A; a contributory group general or blanket insurance for persons in the service of counties, cities, towns and districts, and their dependents under chapter 32B; the medical assistance program administered by the division of medical assistance pursuant to chapter 118E and in accordance with Title XIX of the Social Security Act or any successor statute; and any other medical assistance program operated by a governmental unit for persons categorically eligible for such program.

“Commissioner”, the commissioner of insurance.

“Insured”, an enrollee, covered person, insured, member, policyholder or subscriber of a carrier.

“Nondiscriminatory basis”, a carrier shall be deemed to be providing coverage on a non-discriminatory basis if its plan does not contain any annual or lifetime dollar or unit of service limitation imposed on coverage for the care provided by a nurse practitioner which is less than any annual or lifetime dollar or unit of service limitation imposed on coverage for the same services by other participating providers.

“Nurse practitioner”, a registered nurse who holds authorization in advanced nursing practice as a nurse practitioner under section 80B of chapter 112 and regulations promulgated thereunder.

“Participating provider”, a provider who, under the terms and conditions of a contract with the carrier or with its contractor or subcontractor, has agreed to provide health care services to an insured with an expectation of receiving payment, other than coinsurance, co-payments or deductibles, directly or indirectly from the carrier.

“Primary care provider”, a health care professional qualified to provide general medical care for common health care problems, supervises, coordinates, prescribes, or otherwise provides or proposes health care services, initiates referrals for specialist care, and maintains continuity of care within the scope of practice.

Section 2. The commissioner and the group insurance commission shall require that all carriers recognize nurse practitioners as participating providers subject to section 3 and shall include coverage on a nondiscriminatory basis to their insureds for care provided by nurse practitioners for the purposes of health maintenance, diagnosis and treatment. Such coverage shall include benefits for primary care, intermediate care and inpatient care, includ-

ing care provided in a hospital, clinic, professional office, home care setting, long-term care setting, mental health or substance abuse program, or any other setting when rendered by a nurse practitioner who is a participating provider and is practicing within the scope of his professional license to the extent that such policy or contract currently provides benefits for identical services rendered by a provider of health care licensed by the commonwealth.

Section 3. A participating provider nurse practitioner practicing within the scope of his license including all regulations requiring collaboration with a physician under section 80B of chapter 112, shall be considered qualified within the carrier's definition of primary care provider to an insured.

Section 4. Notwithstanding any general or special law to the contrary, a carrier that requires the designation of a primary care provider shall provide its insured with an opportunity to select a participating provider nurse practitioner as a primary care provider or to change its primary care provider to a participating provider nurse practitioner at any time during their coverage period.

Section 5. Notwithstanding any general or special law to the contrary, a carrier shall ensure that all participating provider nurse practitioners are included on any publicly accessible list of participating providers for the carrier.

Section 6. A complaint for noncompliance against a carrier shall be filed with and investigated by the commissioner or the group insurance commission, whichever shall have regulatory authority over the carrier. The commissioner and the group insurance commission shall promulgate regulations to enforce this chapter.

SECTION 29. Notwithstanding any general or special law to the contrary, the first report of the health care workforce center required by section 25L of chapter 111 of the General Laws shall be filed on or before December 31, 2009 and shall focus on the primary care workforce, defined as physicians with a medical specialty in family medicine, internal medicine, pediatrics, and obstetrics/gynecology or nurse practitioners practicing as primary care providers.

SECTION 30. Notwithstanding any general or special law to the contrary, the office of Medicaid, subject to appropriation and the availability of federal financial participation, and in consultation with the MassHealth payment policy advisory board, shall establish a medical home demonstration project. Within the demonstration project the office of Medicaid shall restructure its payment system to support primary care practices that use a medical home model and shall develop a program to support primary care providers in developing an organizational structure necessary to provide a medical home. The office of Medicaid shall work with Medicaid managed care organizations to develop and implement the project.

The office shall consider payment methodologies that support care-coordination through multi-disciplinary teams, including payment for care of patients with chronic diseases and the elderly, and that encourage services such as: (i) patient or family education for patients with chronic diseases; (ii) home-based services; (iii) telephonic communication;

(iv) group care; and (v) culturally and linguistically appropriate care. Payment shall reward quality and improved patient outcomes.

The office shall identify practices, for participation in the project, that provide care to its patients using a medical home model, which at minimum shall include primary care practices with a multi-specialty team that provides patient-centered care coordination through the use of health information technology and chronic disease registries, across the patient's life-span and across all domains of the health care system and the patient's community.

The office shall promulgate regulations for the phase-in and implementation of this demonstration project.

The office, subject to appropriation and in coordination with the health care workforce center and the Massachusetts Academy of Family Physicians, shall develop a program to provide support to practices interested in developing an organizational structure necessary to provide a medical home.

The office shall conduct an annual project evaluation including documentation of cost savings achieved through implementation; health care screening rates, outcomes and hospitalization rates for patients with chronic illnesses such as pediatric asthma, diabetes, heart disease, hospitalization and readmission rates for the frail elderly. The office shall submit a report of the evaluation to the senate and house chairs of the joint committee on health care financing and the chairs of the senate and house committees on ways and means.

SECTION 31. Notwithstanding any general or special law to the contrary, the trustees of the University of Massachusetts shall expand the entering class at its medical school and increase residencies for medical school graduates for students committed to entering the primary care field and to working in underserved regions of the commonwealth. The trustees shall develop a master plan for expanding medical student enrollment and increasing internships and residencies for medical school graduates who are committed to primary care and work in underserved regions without reducing academic quality, together with a financial plan to support such expansion, and shall report that plan to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing and the house and senate committees on ways and means on or before January 1, 2009.

SECTION 32. Notwithstanding any general or special law to the contrary, the trustees of the University of Massachusetts, in conjunction with the state health education center at the University of Massachusetts medical center, shall establish and maintain an enhanced learning contract program available to medical students every academic year. The program shall provide full waivers of tuition and fees at the University of Massachusetts medical school. In exchange for the waivers, the contract shall require at least 4 years of service within the commonwealth in areas of primary care, public or community service or underserved areas, as determined by the health care workforce center established under section 25L of chapter 111 of the General Laws and the learning contract committee, in coordination with the area health education center and state and regional health planning agencies. If a student fails to perform the service required by an enhanced learning contract,

that student shall pay the difference between the tuition paid and double the amount of the tuition charged together with an origination fee, interest per annum at prime rate as reported at the time of origination by the Federal Reserve, a margin and repayment fee as established by the board. No service or tuition loan repayment shall be required prior to the termination of any internship and residency requirements. Interest shall begin to accrue upon completion of the requirements for the degree. The commonwealth shall bear the cost of such tuition and fee waivers for enhanced learning contracts. The dean of the medical school shall report annually the number of students participating in enhanced learning contracts, the area of medicine within which payback is to be performed and the number of students utilizing the repayment option. The report shall also outline the effects of payback in the underserved areas of the commonwealth.

SECTION 33. (a) Notwithstanding any general or special law to the contrary, there shall be established and set up on the books of the commonwealth a separate fund to be known as the Massachusetts Nursing and Allied Health Workforce Development Trust Fund to which shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, and additional funds, including federal grants or loans or private donations made available to the commissioner of higher education for this purpose. The department of higher education shall hold the fund in an account separate and apart from other funds or accounts. Amounts credited to the fund shall be expended by the commissioner of higher education to carry out subsection (b). Any balance in the fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(b) the fund shall be used to develop and support, in consultation with the Massachusetts Nursing and Allied Health Workforce Development Advisory Committee, short-term and long-term strategies to increase the number of public and private higher education faculty and students who participate in programs that support careers in fields related to nursing and allied health. The commissioner of higher education may expend such funds as may be necessary for the administration of the Massachusetts Nursing and Allied Health Workforce Development Initiative. In furtherance of these public purposes, the commissioner of higher education shall expend funds in the fund for activities that are calculated to increase the number of qualified nursing and allied health faculty and students and improve the nursing and allied health educational offerings available in public higher education institutions. Grants and other disbursements and activities may involve, without limitation, the University of Massachusetts, state and community colleges, private higher education institutions, private higher education institutions in partnership with public higher education institutions, business and industry partnerships, regional alliances, workforce investment boards, organizations granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code and other community groups which promote the nursing profession. Grants and other disbursements and activities may support, without limitation: (i) the goal of rapidly increasing the number of nurses and allied health workers; (ii) enhancing the role

of the system of public and private higher education, as institutions and in partnerships with other stakeholders, in meeting the short-term and long-term workforce challenges in the nursing and allied health professions; (iii) the development and use of innovative curricula, courses, programs and modes of delivering education in nursing and allied health professions for faculty and students in these fields; (iv) activities with the growing network of stakeholders in the nursing and allied health professions to create, implement, share and make broadly and publicly available best practices and innovative programs relative to instruction, development of partnerships and expanding and maintaining faculty and student involvement in careers in these fields; and (v) strengthening the institutional capacity to develop and implement long-term programs and policies to effectively respond to these challenges.

SECTION 34. Notwithstanding any general or special law to the contrary, the department of housing and community development, in consultation with the executive office of health and human services, the department of workforce development and the Massachusetts housing finance agency, shall establish a pilot grant or loan program to assist hospitals, community health centers, and physician practices in providing housing grants or loans for health care professionals who commit to practicing in underserved areas, identified by the health care workforce center, established under section 25L of chapter 111, and who meet income eligibility guidelines established by the department. Grants and loans may be used for: (i) purchasing a principal residence, including cooperative housing, that falls within price guidelines established by the department, including costs for down payments, mortgage interest rate buy-downs, closing costs and other costs determined to be eligible by the department; and (ii) payments for security deposits and advance payments for rental housing. The department, to the extent possible shall seek matching funds from hospitals and other private entities.

The department shall promulgate rules and regulations for the administration and enforcement of this section including, establishing provisions for eligibility, specifying the expenses for which grants and loans may be made, and determining the procedures necessary to qualify for assistance.

Two years after the commencement of the pilot program, the department shall report to the house and senate committees on ways and means, the joint committee on housing and the joint committee on health care financing, the results of the pilot program and shall recommend it for expansion, continuation or discontinuation.

SECTION 35. (a) Notwithstanding any general or special laws to the contrary, the division of health care finance and policy, in conjunction with the division of insurance, shall examine options and alternatives available to the commonwealth to provide regulation, oversight and disposition of the reserves, endowments and surpluses of health insurers and hospitals.

(b) The division shall conduct a study relative to health insurers, including health maintenance organizations and acute care and non-acute care hospitals. The study shall include, but not be limited to: (1) an analysis of the laws, regulations and other measures currently in effect in the commonwealth which regulate the amount, nature and disposition

of surpluses held by or for the benefit of health insurers in excess of amounts reasonably anticipated to be required to pay claims, taking into account the level of such reserves and surpluses necessary to safeguard the solvency of health insurers against unanticipated events and other circumstances which may cause extraordinary medical losses; (2) an analysis of federal and state law, regulations and other measures currently in effect which regulate the amount, nature and disposition of surpluses and endowments held by or for the benefit of hospitals in excess of amounts reasonably anticipated to be required to perform and support services provided by the hospital and to guard against unanticipated events and other circumstances; (3) a review of recent fiscal practices and financial reporting by health insurers relative to reserves and surpluses and of hospital fiscal practices and financial reporting required by general or special law; (4) a comparison of the commonwealth's current statutes and regulations with those of other states which the commission deems to be reasonably comparable to those of the commonwealth; (5) a review and assessment of model acts and regulations and any other information which the commission finds to be relevant to its inquiry; and (6) a review of the method by which health insurers and hospitals fund community benefit programs including, but not limited to, the manner by which funding is regulated by other states as to the appropriate amount, monitoring and direction of such funding. In compiling this report, the division shall seek input from health plans and hospitals operating in the commonwealth, the attorney general, the executive office of health and human services, and the health care quality and cost council, established in section 16K of section 6A of the General Laws. In conducting its examination, the division shall, to the extent possible, obtain and use actual health plan and hospital data and such data shall be confidential and shall not be a public record under clause twenty-sixth of section 7 of chapter 4 of the General Laws or section 10 of chapter 66 of the General Laws.

(c) The division may contract with another entity with the requisite objective financial and actuarial expertise to assist the division in conducting its study.

(d) The division shall file a report of its findings and recommendations with the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on health care financing not later than July 1, 2009.

SECTION 36. Notwithstanding any general or special law to the contrary, on or before October 1, 2012, the department of public health shall adopt regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and renewal of licensure, to implement computerized physician order entry systems as defined by the department. The systems shall be certified by the Certification Commission for Healthcare Information Technology or a successor agency or organization established for the purpose of certifying that health information technology meets national interoperability standards.

SECTION 37. Notwithstanding any general or special law to the contrary, on or before October 1, 2015, the department of public health shall adopt regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and

renewal of licensure, to implement interoperable electronic health records systems, as defined by the department. The system shall be certified by the Certification Commission for Healthcare Information Technology or a successor agency or organization established for the purpose of certifying that health information technology meets national interoperability standards.

SECTION 38. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall maximize enrollment of eligible persons in the MassHealth Senior Care Options program, the Program of All Inclusive Care for the Elderly, the Enhanced Community Options Program and the Community Choices program, or comparable successor programs, and shall develop dual eligible plans. For the purposes of this section, "dual eligible plans" shall be plans that offer similar coverage to Medicaid and Medicare-eligible disabled persons under age 65.

Not later than 6 months after the effective date of this act, the executive office of health and human services shall prepare a report identifying clinical, administrative and financial barriers to expanded dual eligible plans, and shall recommend steps to remove the barriers and implement the plans. Before finalizing the report, the executive office shall hold a public consultative session that shall include organizations representing seniors, organizations representing disabled persons, organizations representing health care consumers, organizations representing racial and ethnic minorities, health delivery systems and health care providers. The report shall include consideration of changes in procurement standards and MassHealth payment methodologies to promote enrollment in dual eligible plans. The report shall include estimates of the costs and benefits of implementing steps to remove barriers to expanded enrollment in dual eligible plans, including financial savings and improved quality of care.

The report shall be provided to the committee on health care financing and the house and senate committees on ways and means. Subject to appropriation, the executive office of health and human services shall implement any steps recommended by the report. Not later than 1 year after the filing of the report, the executive office shall issue a progress statement on expanded enrollment in dual eligible plans.

SECTION 39. Notwithstanding any general or special law to the contrary, the division of insurance shall conduct an investigation and study of the costs of medical malpractice coverage for health care providers, as defined in section 193U of chapter 175 of the General Laws. The investigation and study shall include, but not be limited to, an examination and analysis of the following: (1) the availability and affordability of medical malpractice insurance; (2) the factors considered by medical malpractice insurers when increasing premiums; (3) options for decreasing premiums including, but not limited to, establishing a reinsurance pool with additional stop loss coverage, subsidizing premium payments of providers practicing in certain high-risk specialties or in specialties for which the cost of premiums represents a disproportionately high proportion of a health care provider's income, subsidizing premium payments of providers who do not qualify for group

coverage rates and pay higher premiums for commercial market insurance and prorating premiums for providers who practice less than full-time; and (4) funding mechanisms that would facilitate the implementation of recommendations arising out of the study which may include, but shall not be limited to, charges borne by the health care industry or other entities. The division shall hold at least 2 public hearings to take testimony relating to the investigation and study, 1 of which shall be held outside the metropolitan Boston area. The division shall report its findings and recommendations to the clerk of the house of representatives who shall forward the same to the house and senate committee on ways and means and the joint committee on health care financing on or before January 1, 2009.

SECTION 40. Notwithstanding any general or special law to the contrary, the MassHealth payment policy advisory board, established in section 16M of chapter 6A of the General Laws, shall conduct a study of the need for an increase in Medicaid rates or bonuses for primary care physicians, nurse practitioners and subspecialists who provide primary care services, such as preventive care, certain evaluation and management procedures, early periodic screening, diagnosis and treatment and scheduled weekend and holiday services, in order to focus on prevention and wellness and delivery of primary care to identify illness earlier, to better manage chronic disease and to avoid costs associated with emergency room visits and hospitalizations. The committee shall report its findings, including recommendations for the amount of funding and the sources of funding, to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing, and the house and senate committees on ways and means on or before January 1, 2009.

SECTION 41. Notwithstanding any general or special law to the contrary, the executive office of health and human services, in consultation with the health care quality and cost council, commission on end-of-life care established by section 480 of chapter 159 of the Acts of 2000, and the Betsy Lehman Center for Patient Safety and the Reduction of Medical Errors, shall convene an expert panel on end-of-life care for patients with serious chronic illnesses. The panel shall investigate and study health care delivery for these patients and the variations in delivery of such care among health care providers in the commonwealth. For the purposes of this investigation and study, "health care providers" shall mean facilities and health care professionals licensed to provide acute inpatient hospital care, outpatient services, skilled nursing, rehabilitation and long-term hospital care, home health care and hospice services. The panel shall identify best practices for end-of-life care, including those that minimize disparities in care delivery and variations in practice or spending among geographic regions and hospitals, and shall present recommendations for any legislative, regulatory, or other policy changes necessary to implement its recommendations.

SECTION 42. Notwithstanding any general or special law to the contrary, on or before January 1, 2009, the executive office of health and human services, in consultation with the commission on end-of-life care established by section 480 of chapter 159 of the acts of 2000, shall initiate a public awareness campaign to highlight the importance of end-of-life

care planning. The campaign shall include, but not be limited to, dissemination of information and other activities that educate the public about existing options for care at the end of life and how to communicate their end-of-life care wishes to family members and health care providers.

SECTION 43. Notwithstanding any general or special law to the contrary, the executive office of health and human services, in consultation with the commission on end-of-life care established by section 480 of chapter 159 of the acts of 2000, shall establish a pilot program to test the implementation of the physician order for life-sustaining treatment paradigm program to assist individuals in communicating end-of-life care directives across care settings in at least 1 region of the commonwealth. The pilot program shall include educational outreach to patients, families, caregivers and health care providers regarding the physician order for life-sustaining treatment paradigm program. The executive office of health and human services, in conjunction with the end-of-life commission, shall develop measures to test the success of the pilot program and make recommendations for the establishment of a state-wide program.

SECTION 44. (a) Notwithstanding any general or special law to the contrary, there shall be a special commission on the health care payment system that shall investigate reforming and restructuring the system to provide incentives for efficient and effective patient-centered care and to reduce variations in the quality and cost of care.

(b) The commission shall consist of the secretary of administration and finance and the commissioner of health care finance and policy, who shall serve as co-chairs, the executive director of the group insurance commission, 1 person to be appointed by the senate president, 1 person to be appointed by the speaker of the house, and 5 members to be appointed by the Governor, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Medical Society, and 1 of whom shall be a health economist or expert in the area of payment methodology.

The commission shall adopt rules and establish procedures it considers necessary for the conduct of its business. The commission may expend funds as may be appropriated or made available for its purposes. No action of the commission shall be considered official unless approved by a majority vote of the commission.

(c) The commission (i) shall examine payment methodologies and purchasing strategies, including, but not limited to, alternatives to fee-for-service models such as blended capitation rates, episodes-of-care payments, medical home models, and global budgets; pay-for-performance programs; tiering of providers; and evidence-based purchasing strategies, (ii) recommend a common transparent payment methodology that promotes coordination of care and chronic disease management; rewards primary care physicians for improving health outcomes; reduces waste and duplication in clinical care; decreases unnecessary hospitalizations and use of ancillary services; and provides appropriate reimbursement for investment

in health information technology that reduces medical errors and enables coordination of care, and (iii) recommend a plan for the implementation of the common payment methodology across all public and private payers in the commonwealth, including a plan under which the commonwealth shall seek a waiver from federal Medicare rules to facilitate the implementation of the common payment system.

(d) In making its investigation, the commission shall consult with the health care quality and cost council, the division of health care finance and policy, health care economists, and others individuals or organizations with expertise in state and federal health care payment methodologies and reforms. The commission shall use data and recommendations gathered in the course of these consultations as a basis for its findings and recommendations.

(e) The commission shall file a report of its findings and recommendations, including any proposed legislation needed to implement the recommendations.

(f) The attorney general shall, in consultation with the commissioner of health care finance and policy, adopt rules, regulations or guidelines necessary and appropriate to provide active state supervision for the administration of this section. The commissioner of health care finance and policy may terminate any action taken pursuant to this section that does not support the purposes of this section or the terms of the regulations promulgated pursuant to this section that provide oversight for the commission.

Before a final vote on any recommendations, the commission shall consult with a reasonable variety of parties likely to be affected by its recommendations, including, but not limited to, the office of Medicaid, the division of health care finance and policy, the commonwealth health insurance connector, the Massachusetts Council of Community Hospitals, Inc., the Massachusetts League of Community Health Centers, Inc., 1 or more academic medical centers, 1 or more hospitals with a high proportion of public payors, 1 or more Taft-Hartley plans, 1 or more self-insured plans with membership of more than 500, the Massachusetts Municipal Association, Inc. and organizations representing health care consumers.

The commission shall hold its first meeting no later than September 15, 2008 and shall file the report of its findings and recommendations together with legislation, if any, with the clerks of the senate and the house of representatives and with the governor no later than April 1, 2009.

Any person or entity acting under the authority of any rule, regulation or guideline adopted pursuant to this section shall be engaged in action under state policy and shall be immune from antitrust liability to the same degree and extent as the Commonwealth.

SECTION 45. Any entity providing ambulatory surgical center services which is in operation or under construction, as determined by the department of public health, on the effective date of this act shall be exempt from the determination of need requirement of section 53G of chapter 111 of the General Laws and shall be eligible, pursuant to said section 53G of said chapter 111, to make application to the department for a clinic license for up to 6 months after the effective date of regulations adopted by the department pursuant to said section 53G of said chapter 111.

SECTION 46. Section 7 shall apply to any project seeking written approval of final architectural plans, pursuant to section 51 of chapter 111 of the General Laws 6 months or more after the effective day of this act.

SECTION 47. Notwithstanding any general or special law to the contrary, the department of public health shall review the Mass COMM Percutaneous Coronary Intervention trial and shall determine any adjustments or changes the department may enact to accelerate the trial without jeopardizing the validity of the study. The department shall immediately take action to implement such changes and shall report its findings and any necessary legislative recommendations to the joint committee on health care financing and the house and senate committees on ways and means no later than October 31, 2008.

SECTION 48. Notwithstanding any general or special law to the contrary, the department of public health shall promulgate regulations necessary to implement, administration and enforcement of section 4N of chapter 111 of the General Laws in accordance with chapter 30A on or before October 1, 2008, and shall begin implementation of the outreach and education program established under said section 4N on or before January 1, 2009.

SECTION 49. Notwithstanding any general or special law to the contrary, the bureau of managed care within the division of insurance shall convene the first advisory committee required under section 5B of chapter 176O of the General Laws on or before January 1, 2009.

SECTION 50. Notwithstanding any general or special law to the contrary, the secretary of administration and finance and the secretary of health and human services shall prepare and submit a report to the general court about the allocation for and use of state funds by acute care hospitals, non-acute care hospitals, Medicaid managed care organizations, other managed care organizations, community health centers and carriers contracting with the commonwealth health insurance connector authority to provide coverage under chapter 118H or any other publicly funded program. The report shall include: (1) a comprehensive review of the current manner, amount and purposes of annual state funding received by those entities, including a description of the source of the funding; (2) an assessment of the change in total state funding for those entities over the past 5 years, with particular attention paid to the impact of chapter 58 of the acts of 2006; (3) an assessment of how those entities use state funds; (4) an assessment of whether the current payment structure assures the delivery of quality health care in the most cost-effective way; (5) an analysis of financial and management practices of those entities by benchmarking performance with respect to quality and cost effectiveness against national performance levels and similar health care providers in the commonwealth; (6) identification of common factors that may contribute to the fiscal instability of those entities; (7) recommendations for the development of performance and operational benchmarks; (8) recommendations for ensuring that the entities are spending state and other funds in a fiscally-responsible manner and providing quality care; (9) recommendations for legislative and other action necessary to strengthen state oversight and ensure greater accountability of state resources; (10) an assessment of the manner in which

hospitals seek payment from consumers, including an analysis of the impact that court filing fees have on their ability to collect payment; and (11) recommendations for regulations regarding the due diligence that facilities shall exercise in seeking to collect payment from consumers before seeking reimbursement from the commonwealth.

SECTION 51. Notwithstanding any general or special law to the contrary, on or before July 31, 2012, the e-Health institute, in consultation with the health information technology council established by section 6D of chapter 40J, shall submit a report to the joint committee on health care financing and the senate and house committees on ways and means on the status of health information technology in the commonwealth. The report shall include the status of: (i) the implementation and use of electronic health records systems, such as rate of provider participation; (ii) the statewide interoperable electronic health records network and its capacity to exchange health information between and among components of the health system, with special focus on ambulatory care providers; (iii) the security and privacy of health information technology developed and disseminated through activities of the council; and (iv) the impact of health information technology on health care quality, health outcomes of patients, and health care costs.

SECTION 52. Notwithstanding any general or special law to the contrary, the health e-Health institute and the health information technology oversight council, established by section 6D of chapter 40J of the General Laws, shall have as its goal full implementation of electronic health records systems and the statewide interoperable electronic health records network by January 1, 2015.

SECTION 53. Notwithstanding any general or special law to the contrary, the secretary of health and human services, in consultation with the health care quality and cost council, shall: (i) examine the feasibility of the commonwealth entering into an interstate compact with 1 or more states to establish an independent entity to research the comparative effectiveness of medical procedures, drugs, devices, and biologics, so that research results can be used as a basis for health care purchasing and payment decisions, and (ii) make recommendations concerning the entity's design. The secretary shall consider existing state and country models, including, but not limited to, the Washington State Health Care Authority's Health Technology Assessment program, the National Institute for Health and Clinical Excellence in Britain, and the Institut für Qualität und Wirtschaftlichkeit im Gesundheitswesen in Germany. The secretary shall file a report with the results of the study together with legislation, if any, with the clerk of the senate and the clerk of the house of representatives on or before March 30, 2009.

SECTION 54. Item 1599-2008 of chapter 182 of the acts of 2008 is hereby amended by striking the following words:- , inspector general's office.

SECTION 55. Chapter 182 of the acts of 2008 is hereby amended by striking out section 10.

SECTION 56. Chapter 182 of the acts of 2008 is hereby amended in section 87 by striking out the words:- "established in section 10 of this act".

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SECTION 57. Section 10 shall take effect on October 1, 2012.

SECTION 58. Section 15 shall take effect on January 1, 2015.

SECTION 59. Subsection (d) of section 61 of chapter 118E of the General Laws, as appearing in section 18 shall take effect on January 1, 2011.

SECTION 60. Sections 19 and 27 shall take effect on July 1, 2012.

SECTION 61. Subsection (d) of section 5A of chapter 176O of the General Laws, as appearing in section 26 shall take effect on January 1, 2011.

SECTION 62. Sections 14, 28 and 42 shall take effect on January 1, 2009.

Approved August 10, 2008

Chapter 306. AN ACT AUTHORIZING THE ROSE FITZGERALD KENNEDY GREENWAY CONSERVANCY, INC. TO OPERATE, MANAGE AND MAINTAIN THE ROSE KENNEDY GREENWAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the preservation, operation, maintenance and improvement of certain open space and parkland in the city of Boston, referred to as the Rose Kennedy Greenway, 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 other general or special law to the contrary, the following entities shall have all the rights, powers and responsibilities enumerated herein: The Rose Fitzgerald Kennedy Greenway Conservancy, Inc., a private, charitable, non-profit corporation created by articles of organization; duly filed with the secretary of state's office on July 15, 2004; the city of Boston; the Massachusetts Turnpike Authority; and the commonwealth. Nothing in this act shall be construed as establishing the conservancy as a governmental body. The memorandum of agreement entered into by the conservancy, the city of Boston, the Massachusetts Turnpike Authority and the commonwealth on July 12, 2004, shall be terminated as between the conservancy, the authority, the commonwealth and the city, upon the execution of the lease between the conservancy and the authority authorized in section 10, and thereafter this act shall supersede in all respects the terms set forth in the memorandum of agreement.

SECTION 2. As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:-

"Agreement", the lease or other agreement between the conservancy and the authority authorized by section 10.

"Authority", the Massachusetts Turnpike Authority.

“Board”, the board of directors of the conservancy.

“Boston zoning code”, that code as now amended and as may be amended in the future, adopted under and subject to chapter 665 of the acts of 1956.

“By-laws”, the by-laws of the conservancy as may be amended from time to time.

“City”, the city of Boston, acting by and through its mayor.

“City layout”, the system of city streets and sidewalks adjacent to the greenway and the other open space parcels, as approved or adopted by the city’s public improvement commission in accordance with applicable law.

“Commonwealth”, the commonwealth of Massachusetts, acting by and through its executive office for administration and finance and its executive office for transportation and construction.

“Conservancy”, the Rose Fitzgerald Kennedy Greenway Conservancy, Inc.

“Development parcels”, parcels 1, 1B, 2, 2A, 2C, 6, 9, 11A, 12 and 18 located between Causeway street and Kneeland street, as shown on the plan referred to herein and for which a real estate development agreement has been executed by the authority.

“Greenway”, the open space and park parcels between the northerly limit of Causeway street and the southerly limit of Kneeland street in the city, not including the development parcels, and including at a minimum parcels 5, 8, 10, 13, 14, 15, 16, 17, 19, 21, 22 and 23 a through d, inclusive, as shown on the plan, together with any additional parcels and other areas as may not be developed by the authority, or as the legislature may from time to time add to the greenway, provided, however, that in no event shall the greenway include any element or space, deemed by the written certification of the authority’s executive director and chief engineer, to be necessary for the use, operation or maintenance of the Thomas P. O’Neill, Jr. tunnel.

“Greenway leadership council”, or “council”, the advisory body of community members provided in section 9.

“Mayor”, the mayor of the city of Boston or his designee.

“Other open space parcels”, all other landscaped and sidewalk areas owned by the authority and shown on the plan that are not used exclusively for highway purposes, as well as such of development parcels 6, 12 and 18, for which the authority has not then executed a development agreement and such other properties as may be agreed to by the conservancy and the authority; provided, however, that in no event shall the other open space parcels include any element or space deemed by the written certification of the authority’s executive director and chief engineer to be necessary for the use, operation or maintenance of the Thomas P. O’Neill, Jr. tunnel.

“Plan”, a plan entitled “Parcel Land Use – Massachusetts Turnpike Authority - 2008”, drawn by Don Kindsvatter, April – 1999 and most recently revised May 2008, the original of which is to be kept on file at the office of the authority, and copies of which are to be filed by the authority with the clerk of the senate, the clerk of the house of representatives, and the secretary of the commonwealth.

“Programming” or “program”, the scheduling and permitting of events and other activities to be conducted on the greenway or other open space parcels.

“Public realm”, the city sidewalks located between Causeway street and Kneeland street in the city that are adjacent to the greenway, the development parcels, and the other open space parcels, all as shown on the plan.

“Special agreements” agreements with the city governing maintenance responsibility issues arising from special features, materials, treatment or use of the public realm.

SECTION 3. (a) The conservancy shall have the following responsibilities:-

(1) to operate, manage, improve and maintain the greenway and the other open space parcels beginning December 1, 2008 or sooner as the responsibility for those activities is transferred from the authority;

(2) to enter into a lease with the authority to operate, preserve, maintain, program and manage the greenway and the other open space parcels as a first class public space in accordance with the terms of any such lease, provided that the conservancy shall not have the power to sublease, mortgage, alienate, pledge as security or encumber the greenway or the other open space parcels without the enactment of further legislation, and provided further that the greenway shall be treated as a public park and a traditional open public forum without limiting free speech, and entitled in all respects to protections afforded to public parkland under article XCVII of the amendments to the Massachusetts constitution;

(3) to accept, by transfer of deed, lease or otherwise, public or private property that relates to or enhances the conservancy’s mission as set forth herein, but not to further alienate said property;

(4) to adopt rules and regulations governing conduct and activity within the greenway and the other open space parcels, after consultation with the commissioner of the department of conservation and recreation and the greenway leadership council, and subject to the approval of the authority;

(5) to take action, consistent with its powers enumerated herein, to ensure that the greenway and the other open space parcels are maintained at a high standard;

(6) to receive and accept contributions or grants for aid in the operation, management and maintenance of the greenway, the other open space parcels and the public realm, from the commonwealth, or any public instrumentality or any political subdivision thereof, or any federal agency or private entity or individual;

(7) to create and make available to the public an annual statement of goals, and annual review of goals pursuant to section 7.

(b) The conservancy shall have the following powers:-

(1) to adopt, amend and re-state its by-laws for the regulation of its affairs and the conduct of its business;

(2) to enter into 1 or more agreements or special agreements with the city to maintain the public realm and, as necessary, to fulfill other provisions of this act;

(3) to accept, by transfer of deed, lease or otherwise, public or private property that relates to or enhances the conservancy’s mission as set forth herein, but not to further alienate

said property;

(4) to develop and implement a protocol regarding the development or construction of any design-features, memorials, buildings or structures of any kind located within the greenway or the other open space parcels following a duly noticed public hearing; provided, however, that said protocol shall include a requirement for review and comment by the leadership council; and provided, further, that (i) the authority shall have the right to review and approve all such design-features, memorials, buildings or structures, and (ii) all such buildings and structures shall be subject to compliance with the city zoning code to the full extent such code is applicable as of the date hereof;

(5) to review in a manner consistent with city of Boston ordinances and to advise the city's parks and recreation commission, with respect to the construction or alteration of any building or structure within 100 feet of the greenway or the other open space parcels, provided that nothing herein shall be construed to alter or diminish the city's authority over the development of any building or structure on the development parcels or within 100 feet of the greenway or the other open space parcels;

(6) to enter into contracts and agreements with the commonwealth, the authority, the city, any leaseholder of a development parcel, any owner or leaseholder of property adjacent to the greenway and the other open space parcels, and any other entity or individual in furtherance of its rights and powers under this act, provided that any contract or agreement between the conservancy and the commonwealth, the authority, the city or any other public agency shall be a public record and that all documents and records made in connection with the use and expenditure of public funds shall be considered public records as that term is defined by state law; and

(7) to do all other acts and things that are consistent with its powers as set forth herein and with its status as a charitable corporation under applicable internal revenue service rules.

SECTION 4. The conservancy shall retain and use as part of its permanent endowment certain funds, specifically \$5,000,000 received from the authority as a dollar for dollar match from private and other contributions.

SECTION 5. The commonwealth, acting by and through the department of highways, shall, in consultation with the authority and the city, lay out and establish a system of city streets and sidewalks and vest the city with a public way easement within the area of the greenway. The city layout shall be subject to the prior approval of the city, acting by and through its public improvement commission, which shall be deemed to be in full satisfaction of the commonwealth's obligation to create such a street and sidewalk system pursuant to that certain land disposition agreement dated June 12, 1992, and which shall be sufficient evidence to establish such ways and sidewalks in the city for all purposes. The conservancy and the city may execute 1 or more special agreements providing that the conservancy shall maintain the public realm.

SECTION 6. The conservancy shall program the greenway and the other open space parcels it is responsible to operate, manage and maintain in accordance with the lease and this legislation. All programming, once approved by the conservancy, shall be subject to all

applicable city ordinances and regulations regarding licensure and permitting. In consideration of the agreement between the authority and the conservancy for the operation, maintenance and management of the greenway and the other open space parcels, the conservancy may charge reasonable fees for programming on the greenway and the other open space parcels to the party sponsoring the program, and revenues earned from such programming fees shall be paid to the conservancy; provided that the treatment and use of such fees shall be subject to compliance with applicable federal law and the agreement.

SECTION 7. Not later than January 31, 2010 and annually thereafter, the conservancy shall prepare an annual statement describing its goals for the upcoming year. At a minimum, the statement shall include the following: (a) the number and nature of events and program activities to be conducted during the year; (b) the number and characteristics of the public expected to participate in these events; (c) any fees or charges to the public associated with the planned activities and the planned use of such fees or charges; (d) maintenance activities to be undertaken; and (e) any physical modifications or improvements to be carried out.

Not later than 3 months after the close of the calendar year, the conservancy shall prepare an annual report describing its performance against the goals for the prior year, and detailing all revenues and expenditures of funds for the prior year, regardless of source. The conservancy shall submit said report to the authority, the secretary of transportation and public works, the commissioner of the department of conservation and recreation, the clerks of the house and senate, the city, and the greenway leadership council.

The conservancy shall present the annual report and statement to the public at the annual meeting. The conservancy shall hold 3 additional public meetings, quarterly, to discuss and present, at a minimum, updates and changes to the statement.

SECTION 8. The conservancy shall be governed by a board of directors which shall be dedicated to ensuring that the greenway is operated, maintained, managed and actively programmed, financed and improved to the highest standards and in accordance with this act, its articles of organization and by-laws. The by-laws shall contain at a minimum provisions to advance the public's interest in the greenway and the other open space parcels and create an important resource of national, regional and statewide significance for residents and visitors to the city and the neighborhoods and districts in which it is situated, and shall be otherwise amended as necessary to be consistent with the provisions of this act. In the event of conflict between the by-laws and any portion of this act, this act shall control. The board shall meet regularly and shall conduct a public annual meeting at a convenient location in the city of Boston. All deliberations of the board concerning: (i) the use and expenditure of public funds; (ii) agreements with public agencies; and (iii) the exercise of its powers under clauses (4) and (5) of subsection (b) of section 3 herein, shall be conducted in open session.

The board of directors shall consist of 15 persons who shall be voting members, and 2 non-voting ex officio members, as described herein. The by-laws shall contain provisions ensuring that as a director's term expires, the board of directors fill each vacant position, provided that: (i) the initial chairman of the board shall be the chairman of the conservancy

then serving in that capacity at the time of passage of this act and he shall serve as a director for a term of 3 years and continue as chairman for 1 year from the effective date of this act, and thereafter said chairman or any other member of the board of directors shall be chosen chairman of the board in accordance with the by-laws; (ii) 2 directors shall be residents of the neighborhoods adjoining the greenway 1 such director shall be voted from nominees selected by the state representative representing the third suffolk district for a term of 5 years and 1 such director shall be voted from nominees selected by the state senator representing the first suffolk and first middlesex district for a term of 5 years; (iii) 1 director shall be selected by the board from a list of names provided by the governor; (iv) 1 director shall be selected by the board from a list of names provided by the mayor of the city of Boston; (v) 1 director shall be the chairperson of the greenway leadership council; and (vi) the remaining directors shall be selected for 3 year terms by a majority vote of said board then serving. In addition, the secretary of the executive office of energy and environmental affairs and the secretary of the executive office of transportation and public works, or their respective designees, shall serve as ex officio non-voting members of the board. After the cessation of the initial chairman's term, the future director position caused by the initial chairman's end of term shall be chosen by the then board of directors. The directors serving as such on the effective date of this act shall continue to serve as directors until the end of their respective terms, or resignation or any other reason, and their successors shall be selected by the board in accordance with the provisions of this act and the by-laws. The board shall, following the effective date of this act, select additional members in accordance with this act so that at all times there are 15 directors.

All directors and committee members shall serve without compensation. No director or committee member shall be deemed a public employee or a state, special state, municipal or special municipal employee or a civil officer by virtue of his position as a director or committee member. Other provisions relative to tenure, removal, resignation, quorum, meetings, notices, and the like shall be contained in the by-laws, which may be amended, revised and adopted by the conservancy as it deems appropriate and in a manner not inconsistent with this act or the agreement.

SECTION 9. The board shall appoint a greenway leadership council as described herein. The greenway leadership council shall consist of 13 citizens of the commonwealth each appointed to 2 year terms and shall include residents of each neighborhood abutting the greenway; 2 council members shall be appointed by the board from nominations made by the mayor; 2 council members shall be appointed by the board from nominations made by the governor, 1 of whom shall be the secretary of energy and environmental affairs or his designee; 2 council members shall be appointed from nominations made by the state representative representing the third suffolk district, and 2 council members shall be appointed from nominations made by the state senator representing the first suffolk and first middlesex district. The remaining 5 members of the council shall be chosen by the board and shall have expertise and background in any of the areas of landscape design, landscape maintenance, horticulture, architectural design, urban design, urban parks, city planning, cultural events

and programs, tourism, visual and performing arts, youth programming and programming for those with disabilities. Council membership shall strive to reflect the gender, ethnic, cultural, and applicable neighborhood demography of the city of Boston. The council members serving as such on the effective date of this act shall continue to serve as council members until the end of their respective terms, or resignation or any other reason, and their successors shall be selected by the board in accordance with this act and the by-laws. The board shall, following the effective date of this act, select additional members in accordance with this act so that at all times there are 13 council members.

The council shall act as the advisory committee to the conservancy and shall assume all of the duties of the mayor's central artery completion task force, so-called, with respect to the greenway, the other open space parcels, and the public realm. The council shall elect a chairperson who shall be chosen from among the 2 council members appointed by the mayor, but the chairperson shall also be a resident of a neighborhood abutting the greenway. The chairperson shall establish council meeting agendas and call and moderate meetings of the council. The conservancy shall consult with the council with respect to any additions, modifications or alterations to the greenway or the other open space parcels. The council shall assist the conservancy as representatives of the public interest in the success of the greenway and may contribute to the fundraising, management and programming activities of the conservancy as desired by the board. The council shall meet in a location proximate to the greenway no fewer than 6 times each year. The board shall meet in open session with the council at least quarterly each year.

SECTION 10. The authority shall lease to the conservancy for an initial period not to exceed 25 years, commencing not later than December 1, 2008, at nominal consideration the open space and park parcels within the greenway. The lease may provide for up to 3 separate 10-year extensions. The terms of such lease shall include the terms of this act and be prepared and approved by the secretary of transportation, and shall at a minimum contain covenants: preserving the greenway as park land subject to the protections afforded to public parkland under Article XCVII of the Amendments to the Massachusetts Constitution and ensuring that the greenway and the other open space parcels shall always be open to the general public; providing for the assumption and responsibility for liability coverage; providing for the operation, maintenance and programming, subject to the conservancy's reasonable regulations governing its use. Such lease shall also contain covenants providing: for the provision of 1 or more maintenance facilities for the conservancy by the authority or the commonwealth; that any and all improvements made to the premises shall become those of the authority upon termination or default; that the community participation stipulated herein is adhered to; and that the use and expenditure of public funds received by the conservancy be reported annually to the secretary of transportation and public works and to the chairs of the house and senate committees on ways and means; and shall include such other terms and conditions, consistent with this act, as the said secretary shall deem to be in the public interest. The terms of such lease or agreement shall also contain language defining an event of default as a breach of any covenant contained therein and shall provide remedies

including, but not limited to, specific performance, self help, termination, and transfer of conservancy funds to the commonwealth. On or before December 1, 2008, the secretary of transportation shall prepare and secure the execution of the lease in accord with this act. In the event of a failure by the secretary to complete said lease execution by such date all liability for the greenway shall become the responsibility of the conservancy.

SECTION 11. Chapter 182 of the acts of 2008 is hereby amended by striking out section 89 and inserting in place thereof the following section:-

Section 89. (a) 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 \$41,000,000 or greater, the comptroller shall transfer said amount as follows: (a) \$25,000,000 shall be transferred to said Massachusetts Life Sciences Investment Fund; (b) \$3,000,000 shall be transferred to the Workforce Competitiveness Trust Fund, established in section 2WWW of chapter 29 of the General Laws; (c) \$2,000,000 shall be transferred to the Massachusetts Science, Technology, Engineering, and Mathematics Grant Fund established in section 2MMM of said chapter 29, as so appearing; (d) \$4,000,000 shall be transferred to the Endowment Incentive Holding Fund established in section 7; provided, however, that \$2,000,000 from the Endowment Incentive Holding Fund shall be allocated to University of Massachusetts campuses; provided further, that \$1,000,000 from the 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; (e) \$5,000,000 shall be transferred to the Farm Capital Linked Loan Fund established pursuant to section 29 of chapter 20 of the General Laws; (f) \$2,000,000 shall be transferred to the Rose Fitzgerald Kennedy Greenway Conservancy, Inc. for the purpose of operating, managing, improving and maintaining the Rose Fitzgerald Kennedy Greenway in the city of Boston; provided that upon any transfer made pursuant to this clause, the Massachusetts Turnpike Authority shall have no further obligation to pay any costs related to the operation, management, improvement or maintenance of the greenway and the other open space parcels; and (g) any amount remaining after the transfers pursuant to clause (a) to (f), 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 \$41,000,000, then after making the transfer required in clause (a) of this section, the comptroller shall proportionately reduce the transfers required in clauses (b) to (f), inclusive; and provided further, that allocations from the Endowment Incentive Holding Fund pursuant to clause (d) shall also be proportionately reduced.

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(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, but no such transfer shall cause a deficit in any of the funds.

SECTION 12. To provide for the operation, management, improvement and maintenance of the greenway and the other open space parcels, the commonwealth shall provide financial assistance to the conservancy no later than 30 days prior to the beginning of each fiscal year in an amount equal to 50 per cent of the annual budgeted costs of operating, maintaining, improving and managing the greenway and the other open space parcels, as agreed between the conservancy, the secretary of energy and environmental affairs and the secretary of transportation and public works, for the next succeeding fiscal year, provided that the total annual amount of such financial assistance shall not exceed \$5,500,000, and shall be paid annually from interest earnings on the Central Artery and Statewide Road and Bridge Infrastructure Fund, established in section 63 of chapter 10 of the General Laws. Upon dissolution of the conservancy or termination of the lease, any funds then held by the conservancy shall be paid to the commonwealth.

SECTION 13. Section 63 of chapter 10 of the General Laws is hereby amended by striking out the seventh paragraph, as appearing in the 2006 Official Edition.

SECTION 14. Section 12 shall take effect as of July 1, 2009, and shall expire on June 30, 2012.

SECTION 15. Section 8 shall take effect on December 1, 2008.

Approved August 11, 2008.

Chapter 307. AN ACT RELATIVE TO GREEN JOBS IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote forthwith job creation and clean energy technology, 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 10 of the General laws is hereby amended by striking out section 35FF, inserted by section 10 of chapter 140 of the acts of 2007, and inserting in place thereof the following section:-

Section 35FF. (a) There is hereby established and placed within the Massachusetts clean energy technology center established in section 2 of chapter 23J, hereinafter referred to as the center, a fund to be known as the Massachusetts Alternative and Clean Energy Investment Trust Fund, hereinafter 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, equity ownership in public or private companies or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments, as the same shall be defined by the 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, dividends, equity ownership in public or private companies or the sale of equity instruments, inclusive, shall be deposited in the fund and shall be available expressly to the center without further appropriation.

(b) The center shall, in consultation with the advisory committee established in subsection (d) and the secretary of administration and finance, invest and reinvest the fund and the income thereof only as follows: (1) in the making of qualified investments approved by the board established in subsection (b) of section 2 of chapter 23J, pursuant to rules approved by said board; (2) in 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 total assets of the fund in any 1 fiscal year; (3) in the investment of any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth; (4) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the same become payable; and (5) for the payment of principal or interest on qualified investments secured by the fund or the payment of any redemption premium required to be paid when such qualified investments are redeemed prior to maturity.

(c) The fund shall be held and applied by the center, subject to the approval of the board, and in consultation with said advisory committee to make qualified investments designed to advance the following public purposes in the commonwealth: (1) to stimulate increased financing for the expansion of state-of-the-art clean energy research and development facilities by leveraging private financing and providing financing related thereto including, without limitation, financing for the construction or expansion of such facilities; (2) to provide grants to state educational institutions to develop a curriculum relative to clean energy and clean energy technology; (3) to make targeted investments in clean energy research and to promote manufacturing activities for new or existing advanced clean energy technologies; (4) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant-funding sources to fund the expansion of research and development in clean energy; (5) to provide bridge financing to universities, colleges, public instrumentalities, companies

and other entities in anticipation of the receipt of grants of the type described in clause (4) awarded or to be awarded by the federal government, industry or other sources; (6) to promote programs and investments that lead to pathways towards economic self-sufficiency for low and moderate-income communities in the clean energy industry; provided, however, that said programs shall prioritize investments that serve individuals in families with incomes that do not exceed 300 per cent of the federal poverty level, as determined by the United States Census Bureau or a self-sufficiency standard, as determined by the executive office of administration and finance that shall include but not be limited to, the income needs of families, family size, the number and ages of children in the family and geographical considerations; and (7) to make any other expenditure provided by this section.

The center shall not make a qualified investment under clause (1) of subsection (b) unless: (i) said qualified investment has been approved by a majority vote of the board; and (ii) the center finds that, to the extent possible, said qualified investment is such that a defined benefit to the economy of the commonwealth may reasonably be expected therefrom; provided, however, that in evaluating a request or application for funding, the center shall consider whether: (1) the proposed project fulfills the public purposes of the center; (2) the project has significant potential to expand clean energy related employment in the commonwealth; (3) the project has the potential to enhance technological advancements in clean energy; (4) the project has the potential to result in the development of advancements in environmental protection and reduce the cost of energy; (5) the project has the potential to leverage additional funding or to attract additional energy resources to the commonwealth; (6) the project has the potential to stimulate clean energy manufacturing in the commonwealth; (7) the project includes a plan to facilitate collaboration with state and local workforce development programs; or (8) the program leads to pathways towards economic self-sufficiency for low and moderate-income communities in the clean energy industry as established provided in clause (6).

The center shall not make a qualified investment under said clause (1) of said subsection (b) unless such qualified investment is in conformity with rules adopted by the center and approved by the board. Said rules shall set the terms and conditions for investments which constitute qualified investments, which may include, without limitation, loans, guarantees, loan insurance or reinsurance, equity investments, equity ownership in public or private companies, grants made pursuant to clause (4) of subsection (c) 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 also 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 in the commonwealth, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified investments; provided, however, that said rules

shall provide for negotiated intellectual property agreements between the center and each recipient of a qualified investment which shall include the terms and conditions by which the fund's support thereof may be reduced or withdrawn; and provided further, that all revenues or financial interests of any kind received by the center as a result of said intellectual property agreements shall be placed, in their entirety, in the fund.

Copies of the approved rules, and any modifications thereto, shall be submitted annually to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy and the joint committee on environment, natural resources and agriculture.

(d) There shall be an advisory committee to be appointed by the governor consisting of 15 individuals with an interest and knowledge in matters related to the general purpose and activities of the fund and with expertise and experience in at least 1 of the following areas: clean energy technology research, clean energy technology development, clean energy investing, management of clean energy companies, making or advancing clean energy policy, clean energy curriculum development or workforce training in the field of clean energy or energy efficiency. The board shall consult with the advisory committee in matters related to the fund and in the implementation of this section.

(e) Qualified investment transactions undertaken by the center pursuant to this section shall not, except as specified in this section, be subject to chapter 175, and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the center or any subdivision of the commonwealth and shall be payable solely from the Massachusetts Alternative and Clean Energy Investment Trust Fund.

All available moneys in the Massachusetts Alternative and Clean Energy Investment Trust 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.

SECTION 2. The General Laws are hereby amended by inserting after chapter 23I the following chapter:-

Chapter 23J
Massachusetts Clean Energy Technology Center

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

“Board”, the board of directors of the center.

“Bonds”, when used in reference to the center, any bonds, notes, debentures, interim certificates or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements.

“Center”, the Massachusetts clean energy center established by section 2.

“Clean energy”, advanced and applied technologies that significantly reduce or eliminate the use of energy from non-renewable sources, including, but not limited to: energy efficiency; demand response; energy conservation and those technologies powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, fuel cells any renewable, non-depletable or recyclable fuel and for purposes of this Act, an alternative energy generating source as defined in clauses (1) to (5), inclusive, of subsection (a) of section 11F1/2 of chapter 25A.

“Clean energy research”, advanced and applied research in new clean energy technologies including: solar photovoltaic; solar thermal; wind power; geothermal; wave and tidal energy; advanced hydropower; energy storage for automotive applications; energy storage for grid applications; biofuels, including ethanol, biodiesel and advanced biofuels; renewable, biodegradable chemicals; advanced thermal-to-energy conversion; hydrogen; carbon capture and sequestration; energy monitoring; green building materials; energy-efficient lighting; gasification and conversion to liquids fuels; industrial energy efficiency; demand-side management; fuel cells; and other technologies that the board considers to qualify under the definitions herein; provided, however, that “clean energy research” shall not include coal, oil, natural gas except when used in fuel cells or nuclear power.

“Contribution agreement”, an agreement authorized under this chapter in which a private entity or public entity other than the commonwealth agrees to provide to the center contributions for the purpose of promoting clean energy research.

“Federal agency”, an office, agency, division, department, board or commission of the United States government.

“Fund”, the Massachusetts Alternative and Clean Energy Investment Trust Fund established in subsection (a) of section 35FF of chapter 10.

“Person”, a natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities and political subdivisions of the commonwealth, corporations, trusts, societies, associations and partnerships and subordinate instrumentalities of any 1 or more political subdivisions of the commonwealth.

“Public body”, the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision or instrumentality thereof, which is empowered to issue bonds secured by a pledge of revenues or other special funds or assets, including any municipality or district for which the issuance of debt is governed or limited by chapter 44.

“Revenues”, any receipts, fees, rentals or other payments or income received or to be received on account of obligations to the center including, without limitation: equity ownership in public or private companies; 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.

Section 2. (a) There is hereby established a body politic and corporate to be known as the Massachusetts clean energy technology center. The center is hereby constituted a public instrumentality and the exercise by the center of the powers conferred by this chapter shall be considered to be the performance of an essential governmental function.

The center is hereby placed in the executive office of energy and environmental affairs, but shall not be subject to the supervision or control of said office, or of any board, bureau, department or other center of the commonwealth, except as specifically provided for in this chapter.

The center shall promote and advance the commonwealth's public interests by: (i) acting as the commonwealth's lead agency, in collaboration with the Massachusetts Renewable Energy Trust Fund established in section 4E of chapter 40J, in the promotion and development of jobs in the clean energy sector; (ii) promoting research and workforce training in clean energy technology at the commonwealth's public institutions of higher education, as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15, chapter 74 or any vocational technical school that meets the programmatic requirements established by the department of elementary and secondary education; (iii) stimulating the creation and development of new clean energy ventures that will form the foundation of a strong clean energy industry sector or cluster in the commonwealth; (iv) providing support to existing clean energy companies to expand their operations within the commonwealth; (v) attracting new capital and research facilities from institutions outside the commonwealth; (vi) fostering collaboration between industry, state government, research universities and the financial sector to advance clean energy technology commercialization and venture development; (vii) conducting market research to identify barriers to creating and expanding a clean technology industry, including job training needs; (viii) supporting demonstration projects that are evaluated by independent, third-party peer research institutions; (ix) serving as the clearinghouse for information related to the clean energy industry in the commonwealth; (x) promoting programs and investments that lead to pathways towards economic self sufficiency for low and moderate-income individuals and communities in the clean energy industry; and (xi) performing any other actions necessary to effectuate the state's public interests.

(b) The center shall be governed and its corporate powers exercised by a board of directors consisting of 14 directors: 1 of whom shall be the secretary of energy and environmental affairs or his designee; 1 of whom shall be the secretary of housing and economic development or his designee; 1 of whom shall be the secretary of labor and workforce development or his designee; 1 of whom shall be the president of the University of Massachusetts or his designee; 1 of whom shall be a chair of the New England Clean Energy Council; 1 of whom shall be the chair of the Massachusetts Renewable Energy Trust; 1 of whom shall be the executive director of the Massachusetts Technology Collaborative; 1 of whom shall be the executive director of the Massachusetts Workforce Alliance; and 6

of whom shall be appointed by the governor, 2 of whom shall be presidents of private colleges or universities in the commonwealth or their designees, 1 of whom shall be an engineer or scientist with expertise in clean energy technology, 1 of whom shall be a venture capitalist with expertise in clean energy technologies in the commonwealth, 1 of whom shall be the president of a Massachusetts community college or his designee, and 1 of whom shall be a chief executive officer of a Massachusetts-based clean energy corporation. Each of the 6 directors appointed by the governor shall serve for 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 for a term of 3 years, 1 director for a term of 4 years and 2 directors for a term of 5 years. The secretary of energy and environmental affairs or his designee shall serve as chairperson. A director shall be eligible for reappointment. A director may be removed from his appointment by the governor for cause. A person appointed to fill a vacancy in the office of an appointed director of the board shall be appointed in a like matter and shall serve for only the unexpired term of such director.

(c) Six directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly-called meeting where a quorum is present shall be necessary for any action to be taken by the board. An 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 consents are filed with the records of the minutes of the meeting of the board. Such consents shall be treated for all purposes as a vote at a meeting.

The directors of the board shall serve without compensation, but each director shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(d) Chapter 268A shall apply to all directors.

(e) The board may appoint and employ an executive director, and fix his compensation and conditions of employment. The executive director shall have a full range of previous experience in the clean energy industry, including previous executive experience within the clean energy industry. The executive director shall be the chief executive, administrative and operational officer of the center and shall direct and supervise the administrative affairs and the general management of the center. The executive director 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.

(f) The board shall elect a secretary and a treasurer. The secretary shall keep a record of the proceedings of the board and shall be the custodian of all books, documents and papers filed by the board and of its minute book and seal. The secretary shall cause copies to be made of all minutes and other records and documents of the center and shall certify that such copies are true copies, and all persons dealing with the center may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the center and shall be in charge of its funds, books of account and accounting records. The books and records of the center shall be subject to a biennial audit by the auditor of the commonwealth.

(g) All officers and employees of the center having access to its cash or negotiable securities shall give bond to the center, at its expense, in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) The directors and officers of the board who are not compensated employees of the center shall not be liable to the commonwealth, to the center or to any other person as a result of their activities, whether ministerial or discretionary, as such directors or officers except for willful dishonesty or intentional violations of law. Neither members of the center nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The board of directors may purchase liability insurance for board members, officers and employees and may indemnify said persons against claims by others.

(i) The center shall continue as long as it shall have bonds or insurance or guarantee commitments outstanding and until its existence is terminated by law. Upon the termination of the existence of the center, all rights, title and interest in and to its assets and its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(j) An action of the center may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the board shall be subject to section 11A½ of chapter 30A; but said section 11A½ shall not apply to any meeting of members of the center serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matters relating to the official business of the center are discussed and decided at the meeting. The center shall be subject to all other provisions of said chapter 30A, and records pertaining to the administration of the center shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the center shall be considered to be public funds for purposes of chapter 12A. The operations of the center shall be subject to chapters 268A and 268B and all other operational or administrative standards or requirements to the same extent as the office of state treasurer.

(k) Any documentary materials or data whatsoever made or received by a member or employee of the center and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the center is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the center and shall not be subject to section 10 of chapter 66. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the board in executive sessions closed to the public, notwithstanding 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 no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

Section 3. (a) The center shall have all powers necessary or convenient to carry out and effectuate its purposes, including, without limiting the generality of the foregoing, the powers:

(1) to adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business, notwithstanding chapter 30A;

(2) to establish standards requiring that any grant, loan or other appropriation of funds pursuant to this chapter be subject to an intellectual property agreement between the center and the recipient person; provided, however, that said intellectual property agreements shall balance the opportunity for the commonwealth to benefit from the patents, royalties and equity ownership in public and private companies and licenses with the need to ensure that essential clean energy research shall not be unreasonably hindered by the intellectual property agreements; and provided further, that all revenues or financial interests of any kind received by the center as a result of said intellectual property agreements shall be placed, in their entirety, in the fund.

(3) to adopt an official seal;

(4) to maintain offices within the commonwealth as it may determine and to conduct meetings of the center in accordance with the by-laws of the center and the second paragraph of section 59 of chapter 156B;

(5) to sue and be sued, to prosecute and defend actions relating to its properties and affairs and to be liable in tort in the same manner as a private person; provided, however, that the center is not authorized to become a debtor under the United States Bankruptcy Code;

(6) to appoint officers and employees and to engage consultants, agents and advisors;

(7) to enter into contracts and agreements and execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter; provided, however, that such contracts and agreements may include, without limiting the foregoing, construction agreements, purchase or acquisition agreements, loan or lease agreements, partnership agreements including limited partnership agreements, joint ventures, participation agreements, service agreements with clean energy entities, environmental, educational or other financial institutions or intermediaries and agreements with 1 or more persons for the servicing of loans made by the center, including the receipt by such servicer of payments made by a user under a financing document and provided further, that any such payments shall constitute trust funds to be held and applied solely as provided in such agreement for the servicing of loans, shall constitute pledged funds of the center and shall be entitled to the same protection when received by a person for the servicing of loans, without the need for filing and recording of the servicing agreement under chapter 106 or otherwise, except in the records of the center, as is afforded to funds received by an issuer and pledged to a trustee under section 14 of chapter 40D;

(8) to acquire real and personal property, or any interest in real or personal property, by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage any interest owned by it or under its control,

custody or in its possession; to release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals, proceed with foreclosure actions or take any other actions necessary or incidental to the performance of its corporate purposes;

(9) to invest funds held in reserves or sinking funds, or the Massachusetts Alternative and Clean Energy Investment Trust Fund, or funds not required for immediate disbursement, in such investments as may be provided in a financing document relating to the use of such funds, or, if not so provided, as the board may determine;

(10) to review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further the enhancement of clean energy financing, infrastructure, siting, manufacturing and development within the commonwealth;

(11) to appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(12) to obtain insurance;

(13) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes; provided, however, that the center shall not accept funding from any source, including any federal agency, if the receipt of said funding would limit the center's ability to promote its public purposes; and provided further, that all such funds shall be placed, in their entirety, in the fund;

(14) to enter into agreements with public and private entities that deal primarily with clean energy technologies, in order to distribute and provide leveraging of monies or services for the purposes of furthering research and development, aiding in the promotion of environmental protection, creating jobs in clean energy and promoting overall economic growth by fostering collaboration and investments in clean energy in the commonwealth;

(15) to provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;

(16) to establish and collect such fees and charges as the center without further appropriation shall determine to be reasonable, and to receive and apply revenues from fees and charges to the purposes of the center or allotment by the commonwealth or any political subdivision thereof; provided, however, that all said revenues shall be placed, in their entirety, in the fund;

(17) to make loans to any person for the acquisition, construction, alteration or any combination thereof, or other financing of a project including, but not limited to, loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans to users for qualified projects;

(18) to disburse, appropriate, grant, loan or allocate funds for the purposes of investing in clean energy as directed in this chapter;

(19) to provide assistance to local entities and authorities, public bodies and private

corporations for the purposes of maximizing opportunities for expanding clean energy technologies, attracting new clean energy entities and advanced technology investments, fostering new innovative research and creating new manufacturing and development initiatives in the commonwealth;

(20) to prepare, publish and distribute, with or without charge, as the center may determine, such studies, reports and bulletins and other material as the center deems appropriate;

(21) to exercise any other powers of a corporation organized under chapter 156B;

(22) to engage accountants, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this act and to fix their compensation;

(23) to take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by this chapter;

(24) to enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or agency in connection with its powers and duties under this chapter;

(25) to make qualified investments to ensure the success of clean energy industry clusters;

(26) to institute and administer the Massachusetts Alternative and Clean Energy Investment Trust Fund for the purposes of making appropriations, allocations, grants or loans to leverage development and investments in clean energy research, workforce training and job creation; provided, however, that the center shall implement an application and grant process for these purposes;

(27) to promote programs and investments that lead to pathways towards economic self-sufficiency for low and moderate-income individuals and communities in the clean energy industry;

(28) to research and establish, if the center so chooses, the Massachusetts Hydrogen and Fuel Cell Institute, to be housed at the Worcester Polytechnic Institute, and to serve as a joint venture among institutes of higher education in the commonwealth providing a focal point for research, education and commercialization activities in the hydrogen fuel cell sector; provided, however, that said institute responsibilities may include, but not be limited to: (i) working with the University of Massachusetts and private higher education institutions in the commonwealth to coordinate and strengthen hydrogen and fuel cell research activities in the commonwealth; (ii) strengthening collaborative research and development between universities and companies located within the commonwealth; (iii) addressing critical technological barriers facing the hydrogen and fuel cell companies; (iv) strengthening existing educational programs and introducing new curriculum in Massachusetts universities to produce graduates who are conversant in hydrogen and fuel cell technologies; and (5) promoting partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the commonwealth;

(29) to allocate, if the center so chooses, up to \$2 million annually for 5 years for the Massachusetts Hydrogen and Fuel Cell Institute; provided, however, that said funding shall begin in the fiscal year that said institute shall be established and shall end in the fifth fiscal year following the establishment of said institute; and

(30) to establish, if the center so chooses, a program to be known as the entrepreneurial fellowship program, which shall award grants to entrepreneurs from business sectors other than clean energy sectors to enroll in programs to foster knowledge and expertise of clean energy technology; provided, however, that the clean energy technology programs shall be based upon intensive technology, market and policy curriculum and; provided, further, that the center shall establish public-private partnerships and enter into contribution agreements with commonwealth-based companies and venture capitalists to support programs designed to mentor and train entrepreneurs from other business sectors in the areas of clean energy technology and development to increase investment in the commonwealth's clean energy sector.

Section 4. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the commonwealth and for the improvement of their health and living conditions. The operation of the center shall constitute the performance of essential governmental functions and 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 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 5. The center shall annually submit a report setting forth, relative to its operations, its receipts and expenditures during such fiscal year and its assets and liabilities during the fiscal year to the governor, the secretary of administration and finance, the comptroller and 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 economic development and emerging technologies, the joint committee on telecommunications, utilities and energy and the joint committee on environment, natural resources and agriculture annually on or before June 1.

Section 6. Based on recommendations included in the clean energy study, the center shall, within 100 days of said study's completion, develop a statewide plan for the installation and operation of renewable energy generating facilities on real property owned by the commonwealth. Any renewable energy generating facility sited on state land shall be made available for state and local workforce development and training initiatives.

Section 7. There is hereby established and placed within the center a program to be known as the clean energy seed grant program. Said program shall award grants to clean energy researchers, companies, nonprofit organizations, community-based organizations and institutions. The center shall establish public-private partnerships with commonwealth-based

investors, entrepreneurs and institutions that are involved in the clean energy industry for the purposes of facilitating matching grants for recipients of funding from the center.

Section 8. There is hereby established and placed within the center an initiative to be known as the green jobs initiative. Said initiative shall award grants to the commonwealth's public institutions of higher education as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15 of chapter 74 or any vocational-technical school that meets the programmatic requirements established by the department of elementary and secondary education, to facilitate workforce development efforts and train and retain students in clean energy industries. The grants shall include matching grants to said public institutions of higher education and said vocational technical schools for the development of small-scale renewable energy generating sources, including, but not limited to: photovoltaic installations; wind energy; ocean thermal, wave or tidal energy; fuel cells; landfill gas; natural flowing water and hydroelectric; low-emission advanced biomass power conversion technologies using such biomass fuels as wood, agricultural or food wastes; biogas, biodiesel or organic refuse-derived fuel; and geothermal energy. The center shall assist said public institutions of higher education as defined in this section and the commonwealth's vocational technical schools as defined in this section in developing a curriculum for clean energy and energy efficiency, and shall assist students seeking employment in the clean energy sector.

SECTION 3. Section 4B of chapter 40J of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 35 and 36, the word "inducing" and inserting in place thereof the following words:- working in collaboration with the Massachusetts clean energy technology center established in section 2 of chapter 23J, state to induce.

SECTION 4. Said section 4B of said chapter 40J, as so appearing, is hereby further amended by inserting after the word "industries", in line 39, the following words:- , the Massachusetts clean energy technology center.

SECTION 5. Subsection (b) of section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following sentence:- The board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J, prior to making any funds available to said renewable energy projects and facilities for the purpose of clean energy job creation.

SECTION 6. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by inserting after the word "technologies", in line 41, the following words:- by collaborating with the Massachusetts clean energy technology center established in section 2 of chapter 23J.

SECTION 7. Subsection (d) of said section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following sentence:- In developing and revising said plan, the board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J to ensure a comprehensive and effective approach to clean energy

job creation.

SECTION 8. Subsection (a) of section 6A of said chapter 40J, as so appearing, is hereby amended by inserting after the eighth sentence the following sentence:- The governing board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J, to ensure a comprehensive and effective approach to clean energy cluster growth and development.

SECTION 9. The state comptroller shall annually transfer from the Massachusetts Renewable Energy Trust Fund, established in section 4E of chapter 40J of the General Laws, not less than \$5,000,000 annually for deposit in the Massachusetts Alternative and Clean Energy Investment Trust Fund established in section 35FF of chapter 10. The secretary of energy and environmental affairs may allocate up to 15 per cent of said \$5,000,000 in fiscal year 2009 to defray the ordinary and necessary expenses of administration and operation associated with the center.

SECTION 10. The secretary of energy and environmental affairs may allocate \$1,000,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Investment Trust Fund for a seed grant program to be administered by the secretary or his designee. Said seed grant program shall award grants to clean energy companies, institutions or nonprofit organizations.

A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 11. The secretary of energy and environmental affairs, in consultation with the secretary of labor and workforce development, may allocate \$1,000,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10 of the General Laws, for a workforce development grant program to be administered by the secretary or his designee. Said program shall award grants to the commonwealth's higher education institutions, vocational technical schools, or community-based organizations that have existing workforce development programs in clean energy industry skills or the capacity to create such programs.

A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 12. The secretary of energy and environmental affairs may allocate \$100,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Invest-

ment Trust Fund, established by section 35FF of chapter 10 of the General Laws, to commission a study to investigate the clean energy sector in the commonwealth. The study shall include, but not be limited to, an examination of: (i) the future workforce needs of the commonwealth's clean energy sector; (ii) the current growth rate of said sector, including the number of in state jobs and businesses; (iii) the current levels of private investment in said sector; (iv) real property owned by the commonwealth available and suited for the installation and operation of renewable energy generating facilities; (v) energy efficiency opportunities on real property owned by the commonwealth; and (vi) the future funding requirements of the center.

A copy of said study shall be submitted on or before February 1, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 13. The secretary of energy and environmental affairs in consultation with the secretary of labor and workforce development may allocate \$1,000,000 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10 of the General Laws, for an initiative to be known as the pathways out of poverty initiative. Said initiative shall be administered by said secretary or his designee. Under said initiative, the secretary shall award 5 competitive grants to clean energy companies, community-based nonprofit organizations, educational institutions or labor organizations to enable said entities to carry out training programs associated with the clean energy industry that lead to economic self-sufficiency. The center shall give funding priority to entities that serve individuals in families with incomes that do not exceed 300 per cent of the poverty level, as determined by the United States Census Bureau, or a self-sufficiency standard for the local areas where the training is conducted that specifies the income needs of families, family size, the number and ages of children in the family and geographical considerations.

Said grants shall be awarded so as to ensure geographic diversity within the commonwealth with consideration given to the commonwealth's gateway cities, which shall include Brockton, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, New Bedford, Pittsfield, Springfield and Worcester.

A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture..

Approved August 12, 2008.

Chapter 308. AN ACT ESTABLISHING THE MASSACHUSETTS MILITARY RESERVATION FIRE DEPARTMENT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith the Massachusetts military reservation fire department, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "Airport", in line 387, the following words:- , or members of the Massachusetts military reservation fire department.

SECTION 2. Section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word "Guard", in line 276, the following words:- ; members of the Massachusetts military reservation fire department .

SECTION 3. Section 94 of said chapter 32, as so appearing, is hereby amended by inserting after the word "Airport", in line 13, the following words:- , or members of the Massachusetts military reservation fire department.

SECTION 4. Section 94A of said chapter 32, as so appearing, is hereby amended by inserting after the word "Airport", in line 8, the following words:- , or members of the Massachusetts military reservation fire department.

SECTION 5. Section 94B of said chapter 32, as so appearing, is hereby amended by inserting after the word "Airport", in line 10, the following words:- , or members of the Massachusetts military reservation fire department.

SECTION 6. Section 100 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

For purposes of this section, the word "firefighter" shall include members of the Massachusetts military reservation fire department.

SECTION 7. Section 100A of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

(h) This section shall apply to members of the Massachusetts military reservation fire department killed in the line of duty.

SECTION 8. Chapter 33 of the General Laws is hereby amended by adding the following section:-

Section 138. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Chief", the chief of the Massachusetts military reservation fire department.

"Department", the Massachusetts military reservation fire department

"Massachusetts military reservation", approximately 22,000 acres of land owned by the commonwealth in Barnstable county established under chapter 196 of the acts of 1935 and used primarily for military purposes.

(b) There shall be within the military division a Massachusetts military reservation fire department. The department shall provide air crash crew and fire protection services on the Massachusetts military reservation. The department shall be under the supervision and control of the chief of the Massachusetts military reservation fire department.

The chief shall be appointed by the adjutant general. He may be removed by the adjutant general for cause after a hearing. He shall have charge of extinguishing fires on the Massachusetts military reservation and the protection of life and property in the event of fire, aircraft mishap or explosion. He shall enforce all state and federal fire laws and codes. He shall purchase, subject to the approval of the adjutant general or his designee, and maintain all apparatus used by the fire department, and shall make other necessary expenditures subject to such further limitations as the adjutant general or his designee may prescribe.

The chief shall enter into mutual aid agreements with surrounding cities and towns as necessary. He shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as otherwise provided by chapter 48. He shall appoint a deputy chief and such officers and firefighters as he deems necessary and may remove the same for cause after a hearing, subject to the provisions of any applicable collective bargaining agreement. The chief, deputy chief, officers and firefighters shall be civilian employees of the military division and shall not be subject to the provisions of the General Laws establishing a civil service system. New uniformed members of the department shall be subject to the provisions for firefighters set forth in sections 61A and 61B of chapter 31.

Except as otherwise provided herein, the chief shall administer the department. He shall make rules and regulations for its operation, shall report annually to the adjutant general or his designee on the condition of the department and at such other times as the adjutant general or his designee shall request.

SECTION 9. The first paragraph of section 111F of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This section shall also apply to any permanent crash crewman, crash boatman, fire controlman or assistant fire controlman employed at the General Edward Lawrence Logan International Airport and members of the Massachusetts military reservation fire department and, for the purposes of this section, the Massachusetts Port Authority and the Massachusetts military reservation shall be fire districts.

SECTION 10. Section 59A of chapter 48 of the General Laws, as so appearing, is hereby amended by inserting after the word "department," in line 7, the following words:- or the Massachusetts military reservation fire district.

SECTION 11. Section 1 of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out , in line 7, the word s "town or fire district" and inserting in place thereof the following words:- town, fire district or the Massachusetts military reservation fire department.

SECTION 12. Section 30A of chapter 149 of the General Laws, as so appearing, is

hereby amended by inserting after the word “farm”, in line 28, the following words:- members of the Massachusetts military reservation fire department.

SECTION 13. All incumbent firefighters currently assigned to the federal fire department at the Otis Air National Guard Base may transfer to state employment as civilian firefighters in the Massachusetts military reservation fire department established pursuant to section 138 of chapter 33 of the General Laws subject to approval of the chief of the Massachusetts military reservation fire department and all other requirements of state law. Notwithstanding any general or special law to the contrary, such transferees shall have preference for these positions, provided they otherwise meet all other conditions for employment.

SECTION 14. Notwithstanding any general or special law to the contrary, for overtime purposes only, firefighters of the Massachusetts military reservation fire department established pursuant to section 138 of chapter 33 of the General Laws may be classified as so-called “7(k) eligible” under the Fair Labor Standards Act, 29 U.S.C. § 207(k) but such eligibility shall be the subject of collective bargaining pursuant to chapter 150E of the General Laws.

SECTION 15. Notwithstanding any general or special law to the contrary, members of the Massachusetts military reservation fire department established pursuant to section 138 of chapter 33 of the General Laws shall be deemed public employees under chapter 150E of the General Laws and may organize to negotiate the wages, hours, and conditions of their employment. This section shall not apply to the chief, deputy chief or shift commander.

SECTION 16. Notwithstanding any general or special law to the contrary, health benefits pursuant to chapter 32A of the General Laws for persons employed at the Massachusetts military reservation fire department established pursuant to section 138 of chapter 33 of the General Laws shall be effective upon the effective date of this act.

SECTION 17. This act shall take effect on September 1, 2008.

Approved August 12, 2008.

Chapter 309. AN ACT RELATIVE TO THE MASSACHUSETTS CONVENTION CENTER AUTHORITY.

Be it enacted, etc., as follows:

The filing by the Massachusetts Convention Center Authority of a report entitled “Hynes Convention Center Feasibility Study” and dated December 2007, with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on state administration and regulatory oversight shall constitute authorization by the general court and full compliance with section 38N of chapter 190 of

the acts of 1982 with respect to any capital facility project undertaken by the authority in connection with this study.

Emergency letter 8/28/08 at 10:36 A.M.

Approved August 12 , 2008.

Chapter 310. AN ACT RELATIVE TO THE PRESERVATION OF DAIRY FARMS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to aid in the preservation of the dairy farming industry 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 20 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 5 sections:-

Section 27. Notwithstanding any general or special law to the contrary, the department may offer farm viability technical assistance and implementation funding to an owner of land subject to an agricultural preservation restriction, as defined by section 31 of chapter 184 if such owner demonstrates, in the case of implementation funding, that: the implementation shall improve the economic viability of the farm; retain or create private sector jobs and tax revenue either directly or indirectly associated with a farm business; improve farm productivity and competitiveness; expand farm facilities as part of a modernization or business plan; support renewable energy or environmental remediation projects on farms; or expand and support markets and infrastructure to strengthen the farming industry. The department shall adopt regulations to carry out this section.

Section 28. (a) For the purposes of this section and section 29, the following words and phrases shall have the following meanings:-

“Agriculture”, farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer.

“Eligible borrower”, any farmer who is a resident of the commonwealth and is at least 18 years of age. A borrower who is otherwise eligible shall not be eligible if such borrower is party to a pending legal or administrative action, including a contested case proceeding, related to an alleged violation involving animal feeding or care as regulated by the department of agricultural resources, whether the pending action is brought by the department or the attorney general.

"Eligible project", a project on a farm that will improve the economic viability of Massachusetts farms, retain or create private sector jobs, improve Massachusetts farm productivity and competitiveness, expand farm facilities as part of a modernization plan, support environmental projects on farms or expand and support markets and infrastructure to strengthen the farming industry.

"Farm", a body of land devoted to agriculture.

"Farmer", a person engaged in agriculture as herein defined, or on a farm, as an incident to or in conjunction with, such agricultural operations, including preparations for market, delivery to storage, or to market, or to carriers for transportation to market.

(b) There shall be a linked loan program established by the department for the purposes of making linked loans to eligible borrowers. The commissioner shall administer the program and may, in consultation with the secretary of administration and finance, promulgate rules and regulations governing loan applications and the use of program funds for eligible borrowers. In implementing the program, the commissioner shall utilize linked investments with farm credit institutions or linked deposits with other approved commercial bank agricultural lenders. The commissioner shall enter into agreements and place investments with approved lenders to carry out the purposes of the program. The term of the linked investment and linked loan shall be for a period of not more than 4 years. The commissioner shall have the discretion to determine the amount of the loan available to an eligible borrower but no linked loan shall exceed \$500,000. The total amount available for the linked loan program shall not exceed \$25,000,000 over the life of the program. The commissioner shall disseminate information regarding the linked loan program to eligible borrowers.

Section 29. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Farm Capital Linked Loan Fund, consisting of revenues received under subsection (b) of section 28, including any interest or investment earnings on such monies and all other monies credited or transferred thereto from any other fund or source pursuant to law. Any unexpended balance in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

The fund shall be held and applied by the commissioner to make qualified linked loans pursuant to said subsection (b) of said section 28. The books and records of the Farm Preservation Linked Loan Fund shall be subject to an annual audit by the state auditor.

Section 30. (a) There shall be established a Massachusetts dairy promotion board which shall consist of 9 members: 1 of whom shall be the secretary of administration and finance or his designee; 1 of whom shall be the commissioner of the department of agricultural resources or his designee, who shall serve as chair; and 7 members to be appointed by the commissioner, 1 of whom shall be selected from a list of 3 individuals nominated by the Massachusetts Cooperative of Milk Producers Federation; 1 of whom shall

be a Massachusetts producer dealer selected from a list of 3 individuals nominated by the New England Producer Handlers Association; 2 of whom shall be selected from a list of 5 individuals nominated by the Massachusetts Association of Dairy Farmers; 2 of whom shall be selected from a list of 5 individuals nominated by Agri-mark Cooperative; and 1 of whom shall be selected from a list of 3 individuals nominated by the Massachusetts Food Association. Each member shall serve a term of 3 years. Any person appointed to fill a vacancy shall be appointed in a like manner and shall serve for only the unexpired term of such director. Any member shall be eligible for reappointment. A producer member who changes the geographic market into which the member sells milk or who ceases the production of milk in the commonwealth shall be considered to have vacated membership if the change or cessation continues in excess of 3 months. A majority of the members of the board shall constitute a quorum and the affirmative vote of at least a majority of members present at a meeting shall be required to transact business and carry out the purpose of the board. The members of the 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.

(b) The board shall develop programs and policies with the objective of increasing the consumption of Massachusetts dairy products. The programs and policies may include, but shall not be limited to, promotional activities such as paid advertising, sales promotion and publicity to advance the image and sales of, and demand for: Massachusetts dairy products generally; research activities including, but not limited to, studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and dairy products and other related efforts to expand demand for dairy products; and education which includes those activities intended to broaden the understanding of sound nutritional principles, including the role of milk and dairy products in a balanced diet.

(c) The board shall adopt rules, regulations or guidelines necessary to carry out this section, and may authorize the commissioner to administer any programs as determined by the board to carry out its purposes.

(d) The board shall assess a fee of 10 cents per hundredweight upon milk delivered by Massachusetts milk producers or such fee that is commensurate with the credit allowed for producer contributions to state qualified programs under the Dairy Production Stabilization Act of 1983, codified at 7 U.S.C. section 4504 (g) as amended. The fee shall be collected as follows: (1) a dealer who purchases milk directly from producers shall withhold from each Massachusetts milk producer a fee of 10 cents per hundredweight on all milk produced and shall forward that fee to the board not later than the last day of the month following the month in which the milk was produced; and (2) all producer dealers shall pay to the board a fee of 10 cents per hundredweight on all milk produced by the producer dealer not later than the last day of the month following the month in which the milk was produced. All monies collected pursuant to this subsection shall be deposited into the dairy promotion trust fund established by section 48A of chapter 10.

(e) The board may receive and expend funds from any source, public or private, to carry out the purposes of this section. The monies collected and deposited into the Dairy Promotion Trust Fund established under section 31 shall be controlled exclusively by the board subject to an annual spending plan that shall be approved by the secretary of administration and finance.

(f) The board shall keep books, records and accounts of all its activities, which shall be open to inspection. The books and records of the board shall be subject to an annual audit by the state auditor. The state auditor shall present the results of the audit to the board, the commissioner, the state treasurer and the house and senate committees on ways and means. The board shall also prepare an annual report that shall include: a summary of all receipts and expenditures, including expenditures for specific promotional, educational or research programs; a description of the various promotional, educational or research programs operated, contracted or sponsored by the board; and a directory of current board members, including their affiliation and term of office thereof and shall provide a copy of the annual report to the house and senate committee on ways and means and the executive office of administration and finance.

Section 31. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Dairy Promotion Trust Fund, consisting of revenues received pursuant to subsection (d) of section 30, including any interest or investment earnings on such monies and all other monies credited or transferred thereto from any other fund or source pursuant to law. Any unexpended balance in the fund at the end of the fiscal year shall not revert to the General Fund but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

The dairy promotion board, established in subsection (a) of section 30, shall have exclusive authority to receive, deposit, invest and expend monies pursuant to section 30. The books and records of the Dairy Promotion Trust Fund shall be subject to an annual audit by the state auditor.

SECTION 2. Section 8A of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The local appropriating authority, as defined in section 21C, may, by a two-thirds vote, seek voter approval to not impose the excise established by this section.

SECTION 3. Section 6 of chapter 62 of the General Laws, as most recently amended by section 17 of chapter 130 of the acts of 2008, is hereby amended by adding the following subsection:-

(o)(1) There shall be established a dairy farmer tax credit program under which a taxpayer who holds a certificate of registration as a dairy farmer pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The credit shall be claimed against the taxes due pursuant to chapter 62. The credit shall be established to offset the cyclical downturns in milk prices paid to dairy

farmers and shall be based on the United States Federal Milk Marketing Order for the applicable market such that if the United States Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year such taxpayer may receive the tax credit.

(2) The commissioner of agricultural resources, in consultation with the commissioner of revenue, shall adopt regulations for the implementation, administration and enforcement of this subsection, including the establishment of the trigger price, which shall take into account the operating costs of milk production, including hired labor and some portion of the value of unpaid labor, and the amount of the tax credit which shall be based upon volume of milk production.

(3) The total cumulative value of the credits authorized pursuant to this section and section 38Z of chapter 63 shall not exceed \$4,000,000 annually.

(4) If the amount of the credit allowed hereunder exceeds the taxpayer's liability, the commissioner of revenue shall treat such excess as an overpayment and shall pay the taxpayer 90 per cent of the amount of such excess, without interest. The commissioner of agricultural resources shall certify to the department of revenue whether a dairy farmer claiming credits under this section has met the eligibility requirements provided in this subsection and the amount of credit to which any such eligible applicant is entitled.

SECTION 4. Section 6L of said chapter 62, inserted by section 5 of chapter 63 of the acts of 2007, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) This section shall apply to credits earned under subsections (l) or (o) of section 6.

(b) At the written election of a taxpayer entitled to a credit under subsections (l) or (o) of section 6, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, at first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

SECTION 5. Section 32E of chapter 63, as amended by section 54 of chapter 173 of the acts of 2008, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) This section shall apply to credits earned under sections 38X or 38Z.

(b) At the written election of a taxpayer entitled to a credit under sections 38X or 38Z, the commissioner shall apply the credit against the liability of the taxpayer as determined on his return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of credits.

SECTION 6. Said chapter 63 is hereby further amended by inserting after section 38Y, inserted by section 83 of chapter 173 of the acts of 2008, the following section:-

Section 38Z. (a) There shall be established a dairy farm tax credit program under which a domestic or foreign corporation that holds a certificate of registration as a dairy farm pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The credit may be claimed against the taxes due

pursuant to this chapter. The credit shall be established to offset the cyclical downturns in milk prices paid to dairy farmers and shall be based on the United States Federal Milk Marketing Order for the applicable market such that if the United States Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year such domestic or foreign corporation may receive the tax credit.

(b) The commissioner of agricultural resources, in consultation with the commissioner of revenue, shall adopt regulations for the implementation, administration and enforcement of this section, including the establishment of the trigger price, which shall take into account the operating costs of milk production including hired labor and some portion of the value of unpaid labor, and the amount of the tax credit which shall be based upon volume of milk production.

(c) The total cumulative value of the tax credits authorized pursuant to this section and subsection (o) of section 6 of chapter 62 shall not exceed \$4,000,000 annually.

(d) If the amount of the credit allowed under this section exceeds the taxpayer's liability, the commissioner of revenue shall treat such excess as an overpayment and shall pay the taxpayer 90 per cent of the amount of such excess, without interest. The commissioner of agricultural resources shall certify to the department of revenue whether a dairy farm claiming credits under this section has met the eligibility requirements provided in this section and the amount of credit to which any such eligible applicant is entitled.

SECTION 7. Section 9 of chapter 90 of the General Laws as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 18, the word "two" and inserting in place thereof the following number:- 10.

SECTION 8. The first paragraph of subsection (d) of section 14 of chapter 94A of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The provisions of this subsection and subsection (e) shall not prohibit the use of coupons, trading stamps or donations of milk exclusively for charitable purposes to any duly organized charitable corporation.

SECTION 9. Subsection (e) of said section 14 of said chapter 94A, as so appearing, is hereby further amended by inserting after the word "subsection", in line 91, the following words:- or subsection (f).

SECTION 10. Said section 14 of said chapter 94A, as so appearing, is hereby further amended by adding the following subsection:-

(f) Notwithstanding the provisions of this section to the contrary, the department is hereby authorized and directed to establish a program to allow for the use of discount coupons in promotional and marketing campaigns of milk and cream for consumer use and benefit. The commissioner shall promulgate regulations necessary to carry out the provisions of this subsection. Said regulations shall be promulgated no later than 180 days from the effective date of this act and shall include, but not be limited to, reasonable and appropriate mechanisms to protect dairy farms that directly market their own fluid milk or cream to the consumer and civil penalties for violation of said regulations, including possible license suspension. The use of coupons in promotional or marketing campaigns shall be subject to

the approval of the commissioner and shall not be predatory towards any Massachusetts dairy farmer who directly markets and sells their own fluid milk to the consumer. The use of coupons shall not result in the sale of milk at a price that is below the cost of production.

The commissioner is directed to annually study, analyze and assess the economic impact of this program on dairy farmers, producers, processors, consumers and the commonwealth's milk markets. The report shall be submitted to the joint committee on environment, natural resources and agriculture, the secretary of energy and environmental affairs and the secretary of housing and economic development on or before October 1, 2010 and annually for the proceeding 4 years.

SECTION 11. There shall be a commission consisting of 8 members: 1 of whom shall be the commissioner of the department of agricultural resources or his designee, who shall serve as chairman; 1 of whom shall be the commissioner of the department of environmental protection or designee; 1 of whom shall be the commissioner of the department of revenue or his designee; 1 of whom shall be the commissioner of the department of public health or his designee; and 4 of whom shall be appointed by the governor, 1 of whom shall be a representative from the Massachusetts technology collaborative, 1 of whom shall be a dairy farmer who is licensed as a producer dealer, 1 of whom shall be a dairy farmer who represents the Massachusetts association of dairy farmers and 1 of whom shall be a dairy farmer who represents the Massachusetts cooperative of milk producers federation. Each member shall serve for a term of 3 years. Any person appointed to fill a vacancy in the office of a member of the commission 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. Said commission shall meet quarterly or as need be if requested by 4 or more members of the commission.

The commission shall study and recommend options for updating farming technology including, but not limited to, ways to promote energy conservation, collaborative purchasing, purchasing and selling of energy, energy saving technology and alternative options for sustainability and growth. The commission shall, in the course of its study, analyze current regulations and statutes to ensure such regulations and statutes are not impediments to the adoption of farming technology.

The commission shall report to the governor and 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 the environment, natural resources and agriculture on or before April 1, 2009, and annually thereafter.

SECTION 12. Notwithstanding any general or special law to the contrary, the initial terms of board members appointed pursuant to section 30 of chapter 20 of the General Laws shall be staggered as follows: the members nominated by Massachusetts Cooperative of Milk Producers Federation, the Massachusetts Food Association, and the New England Producer

Handlers Association shall serve for a term of 3 years; 1 member each nominated by the Massachusetts Association of Dairy Farmers and Agri-mark Cooperative shall serve for a term of 3 years and the remaining members shall serve for a term of 1 year. The Massachusetts Association of Dairy Farmers and Agri-mark Cooperative shall designate, upon providing nominations for appointment, the member to serve for 1 year and the member to serve for 3 years.

SECTION 13. Chapter 182 of the acts of 2008 is hereby amended by striking out section 89 and inserting in place thereof the following section:-

Section 89. (a) 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 \$39,000,000 or greater, the comptroller shall transfer said amount as follows: (a) \$25,000,000 shall be transferred to said Massachusetts Life Sciences Investment Fund; (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; 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; (e) \$5,000,000 shall be transferred to the Farm Capital Linked Loan Fund established pursuant to section 29 of chapter 20 of the General Laws; and (f) any amount remaining after the transfers pursuant to clause (a) to (e), 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 \$39,000,000, then after making the transfer required in clause (a), the comptroller shall proportionately reduce the transfers required in clauses (b), (c), (d) and (e); 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, but no such transfer shall cause a deficit in any of the funds.

SECTION 14. The credits allowed under subsection (o) of section 6 of chapter 62 of the General Laws and section 38Z of chapter 63 of the General Laws shall be reviewed by the department of agricultural resources after the tax credit programs established in said

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subsection (o) of said chapter 63 and said section 38Z have been in place for 2 tax years.

This bill was returned on August 14, 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 item therein:

Item Disapproved:

SECTION 13

The remainder of the bill was approved by the Governor on August 14, 2008 at eleven o'clock and ten minutes, P.M.

Chapter 311. AN ACT RELATIVE TO SCHOOL DISTRICT ACCOUNTABILITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote forthwith high academic achievement throughout the commonwealth's public schools, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1G of chapter 15 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the word "life" and inserting in place thereof the following words:- school and district accountability and assistance; life.

SECTION 2. Said section 1G of said chapter 15, as so appearing, is hereby further amended by inserting after the second paragraph the following 2 paragraphs:-

The members of the advisory council on school and district accountability and assistance shall consist of 15 members: 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Association of School Superintendents, 1 of whom shall be selected from a list of 3 nominees offered jointly by the Massachusetts Teachers Association and the American Federation of Teachers of Massachusetts, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Secondary School Administrators' Association, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Elementary School Principals' Association, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Association of School Committees, 1 of whom shall be selected from a list of 3 nominees offered by the Massachusetts Charter Public School Association, 1 of whom shall be a representative of a business or an industry with a demonstrated commitment to education and 8 of whom shall be individuals with a demonstrated record of achievement or academic expertise in: education administration; education or business finance and management; the use of student achievement data to improve instruction and administration; the conduct or use of school and district audits and

evaluations; educator evaluation and professional development; or other areas of expertise in education reforms established by chapter 71 of the acts of 1993. The advisory council members shall be recommended by the commissioner and appointed by the board.

The council shall meet no less than 4 times annually to review and advise the department and board on the policies and practices of the office of school and district accountability established by section 55A of chapter 15 and the targeted assistance and intervention efforts of the department, established by chapter 69 and the accountability provisions of federal law. The council shall develop and administer, through the department, a post-audit survey to audited school districts and an annual survey to any schools and districts receiving technical assistance under said chapter 69. The council shall present its findings and recommendations to the board no less than 2 times annually. The council shall have the opportunity to review and comment on all regulations relative to the accountability and assistance program areas before board approval.

SECTION 3. Said chapter 15 is hereby further amended by striking out section 55A, as so appearing, and inserting in place thereof the following section:-

Section 55A. In order to support the commissioner, department and board in fulfilling their duties under the provisions of chapter 69, including sections 1J and 1K, there shall be within the department an office of school and district accountability, hereinafter referred to as the office. The office shall provide a mechanism to review and report on the efforts of schools, charter schools and school districts, including regional school districts, to improve the academic achievement of their students and shall inform and assist the board and department in fulfilling their broader responsibilities to promote high levels of achievement in the schools and districts of the commonwealth.

The office shall be under the direction and supervision of 1 individual who shall be appointed by the commissioner. This individual shall also be responsible for the direction and supervision of the targeted assistance and intervention efforts of the department under chapter 69, such assistance efforts as the commissioner deems necessary to correct deficiencies identified by the office and compliance with the accountability provisions of federal law. This individual shall ensure that the auditing and assistance functions of the department are aligned to promote collaboration and communication across the auditing and assistance functions.

The office shall ensure that school and district review teams include experienced practitioners in the field of education, but no member shall have been previously or currently employed by the school, district or charter school being reviewed or so employed by a district, charter school or education collaborative serving a common student population with the school, district or charter school being reviewed.

The office shall act as an auditing body objectively reviewing the results of educational measurements and tests conducted by or for the department in implementing chapter 71 of the acts of 1993. The office shall perform not less than 40 school district audits annually, not less than 75 per cent of which shall be in districts whose students achieve at low levels either in absolute terms or relative to districts that educate similar student popula-

tions. The remainder of the audits shall be divided equally among districts whose students achieve at high levels relative to districts that educate similar student populations and randomly selected districts. The office shall ensure that no school or district is audited during the administration of any statewide assessments, and shall coordinate with other entities in the department to ensure that a school or district is not subject to multiple comprehensive audits or reviews by the department or any accrediting body within a 9 month period unless the board specifically votes to do so on an emergency basis.

The office shall have the following duties relative to school district audits: (1) objectively review the accuracy of the school and district reports by conducting or contracting for periodic program and fiscal audits as necessary; (2) undertake inspections of schools, charter schools and school districts, including regional school districts, to evaluate efforts to improve and support the quality of instruction and administration; (3) review the district's MCAS success plan, so-called, if any, submitted to the department pursuant to section 1I and evaluate the implementation of that plan; (4) review the district's implementation of any MCAS grants received to develop or enhance academic support services for students scoring in level 1 or 2; (5) evaluate the alignment of curriculum and professional development plans with the state curriculum and assessments; (6) review the progress of overall student achievement and; (7) evaluate student performance, school and district management, overall district governance and any other areas deemed necessary by the office. Such audits shall be in accordance with standards established by the board of elementary and secondary education, pursuant to section 1B of chapter 69. Following the school district audit, the office shall produce a comprehensive report detailing its findings and observations which the commissioner shall present to the board along with any recommendations for necessary action to be taken by the board. After the board's receipt of the report, the commissioner shall issue recommendations to districts not requiring further action pursuant to sections 1J and 1K of said chapter 69 relative to methods for improving any deficiencies identified by the office. The recommendations shall be transmitted to the reviewed district's superintendent and school committee within 90 days of the board's receipt of the report.

The office shall support the commissioner and the board in carrying out their duties under sections 1J and 1K of chapter 69. Nothing in this section shall be construed as limiting the ability of the department to contract with individuals, external partners or other entities to support the assistance functions established by said sections 1J and 1K of said chapter 69.

The office shall annually compile a report of best practices from the list of audits conducted that year and distribute the compiled list to all school districts in the commonwealth.

For the purposes of any inspection or audit, the office shall have access to all necessary papers, vouchers, books and records pertaining to a school, including a charter school, a school district or a regional school district. In establishing protocols for the conduct of school or district audits, the office shall, to the extent practicable, minimize the administrative burden on schools and districts by using existing, recently compiled or readily

available data sources. Schools, school districts and school personnel shall cooperate with the office for any inspection or audit conducted pursuant to this section including, but not limited to, participating in interviews and producing books and documents. Each school district, including regional school districts, and charter schools shall annually file with the office, on or before October 1, a copy of its current personnel contracts and collective bargaining agreements in a form and manner prescribed by the commissioner. The office shall ensure that any noncompliance with law, misfeasance or malfeasance shall be referred to the commissioner for appropriate action.

The department shall transmit the office's findings, audit reports, recommendations and follow-up reports to the secretary of education, the board of elementary and secondary education, the attorney general and a local public library in the audited districts. The department shall report to the general court the results of its findings, audit reports, recommendations and follow-up reports and file such reports with the clerks of the house of representatives and the senate, who shall forward the same to the senate president, the speaker of the house of representatives, the joint committee on education and the house and senate committees on ways and means.

SECTION 4. Section 1B of chapter 69 of the General Laws, as most recently amended by section 95 of chapter 27 of the acts of 2008, is hereby further amended by inserting after the fourth paragraph the following paragraph:-

The board shall establish the process and standards for school and district audits and reviews conducted by the office of school and district accountability established by section 55A of chapter 15. In establishing such process and standards, the board shall promote efficiency and coordination with other audit, evaluation and reporting requirements established by the board and department and shall also consider the findings and recommendations of the advisory council on school and district accountability and assistance, pursuant to section 1G of chapter 15. The board shall review and approve the protocols for the audit of schools, charter schools and school districts, including regional school districts, pursuant to this chapter.

SECTION 5. Section 1J of said chapter 69, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 13, the word "shall" and inserting in place thereof the following words:- , pursuant to section 55A of chapter 15, shall.

SECTION 6. Section 1K of said chapter 69, as so appearing, is hereby amended by striking out, in line 4, the word "to", and inserting in place thereof the following words:— , pursuant to section 55A of chapter 15, to.

SECTION 7. Section 7A of chapter 71A of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "office of educational quality and accountability" and inserting in place thereof the following word:- department.

SECTION 8. Notwithstanding section 3 of this act, for fiscal year 2009, the office of school and district accountability shall perform not less than 15 school district audits.

SECTION 9. On or before November 1, 2008, the department of elementary and secondary education shall convene the advisory council on school and district accountability and assistance, established by section 1G of chapter 15 of the General Laws.

Approved August 14 , 2008.

Chapter 312. AN ACT PROVIDING FOR THE PRESERVATION AND IMPROVEMENT OF LAND, PARKS, AND CLEAN ENERGY IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for preservation and improvement of the environmental assets of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for a capital outlay program of improvement and preservation of the environmental assets of the commonwealth, the sums set forth in section 2A, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the law regulating the disbursement of public funds, which sums are in addition to amounts previously appropriated for such purposes.

NO SECTION 2.
SECTION 2A.

SECRETARY OF THE COMMONWEALTH
Massachusetts Historical Commission

0526-2010 For a grant program to units of municipal government and to private, nonprofit organizations for the preservation of historic properties, landscapes and sites; provided further, that such funds shall be awarded in accordance with regulations promulgated by the state secretary, chairman of the Massachusetts historical commission; and provided further, that \$20,000 be expended for the Northampton St. Patrick's Association in coordination with the Halligan-Daley Commemoration Committee for the study, preparation of plans, site maintenance and access improvements at the Halligan-Daley Memorial site located in the city of Northampton	\$30,000,000
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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

- 0620-1000 For the water pollution abatement trust established in section 2 of chapter 29C of the General Laws for deposit in the Water Pollution Abatement Revolving Fund established in section 2L of chapter 29 of the General Laws for application by the trust to the purposes specified in section 5 of said chapter 29C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under Title VI of the federal Clean Water Act \$50,000,000
- 0620-2000 For the water pollution abatement trust established in section 2 of chapter 29C of the General Laws for deposit in the Drinking Water Revolving Fund established in section 2QQ of chapter 29 of the General Laws for application by the trust to the purposes specified in section 18 of said chapter 29C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under the federal Safe Drinking Water Act \$25,000,000
- 0620-2050 For the water pollution abatement trust grandfathered drinking water revolving fund established by Chapter 78 of the Acts of 1998, to fund financial assistance to municipalities and other eligible borrowers to meet debt service obligations incurred by the municipalities and other eligible borrowers after January 1, 1992, to finance the costs, including interest as calculated by the water pollution abatement trust, of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, and which have been completed, as determined by the department, on or before the promulgation date of the department's regulations related to the implementation of the Safe Water Drinking Act \$21,171,330
- 1100-2500 For improvements to coastal facilities in designated and non-designated port areas, including those defined in chapter 21F of the General Laws, 301 CMR 25, section 63 of chapter 91 of the General Laws and 312 CMR 2.00; provided, that improvements may include, but shall not be limited to, construction, reconstruction, rehabilitation, expanding, replacing, and improving public facilities, piers, wharves, boardwalks, berths, bulkheads, and other harbor and waterfront facilities;

provided further, that not less than \$2,500,000 shall be expended for the Bellegarde Boathouse in the city of Lowell; provided further, that \$3,500,000 shall be expended for the redevelopment of the waterfront in the city of Beverly; provided further, that \$5,000,000 shall be expended for the construction of T-wharf in the town of Plymouth; provided further, that not less than \$1,000,000 shall be expended for the environmental remediation of the city pier in the city of Fall River; provided further, that \$40,000 shall be expended for the dock at Mary O'Malley Park in the city of Chelsea including, but not limited to, the engineering, design, construction and rebuilding of the dock; provided further, that not less than \$25,000,000 shall be expended on capital improvements to the state pier facility in the city of New Bedford, which improvements shall be made to further economic development within the port of New Bedford; projects may include, but shall not be limited to, a multi-use facility for water dependent cargo, commercial fishing improvements, commercial marine transportation improvements, marine educational facilities, a fresh produce and fish market, and capital improvements related to tourism, public recreation and other economic development within the port of New Bedford; provided further, that not less than \$580,000 shall be expended for repair, paving, and a stormwater filtration system for the bulkhead located in Wellfleet; provided further, that \$600,000 shall be expended for the rehabilitation of the Jacobs Meadow outfall channel wall in Cohasset; and provided further, that not less than \$1,400,000 shall be expended to further the economic development of the Port of Newburyport and may include, but shall not be limited to commercial fishing interests, marine transportation improvements, marine educational facilities, a fresh produce and fish market, and other improvements related to tourism, public recreation and other economic development within Newburyport \$113,680,000

Division of Capital Asset Management and Maintenance

1102-5000 For the modernization of the Senator William X. Wall experimental station in the city of Lawrence including, but not limited to, the repair and rehabilitation of the building and grounds \$8,000,000

- 1102-6000 For the installation of technologies, equipment and materials to reduce energy and water consumption at either existing or new state facilities and to increase the amount of installed renewable energy that result in actual energy and water savings above the minimum standards established by Executive Order No. 484 and the "Massachusetts LEED Plus" standard, described in Administration and Finance Bulletin 12; provided, that the division shall consult with the executive office of energy and environmental affairs and the division of energy resources in developing project priorities; and provided further, that funding may be used to supplement technical and feasibility analyses, fund incremental costs of equipment or materials, and conduct evaluation analyses of projects to determine their effectiveness and replicability at additional facilities \$30,000,000
- 1102-7000 For the rehabilitation of the division of fish and wildlife Cronin Field Headquarters Building and the construction of additional adjacent buildings in the town of Westborough, including but not limited to, new construction, repair and rehabilitation of buildings and grounds \$25,000,000

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.
Office of the Secretary.

- 2000-7013 For the local acquisition for natural diversity (LAND) grant program, formerly the self-help program, to provide assistance to cities and towns in the acquisition of conservation land under section 11 of chapter 132A of the General Laws, Article 97 of the Amendments to the Constitution and any regulations adopted by the secretary of energy and environmental affairs to effect this act or section 11; provided, that notwithstanding any general or special law to the contrary, the title to any land acquired with funds authorized in this item which is no longer used under said section 11 as open space shall revert to the commonwealth to be managed as open space; and provided further, that \$500,000 shall be expended as a matching grant for the preservation of open space at Crow Hill in the city of Worcester \$36,000,000
- 2000-7014 For the park acquisition and renovation for communities (PARC)

grant program, formerly the urban self-help program, to provide assistance to cities and towns in the acquisition of land, assessment and remediation of brownfield and greyfield sites and demolition on project sites and construction and restoration of parks and recreation areas under Article 97 of the Amendments to the Constitution and any regulations adopted by the secretary of energy and environmental affairs; provided, that notwithstanding any general or special law to the contrary, the title to any land acquired with the funds authorized in this item which is no longer used as open space shall revert to the commonwealth to be managed as open space; provided further, that not less than \$250,000 shall be expended for improvements to Vietnam Veterans Park in Billerica; provided further, that not less than \$191,800 shall be expended for maintenance of and improvements to the Vietnam Veterans Memorial in Green Hill Park in Worcester; provided further, that not less than \$800,000 shall be expended for repairs to a historic structure in Hardwick; provided further, that not less than \$500,000 shall be expended for improvements to Mapleway Park in Wakefield; provided further, that not less than \$275,000 shall be expended for improvement to the Lake Street water resource and recreation area in Shrewsbury; and provided further, that not less than \$250,000 shall be expended for improvements to Prospect Park walking trail in Shrewsbury; provided further, that not less than \$100,000 shall be expended for the Nashua River Rail Trail in Ayer, Groton, Pepperell and Dunstable; provided further, that not less than \$1,000,000 shall be expended for repairs to the footbridge in historic Island Grove Park in the town of Abington; provided further, that not less than \$300,000 shall be expended for the rehabilitation, improvement and enhancement of city parks in Methuen; provided further, that not less than \$50,000 shall be expended for renovations and upgrades to public parks in Lakeville; provided further, that not less than \$50,000 shall be expended for renovations and upgrades to public parks in Freetown; provided further that not less than \$800,000 shall be expended for a recreation grant in the town of Saugus, including Stocker Park and Belmonte Middle School soccer, track, tennis and baseball complex; provided further, that not

less than \$200,000 shall be expended to the Rehoboth Agricultural and Natural Resources Preservation Council for the preservation and protection of critical environmental resources and open space in Rehoboth; provided further that \$50,000 for the town of Dracut to purchase the Canney Farm for the construction of a public park; provided further, that \$500,000 shall be expended for drainage improvements on Frye Road in the City of Methuen; provided further, that \$1,200,000 be expended for urban park restoration within the Emerald Necklace portion of the city of Boston; provided further, that not less than \$2,000,000 shall be expended for the design and reconstruction of Oxford park in the city of Lawrence; provided further, that \$50,000 shall be expended for work on public playing fields in the town of Southampton; provided further, that not less than \$150,000 shall be expended for improvements to the town beach in the town of Millis; provided further, that not less than \$150,000 shall be expended for improvements to Farm Pond in the town of Sherborn; provided further, that not less than \$500,000 shall be expended for the revitalization of Memorial Park in the city of Taunton, which shall include, but not be limited to, landscaping, pond dredging, park benches and playground equipment; provided further, that not less than \$300,000 shall be expended for improvements to the Bear Hole Watershed in the city of West Springfield; provided further, that not less than \$500,000 shall be expended for maintenance of the dike system in the city of West Springfield; provided further, that not less than \$150,000 shall be expended for wetland restoration and drainage repair on Myrtle Street in the town of Millis; provided further, that not less than \$217,000 shall be expended for renovation of the public tennis courts in Wakefield; and provided further, that not less than \$735,000 shall be expended for the Hull Land Conservation Trust for the purposes of protecting wildlife and providing public access to conservation and passive recreation areas in the town of Hull; provided further, that not less than \$50,000 shall be expended for the repair of the Medina Street boat ramp in the City of Chicopee; provided further that not less than \$1,500,000 shall be expended for the restoration, remediation, and other necessary environmental improvements

at the Project India site in Ludlow; provided further, that not less than \$100,000 shall be expended for improvements to McEvoy Park in the town of North Andover; provided further, that not less than \$750,000 shall be expended for expansion and improvements to JJ Lane Park in the town of Natick; provided further, that not less than \$1,000,000 shall be expended for dredging of Forge Pond in the town of East Bridgewater; provided further, that \$125,000 shall be expended for renovations and improvements to the South Lawrence East fields; provided further, that not more than \$10,000,000 shall be expended for a grant to the New England Aquarium for the renovation of the public space on Central Wharf in the city of Boston; provided further that \$2,500,000 shall be expended for a grant to the Boston Children's Museum for renovation of the public open space and interactive park known as Children's Wharf Landing in the city of Boston; provided further, that not less than \$250,000 shall be expended for improvements to the Murphy Playground in the town of Natick; provided further, that not less than \$954,000 shall be expended for dam repairs at Harding Pond and Hobart Pond in the town of Whitman; provided further, that no less than \$270,000 shall be expended to permanently close to vehicular traffic a section of River Road in the town of Merrimac and to assist in the creation of pedestrian and bicycle trails in said road section; provided further, that \$650,000 shall be expended for the construction of a boardwalk and access improvements to Nashawannuck Pond in Easthampton; provided further, that not less than \$85,000 be expended for the installation of an universally accessible Boundless Playground in the city of Beverly; provided further that not less than \$300,000 be expended for improvements to Mittineague Park in the city of West Springfield; provided further, that not less than \$500,000 shall be expended for the Winnekenni Castle Park in Haverhill; provided further, that not less than \$5,000,000 shall be expended for the re-development, construction and maintenance of the Legion Field in the town of Weymouth; provided further, that not less than \$100,000 shall be expended for a grant to the city of Springfield for renovations and upgrading to Alford Park, Stafford Park, Harriet Tubman Park, Waterfront Park, and Johnny Appleseed Park; provided

further, that not less than \$250,000 shall be expended to provide a well and irrigation system, as well as improve athletic fields and associated structures at the Bagnall Elementary School in the town of Groveland; provided further, that not less than \$150,000 shall be expended for the engineering and construction of open space on a parcel of land owned by the town of Marshfield located at the intersection of Ocean and Webster streets; provided further, that not less than \$700,000 shall be expended to the town of Bedford for the design and construction of the Vine Brook Culvert project on Old Burlington Road adjacent to the Wilson Mill Dam; provided further, that not less than \$500,000 shall be expended for park and trail improvements in the town of Dartmouth; provided further that not less than \$750,000 shall be expended for the dredging of Fore River in the town of Braintree; provided further, that not less than \$150,000 shall be expended for improvements to Smith Beach in the town of Braintree; provided further, that not less than \$200,000 shall be expended for the Randolph Salt Shed; provided further, that not less than \$400,000 shall be expended to remove pesticide contamination on town-owned property in the town of Mendon; provided further, that \$100,000 be expended for the planning, engineering, and permitting for a public boathouse and rowing facility to be constructed on the Connecticut River in the city of Northampton; provided further, that \$200,000 shall be expended for the construction of a footbridge adjacent to the Wedgemere Commuter Rail Station in the town of Winchester; provided further, that not less than \$250,000 shall be expended for the Caryville Mill site along the Charles River Watershed Area for decontamination services; and provided further, that \$250,000 shall be expended for the restoration of Bonin Field in Holyoke \$55,000,000

2000-7015 For the acquisition, development and construction of parks in urban neighborhoods currently underserved with parks consistent with attainment of environmental equity, including planning related thereto; completion of urban forestry and tree planting projects, assessment and remediation of brownfield and greyfield sites intended for reuse as parks, drafting of architectural renderings, construction documents, and other technical documents necessary for parks construction, acqui-

sition of land or interests in land for the creation of parks under Article 97 of the Amendments to the Constitution and construction of parks and all related facilities; provided, that the secretary of energy and environmental affairs may issue grants to public and non-public entities to implement these programs; provided, that not less than \$10,000 be expended for the Squantum Seaside Gardeners for the purposes of environmental beautification projects in the City of Quincy; provided further, that no less than \$10,000 shall be expended for the Wollaston Garden Club for the purposes of environmental beautification projects in the City of Quincy; provided further, that no less than \$200,000 be expended for the Quincy Park and Forestry Department to be allocated for the purpose of city tree plantings in the City of Quincy; and provided further, that not less than \$100,000 be expended for the acquisition of wooded land to be used for conservation and passive recreation in the North Street neighborhood of the city of Northampton, provided that the abutters of said property provide matching funds for said acquisition \$25,000,000

2000-7016 For the conservation partnership grant program to assist not-for-profit corporations in acquiring interests in lands suitable for purposes of conservation or recreation; provided, that the corporation shall be formed for one of the purposes described in section 4 of chapter 180 of the General Laws and the corporation shall be considered an exempt organization within the meaning of section 501(c)(3) of the Internal Revenue Code; provided further, that grant funds shall be expended to reimburse an eligible corporation for money expended by it in establishing a project approved by the secretary of energy and environmental affairs under this program in an amount that the secretary shall determine to be equitable in consideration of anticipated benefits from the project, but in no event shall the amount of the reimbursement exceed 50 per cent of the cost of the project; provided further, that no reimbursement shall be made under this item to a corporation unless a project application is filed by the corporation with the secretary setting forth the plans and information that the secretary may require and approved by the secretary, nor until the corporation shall have certified, in a manner approved by the secretary, its ability to provide an

amount equal to the total cost of the project, nor until the project has been completed, to the satisfaction of the secretary, in accordance with the approved plans; provided further, that all projects shall include the grant by the corporation of an appropriate perpetual conservation restriction, within the meaning of sections 31 and 32 of chapter 184 of the General Laws, to the city or town in which the project is located, to be managed by either its conservation or its recreation commission, or a state agency, or both; provided further, that all projects shall provide appropriate public access as determined by the secretary; and provided further, that the secretary may adopt rules and regulations to carry out this item \$7,000,000

2000-7018 For the study, protection and preservation, including cultural resources, public access, development, and enhancement activities for the commonwealth's coastal resources within coastal watersheds and offshore oceans including, but not limited to implementation, equipment, and projects related to ocean management and planning, seafloor mapping, climate change adaptation and coastal shoreline and floodplain management, coastal and ocean water quality; provided, that a program of wetlands and other aquatic habitat restoration in the Massachusetts coastal zone and watersheds shall be implemented from this item, with functions including but not limited to infrastructure repair and replacement to achieve restoration benefits, coordination with public and non-public entities, monitoring, research, planning, federal matching grants, assessment, technical assistance, mapping and implementation of improvements to degraded wetland areas; provided further, that grants may be awarded to public and non-public entities for the purposes of this item; provided further, that a program of coastal pollutant remediation grants may be awarded to cities and towns to construct, reconstruct, and otherwise improve boat pump-out facilities and storm-water drainage facilities along roads, highways and bridges within the watersheds of the Massachusetts coastal zone; provided further, that a program of coastal non-point source pollution grants may be awarded to public and non-public entities to identify and implement solutions to control or eliminate non-point source pollution in coastal watersheds; and provided further, that all grants under this item shall be

subject to rules and regulations established by the secretary of energy and environmental affairs to govern the application process and disbursement of grant funds under this item; provided further, that not less than \$2,000,000 shall be expended for wastewater improvements near Hyannis Harbor in Barnstable; provided further, that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow remediation in the cities of Springfield, Chicopee, Holyoke; provided further, that not less than \$350,000 shall be expended for a wastewater management study and environmental impact report in Acushnet; provided further, that not less than \$2,000,000 shall be expended to assist Gloucester with the costs of sewer collection and treatment infrastructure to improve coastal water quality and comply with federal and state regulatory and judicial mandates; provided further, that not less than \$500,000 shall be expended on beach nourishment for Chapoquoit Beach and Woodneck Beach, and Menauhant Beach in the town of Falmouth; provided further, that not less than \$3,500,000 shall be expended for infrastructure improvements to address water quality decline due to failing wells in Medway; provided further, that \$3,900,000 shall be expended for stormwater drainage improvements in Framingham; provided further, that an amount not less than \$75,000 shall be expended by the Provincetown Center for Coastal Studies for the study of the coastal geology and related matters of the barrier beach in Orleans and Chatham known as North Beach; provided further, that not less than \$3,000,000 shall be expended to the town of Barnstable for a matching grant to purchase a parcel of land referred to as Freezer Point in Barnstable Harbor; provided further, that not less than \$1,500,000 shall be expended for the clean-up of Mill River in the city of Springfield; and provided further, that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow clean up on Hubbard Street in Ludlow \$40,075,000

2000-7022 For the programs and activities of the office of geographical and environmental information in support of community preservation and other programs; provided, that such funds may be allocated by the secretary of energy and environmental affairs to the department of conservation and recreation, the depart-

ment of fish and game, the department of agricultural resources, and the department of environmental protection; provided further, that funds may be expended from this item for the costs of services essential to such projects rendered by employees or by consultants; provided further, that the secretary may provide grants to, including but not limited to, municipalities, regional planning agencies, and other public and non-public entities to implement said programs; provided further, that funding may be expended for the creation of inventories of species and mapping of areas important for biological conservation and ecosystem protection; provided further, that priority shall be given to the development, from existing source materials where possible, of the following data bases: wetlands, soils, public water supply protection areas, land records, economic growth areas, transportation development, aquifer recharge areas, floodways, vernal pools, endangered and threatened species and species of special concern, public lands, recreation areas, zoning, hazardous and toxic waste sites and historical and cultural resources; and provided further, that such efforts shall be coordinated to the maximum extent feasible with federal, state, and local governments, regulated utilities and conservancy efforts; provided further, that not less than \$750,000 shall be expended to provide long term maintenance, preservation, and protection of Whitman's Pond in the Town of Weymouth; and provided further, that not less than \$15,000 shall be expended for a Licensed Site Professional/Risk Assessment Consultant for oversight of the Rockland Industries remediation project in Middleboro \$13,000,000)

2000-7023 For improvements and replacements to the infrastructure and holdings of the executive office of energy and environmental affairs; provided, that these improvements or replacements may include, but shall not be limited to, buildings, equipment, vehicles and communication and technology equipment; provided, however, that any expenditures for communication and technology equipment under this item shall be subject to the approval of the chief information officer of the commonwealth; and provided that not less than \$250,000 shall be provided to the department of environmental protection, in conjunction with the executive office of transportation, for to

conducting an investigation and make recommendations on the best practices to reduce the emission of pollutants and achieve reductions in particulate matter emissions from state and municipally-owned and contracted diesel-powered vehicles and study the costs associated with implementing the use of the best available retrofit technology on diesel-powered vehicles owned or operated by or on behalf of, or leased by or operating under contract with a municipality or state agency or state or regional public authority; provided further that the department of environmental protection shall report on its findings and the information contained in this report shall include, but not be limited to, for each municipal or state agency and public authority: (1) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority; (2) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (3) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority having a gross vehicle weight rating of more than 14,000 pounds; (4) the number of such vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; and (5) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 US EPA standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent US EPA standard for particulate matter; provided further that this report shall be filed with the clerks of the house of representatives and the senate, the joint committee on environment, natural resources, and agriculture, the joint committee on transportation, and the joint committee on economic development and emerging technologies, not later than December 31, 2009, and an interim report shall be filed not later than April 1, 2009 \$2,000,000

2000-7024 For the restoration of the commonwealth's natural resources held in trust for the benefit of the public by the secretary of energy and environmental affairs as trustee of the resources that have been lost, destroyed, or injured by the discharge of oil or other releases of hazardous materials and substances; provided, that natural resources shall include land, fish, wildlife, biota, air, drinking water supplies, wetlands, and other resources gener-

ally belonging to, managed by, held in trust by, or otherwise controlled by the trustee; provided further, that the secretary, as trustee of the commonwealth's natural resources, shall conduct the necessary injury and damage assessment studies to determine the extent of injury to the resources and the required compensation by responsible parties to restore, replace, or acquire the equivalent of these injured resources; provided further, that not less than \$1,600,000 shall be expended for wetland restoration and water quality projects in Woburn; provided further, that the secretary may also allocate funds if necessary for the costs of personnel; provided further, that these activities shall be conducted under section 5 of chapter 21E of the General Laws, sections 23 to 27, inclusive, of chapter 130 of the General Laws, section 42 of chapter 131 of the General Laws, 42 U.S.C. section 9607 (f), 33 U.S.C. section 1321, 33 U.S.C. section 2706 or any other relevant and appropriate authority \$3,100,000

2000-7025 For integrated energy and environmental projects to provide for appropriate conservation, protection, restoration, management, and best use of air, energy, water and land resources; to provide for the propagation, protection, control and management of fish, other aquatic life, wildlife, and endangered species, to optimize and preserve environmental quality and public health, to encourage environmental equity; to provide for the assessment, prevention and abatement of water, land, air, noise, and other pollution or environmental degradation, to provide for mitigation and adaptation to climate change, to provide geographic information systems and data, including but not limited to conservation and development plans, provided through the office of geographic and environmental information under section 4B of chapter 21A of the General Laws, to collect, store and provide geographic, energy, and environmental and other information, to provide environmental, land use, water budgets and other trends and conditions, provided, that the secretary may allocate funds for the purposes of this item; provided further, that not less than \$200,000 shall be expended for the construction of a wind turbine to be located at the McGlynn Elementary and Middle Schools in Medford; provided further, that \$600,000 shall be expended for the town of Falmouth to meet the cost of the contract and construction services for the

1.5 megawatt wind turbine at their wastewater treatment facility; provided further, that not less than \$1,000,000 shall be expended on the development of a Buzzards Bay Center in the Whaling National Historical Park; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, \$3,000,000 shall be expended for a green school environment grant in the town of Saugus; provided, however, that said grant shall only be expended if the town of Saugus is certified to receive state aid to public libraries by the board of library commissioners; provided further that not less than \$800,000 shall be expended for the construction of a water tower at the Templeton Development Center; provided further, that not less than \$400,000 shall be expended for the restoration of wells located at the former Dever State School in the city of Taunton, which shall include, but not be limited to, the construction of replacement wells and installation of necessary equipment to maintain the wells for use a regional water supply; provided further, that \$550,000 shall be expended for a clean air aging boiler grant in the town of Saugus; provided further, that not less than \$250,000 shall be expended for the development of the Jones River Landing Environmental Heritage Center in the town of Kingston; provided further, that not less than \$1,000,000 shall be expended for a feasibility study and the construction of a wind turbine to be located in the Town of Weymouth; provided further, that not less than \$1,000,000 shall be expended for the costs associated with the construction, renovation, and maintenance of a Water Treatment Plant in the town of Weymouth; provided further, that not less than \$250,000 shall be expended for the creation of park space bordering Clipper Ship Drive and the Mystic River in the city of Medford; provided further, that not less than \$1,500,000 shall be expended for the construction of a wind turbine in the town of Braintree for the purpose of providing power to a new tri-town water treatment plant under the care, custody and control of the Tri-Town Board of Water Commissioners of Braintree, Holbrook, and Randolph; provided further, that \$100,000 shall be expended for the construction of a wind turbine at Winchester High School in the Town of Winchester; and provided further, that grants may be awarded to public or non-public entities to carry out this item \$29,150,000

Department of Environmental Protection.

- 2200-7011 For the purposes of water quality monitoring, assessment and protection as required to meet the legislative and regulatory requirements of the Rivers Protection Act, the federal and state Clean Water Acts and the Massachusetts Wetlands Protection Act and to provide for integrated energy and environmental projects to optimize and preserve environmental quality and public health and provide for appropriate protection, restoration, management, and best use of air, energy, water and land resources; provided, that this funding, may include, but not be limited to, studies of water quality, the development of wetlands conservancy and tidelands Geographic Information System (GIS) maps, the implementation of water quality monitoring devices, the collection and analysis of water quality samples, the development of water quality analyses known as Total Maximum Daily Loads (TMDL's), and projects related to non-point and point sources of water pollution, and the wetlands circuit rider program; provided further, that not less than \$1,000,000 shall be expended for sewer extensions in the Spencer/Tuttle /Flint area of the town of Acton, otherwise referred to as Area 10 in the town's CWRMP; provided further, that not less than \$1,000,000 shall be expended for separation of sewer and storm drains in Palmer; provided further, that not less than \$200,000 shall be expended for the identification and remediation of pollution sources for the Cole and Lees rivers; provided further, that not less than \$500,000 shall be expended for each of the next three years for the operation of an alternative sewage treatment demonstration project, to be managed by the Department of Environmental Protection in consultation with the Barnstable County Health Department, evaluating the potential for the use of urine diverting toilets and composting toilets as a means of cost effectively reducing nitrogen loading; and provided further, that not less than \$150,000 shall be expended for the identification and remediation of pollution sources for the Unquity Brook in the town of Milton \$15,200,000
- 2200-7012 For operation and maintenance of the department of environmental protection's statewide air monitoring network

including, but not limited to, photochemical assessment monitoring stations, small particulate monitoring and air toxins monitoring; and for the upgrade of equipment to comply with federal requirements; provided, that \$350,000 shall be expended for air quality monitoring, odor mitigation, and the establishment of an airborne odor and toxics mitigation strategy in the city of Northampton and town of Easthampton in neighborhoods impacted by the regional solid waste landfill, located in the city of Northampton; and provided further, that not less than \$1,000,000 shall be expended for air quality monitoring and odor mitigation of the Crow Lane Landfill in the city of Newburyport \$4,850,000

2200-7013 For the purposes of discovery, assessment, containment, clean-up, and closure of existing or closed solid waste facilities causing or threatening to cause pollution as authorized by section 4 of chapter 21H of the General Laws; provided, however, that funds authorized in this item shall be used for the purposes of maintaining a composting and recycling program consistent with the statewide Solid Waste Master Plan authorized by section 21 of chapter 16 of the General Laws; provided further, that \$2,000,000 shall be expended for the monitoring, mitigation, inspection and investigation of the impacts of the regional solid waste landfill in the city of Northampton on groundwater, public and private water supply wells and the Barnes Sole Source Aquifer; and provided further, that not less than \$250,000 shall be expended for improvements to the Transfer Station in the Town of Winchester \$13,000,000

2200-7014 For information systems development and information technology equipment at the department of environmental protection to upgrade the first-generation "eDEP" on-line permitting/compliance reporting system to meet current business standards and the best competitive practices for states, to develop and implement on-line file reviews and permit guides, expand internet publishing of environmental reports and information, and improve system availability and response times for the regulated community and the public; provided, however, that any expenditures under this item shall be subject to the approval of the chief information officer of the commonwealth \$20,000,000

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2200-7015	For the assessment, containment, cleanup, control, removal of or response actions concerning oil or hazardous materials or for any other actions necessary to implement chapter 21E of the General Laws, or the regulations promulgated thereunder, the Massachusetts contingency plan; provided, that not less than \$12,000,000 shall be expended for the remediation of soil contamination on residential properties located on streets adjacent to or in proximity to the former landfill site in Brookline; provided further, that not less than \$7,000,000 shall be expended for the clean up of the Shaffer Paper site in Dorchester; and provided further, that not less than \$1,000,000 shall be expended to clean up and renovate the Old Mason Square Fire House in Springfield in order for public use	\$44,000,000
2200-7016	For a grant to the University of Massachusetts Amherst Landscape Ecology Program to utilize the Conservation Assessment and Prioritization System to establish a statewide, comprehensive wetlands monitoring and assessment program for the commonwealth, to identify relationships between landscape-based stressors and the physical and biotic condition of ecosystems, and to complete a statewide landscape connectivity study	\$500,000
2200-7017	For grants to cities, towns and districts for the acquisition of lands and waters and easements by those cities, towns and districts to protect and conserve groundwater aquifers and recharge areas, surface water supplies and watershed areas, and surface or underground lands adjacent to those resources, for the protection of water that is determined by the department of environmental protection to be of potential use for water supply purposes; provided, that any grants approved by the department and provided to cities, towns and districts from this item may be for up to 60 per cent of the eligible costs of the projects; provided, that not less than \$1,125,000 be expended for a watershed study of the Miles River watershed and restoration in Ipswich, Beverly, Wenham and Hamilton	\$22,500,000
2200-7018	For a grant program to assist municipalities, water districts and water commissions, hereinafter referred to as water suppliers, with preserving drinking water quality and reliability; provided, that the program shall provide grant funding to water suppliers to upgrade or replace their water infrastructure; pro-	

vided further, that as a condition of receiving grant funding pursuant to this program, a water supplier shall certify in writing to the department that the water supplier has a comprehensive upgrade and maintenance plan for its water infrastructure; provided further, that the comprehensive upgrade and maintenance plan shall include the following information: (1) a detailed financial forecast of facility replacement improvement requirements for the next 20 years including, but not limited to, the principal components of the water system such as reservoirs, dams, treatment plants, pipes, valves, fire hydrants, pumping stations, storage facilities, pumping and well equipment, interconnections and water mains and each financial forecast shall analyze the condition and life expectancy of the existing facilities, prioritize needed repairs and replacements and amortize such improvement requirements on an annual basis over the next 20 years; provided, that water suppliers which have in effect infrastructure improvement or rehabilitation programs and mechanisms for funding approved by their appropriate governing bodies may submit their existing programs for complete or partial compliance with this clause; and (2) a method that establishes and maintains fiscal controls and accounting depreciation standards; provided, that a water supplier that is also a municipality shall additionally certify in writing to the department that it has adopted a water supply utility enterprise fund pursuant to section 53F½ of chapter 44 of the General Laws; provided further, that the municipal water supplier shall further certify that it shall maintain its water supply utility enterprise fund in accordance with said section 53F½ of said chapter for 10 years from the date the grant is approved, or longer as determined by the department \$25,000,000

Department of Fish and Game.

2300-7010 For the acquisition of land and interests in land by the department of fish and game and for associated costs, including planning, study, due diligence, title and appraisal services, site restoration and stewardship for the purpose of protecting the native flora and fauna communities and for associated costs; provided, that the commissioner of fish and game may develop and utilize scientifically-based evaluation criteria to

identify and select the most biologically significant areas throughout the commonwealth including, but not limited to, specific parcels, and that these lands may be purchased after being selected by this process and approved by the commissioner of fisheries and wildlife; provided further, that funds may be expended on the development and implementation of a stewardship program on lands under the care and control of the department of fish and game and its divisions, either in fee simple or through conservation easement, including but not limited to resource and land use monitoring, baseline documentation report creation, signage, boundary marking and monitoring, stewardship planning, stewardship personnel, stewardship database development, ecological monitoring, and enforcement of conservation restrictions or detection and resolution of encroachments on land owned in fee simple, and repair of damage related to illegal off-road vehicle trespass; provided further, that funds may be used for inventory, restoration and reclamation of recently acquired land, including demolition of structures, removal of debris, eradication of non-native species, and other services essential to these reclamation efforts \$73,000,000

2300-7011 For enhancements, improvements, removal and replacements to the infrastructure and holdings of the department of fish and game and its divisions; and for the costs of studies, plans, engineering and other services essential to this activity; and for the planning, design, construction, and repair of existing and new facilities under the care and control of the department of fish and game and its divisions, including but not limited to education centers, district headquarters, hatcheries, office buildings, storage buildings, shooting ranges, and laboratories; provided, that these enhancements, improvements and replacements may include, but shall not be limited to, buildings and other structures, equipment, vehicles, vessels, information systems, and site clearance, including the demolition of structures, and other holdings including remediation of environmental compliance matters throughout the commonwealth; and provided that not less than \$50,000 shall be expended for the oversight and the enhancement of public safety and law enforcement on property owned by the city of Westfield located in the town of Montgomery \$13,000,000

- 2300-7013 For the purposes of conserving and recovering rare and endangered plant and animal species listed under chapter 131A of the General Laws and protecting other elements of the state's threatened natural heritage, through conservation, preparation of endangered species recovery plans, implementation of recovery projects, and the execution of habitat and ecological restoration and management, as identified by the division of fisheries and wildlife's natural heritage and endangered species program and approved by the director of the division and the commissioner of the department; provided, that the associated costs may include, but shall not be limited to, species recovery, habitat restoration and management, monitoring services and equipment purchases; and provided further, that this work may be carried out in cooperation with local municipalities, private conservation organizations, private landowners, universities or governmental agencies; provided further, that not less than \$20,000 shall be allocated for phosphorus management and algae reduction in West Monponsett pond in the town of Halifax; and provided further, that not less than \$250,000 shall be expended for the protection and conservation of northern right whales and sea turtles in Massachusetts waters \$10,000,000
- 2300-7014 For a program of upland habitat management of forestlands, shrub lands, and grasslands, to provide habitat for native wildlife species experiencing long-term population declines, to control invasive, exotic species that degrade natural habitats, and to maintain independent, third party certification of sustainable resource management on state wildlife lands through the forest stewardship council or the sustainable forestry initiative; provided, that activities shall include, but shall not be limited to, implementation of habitat management plans as established by the division of fisheries and wildlife and approved by the director of the division and the commissioner of the department; and to establish and support an integrated, early detection and rapid response system for invasive species and to complete a strategic management plan for invasive species to prevent, control, eradicate and restore natural management areas; provided, that the commissioner shall identify at all scales the natural and cultural resources at risk from invasive species and conduct baseline assessments

of invasive species at those sites and to educate the public to help prevent and control invasive species and for a landowner incentive grant program to restore declining species and their habitats identified in the Comprehensive Wildlife Conservation Strategy on private lands that may include, but shall not be limited to, technical and financial assistance, implementation and monitoring as established by the division of fisheries and wildlife and approved by the director of the division and the commissioner of the department, and for associated costs; provided, that the associated costs may include, but shall not be limited to, restoration, management, monitoring services, and equipment purchases; provided further, that the projects may be carried out in cooperation with cities, towns, not-for-profit organizations, private landowners, conservation organizations, sportsmen's clubs or governmental agencies; provided further, that grants may be awarded to public and non-public entities to carry out the purposes of this item; provided further, that not less than \$1,200,000 shall be expended for invasive species control in the city of Peabody; provided further, that \$50,000 shall be expended for the eradication of invasive aquatic weed in the town of Wayland; provided further, that not more than \$2,000,000 may be annually appropriated for a program to support comprehensive methods of controlling harmful invasive aquatic species; provided further, that not less than \$5,000,000 shall be expended for a program of grants to cities and towns for projects to control or eradicate harmful invasive aquatic species; provided further, that not less than \$25,000 shall be expended for invasive aquatic weed control in the town of Lincoln; and provided further, that the department may award grants to public and non-public entities to carry out the purposes of this item \$16,500,000

2300-7015 For the river restoration programs in the division of riverways within the department of fish and game; provided, that funds authorized in this item may be utilized for river and river corridor revitalization, restoration and protection of river ecosystems and functions statewide, including dam and barrier removal, instream improvements, flow, water quality, riverine habitat, for protection of high quality riparian habitat to mitigate threats from climate change, and recreational opportunities; provided further, that these costs may include,

but shall not be limited to, equipment to implement these programs; and provided further, that the commissioner or his designee may enter into cooperative agreements with state and federal government agencies and municipalities, may contract for services including, but not limited to, engineering, and may award grants to public and non-public entities to foster and carry out the purposes of this item \$10,000,000

2300-7016 For the planning, engineering, design, construction, construction inspection, acquisition, development, and reconstruction of existing and new coastal and inland access sites including, but not limited to, boat launching facilities, fisherman boat access facilities, car-top boat launching facilities, canoe access facilities, sport fishing piers and shore fishing areas including, but not limited to, ramps, docks, floats and appurtenant facilities throughout the commonwealth including, but not limited to, public docking access in Boston Harbor; provided further, that not less than \$300,000 shall be expended for the reconstruction of the boating and fishing access ramp at Cooks Pond in Fall River; provided further, that \$350,000 shall be expended for Salisbury Flood Control in state highway route 1; provided further, that not less than \$400,000 shall be expended for the fish pier at Deer Island Park in Amesbury; provided further, that \$190,000 shall be expended for the North Andover boat ramp at Riverview Street; provided further, that \$500,000 shall be expended for Green Pond Boat Ramp in the town of Falmouth; provided further, that \$1,000,000 shall be expended for renovations to the state boat ramp and parking lot at Lake Mascuppic in Dracut; provided further, that not less than \$650,000 shall be expended for the repair and enhancements of the public access boat ramp on Laurel lake in the town of Lee; provided further, that not less than \$250,000 shall be expended for the renovation of the Bashara Boathouse in Lawrence Riverfront State Park; provided further, that not less than \$75,000 shall be expended for design and engineering costs for a boat ramp at Squantum Point Park in Quincy; provided further, that not less than \$500,000 shall be expended for the construction of a stand-alone public fishing pier in Oak Bluffs; provided further, that not less than \$250,000 shall be expended for the Lower Millyard small boat launch on the Powwow and Back

Rivers in the town of Amesbury; provided further, that not less than \$300,000 shall be expended for the purchase of rail corridor east of the Basiliere Bridge and the redevelopment of a boat park on the Merrimack River by the public boat ramps in the town of Haverhill; provided further, that not less than \$500,000 shall be expended for the planning, design, construction permitting, and oversight of a boat ramp and associated parking access road ways on the Concord River in Billerica; provided further, that not less than \$750,000 shall be expended on the design and construction of boat ramps, slips, moorings, and associated upland facilities at the Scituate marine park in the town of Scituate; provided further, that not less than \$40,000 shall be expended for the Newburyport Joppa Flats Boat Launch; provided further, that not less than \$75,000 shall be expended for the planning and engineering of an outdoor sports visitor center on the Oxbow section of the Connecticut River in the city of Northampton to enhance recreational opportunities; provided further, that not less than \$800,000 shall be expended for the dredging of Squantum and Wollaston Yacht Club emergency boat access in Wollaston Beach in the city of Quincy; provided further, that not less than \$30,000 shall be expended on Turner's Road in Milton to prevent run off at Central Avenue; provided further, that not less than \$2,000,000 shall be expended for sediment control in Lake Webster; provided further, that not less than \$150,000 shall be expended for the enhancement and rehabilitation of the Cashman Park boat launch in the city of Newburyport; and provided further, that not less than \$75,000 shall be expended for a canoe/kayak launch on the Merrimack River at the Harbormaster's Station next to the Railroad Bridge in the town of Salisbury \$11,500,000

2300-7017 For the implementation of the Comprehensive Wildlife Conservation Strategy and investigating the impacts of climate change on the biodiversity of Massachusetts including, but not limited to, habitat protection and restoration, implementation, and equipment purchases; provided, that implementation may also include, but shall not be limited to, a Coastal Waterbird Conservation Program to restore globally and regionally significant populations of declining and at-risk species of coastal water birds and their habitats, as tracked by

the natural heritage & endangered species program and identified in the Comprehensive Wildlife Conservation Strategy, including habitat protection and restoration, bird population protection, restoration, and technical assistance to landowners and other cooperators, and planning, engineering, design, construction, and reconstruction of structures to stabilize critical coastal nesting islands, and for associated costs which may include, but shall not be limited to, equipment purchases; provided further, that this work may be carried out in cooperation with local municipalities, private conservation organizations, private landowners, universities, or governmental agencies; provided further, that implementation may also include, but shall not be limited to, non-marine aquatic habitat protection and restoration, establishing benchmarks for fish community restoration and establishing protection goals for high quality fish communities, the preparation of restoration and habitat protection plans, and the execution of fisheries habitat restoration projects on natural fish communities and for associated costs including, but not limited to, research, restoration, management, monitoring, and equipment; provided further, that funds may be expended from this item for the further development of map products by this program to identify and target for protection, restoration and management of natural fisheries communities including, but not limited to, research, data collection, map production and equipment and management studies; and provided further, that grants may be awarded to public and non-public entities to carry out the purposes of this item \$10,450,000

2300-7018 For the purposes of marine fisheries resource habitat identification, classification, protection and restoration, the preparation of technical guidance and fisheries management plans, as approved by the director of marine fisheries and the commissioner of the department, and for associated costs; provided, that these associated costs may include, but shall not be limited to, research, restoration, management, monitoring and equipment; provided further, that these projects may be carried out in cooperation with not-for-profit organizations or other management agencies; provided further, that funds may be expended for the further development of map products and technical guidance by this

program to identify and target for protection, restoration and management of marine fisheries resources including, but not limited to, research, data collection, equipment, map production, management studies; provided further, that not less than \$2,000,000 shall be expended for the study of commercial and recreational fishing stocks, and creating a data collection and fisheries management system to be administered by the Massachusetts Marine Fisheries Institute in conjunction with the School of Marine Science and Technology at the University of Massachusetts, Dartmouth; provided further, that not less than \$2,000,000 shall be expended on a research vessel to conduct ocean management and sustainable fisheries research; provided further, that this vessel shall be operated by the School of Marine Science and Technology at the University of Massachusetts, Dartmouth and shall be primarily berthed in the port of New Bedford; provided further, that not less than \$750,000 shall be expended for the purchase of scales and the establishment of a shore-based monitoring program for all federally-managed fisheries for herring and mackerel, which expenditures shall be made, and the program conducted, in accordance with the requirements of section 24 and under the supervision of the oversight committee established in said section 24; provided further, that not more than \$225,000 shall be expended by the department for the study of the horseshoe crab population in Wellfleet Harbor, Pleasant Bay, and Barnstable Harbor; and provided further, the department may contract with an environmental non-profit in order to conduct said horseshoe crab study \$7,475,000

Department of Agricultural Resources.

2500-7012 For a program to acquire agricultural preservation restrictions under sections 23 to 26, inclusive, of chapter 20 of the General Laws; provided, that any person or entity that receives funds from this item shall be encouraged to participate in any programs of the department of agricultural resources that may be suggested by the commissioner of agricultural resources; provided further, that funds may be used for implementation of a stewardship program on APR lands including, but not limited to, resource and land use monitoring, boundary delineation and monitoring, stewardship planning, ecological

monitoring, and enforcement of agricultural preservation restrictions on existing and newly acquired APR properties; as well as the creation of new opportunities that seek to enhance the sustainability and viability of APR properties . . . \$67,750,000

2500-7013 For the purpose of developing and implementing programs designed to address agricultural economic and environmental sustainability, research, industry promotion, technology transfer, education and to facilitate improvements to agricultural infrastructure, energy conservation and efficiency, as well as renewable energy projects, including the development and implementation of farm viability plans and other technical and engineering assistance to enhance the economic and environmental viability of farms, to provide for shorter term land covenants, and for undertaking of markets for agricultural products to assist in agricultural business enhancement and transition, the creation of a program, including grants to public and non-public entities for the development and implementation of new procedures for energy conservation and efficiency, renewable and alternative energy sources to assist the commonwealth's agricultural community to grow and develop; provided further, that funds shall be expended for the Northeastern Massachusetts aquaculture center by Salem State College, Southeastern Massachusetts aquaculture center by Barnstable County, the University of Massachusetts School for Marine Science and Technology, in consultation and cooperation with the department's aquaculture division at a location within the port of New Bedford and the Western Massachusetts center for sustainable aquaculture by the University of Massachusetts, Amherst; provided further, that not less than \$10,000,000 shall be expended to establish a program to facilitate the creation of a general public market in Boston to provide local agricultural, seafood and aquaculture, dairy and specialty foods produced in the commonwealth; provided further, that financial support shall be expended for planning and construction of a slaughterhouse in western Massachusetts; provided further, that the Massachusetts aquaculture centers shall work in cooperation and in collaboration with the department of agricultural resources toward the provision of grant funding and services to the aquaculture industry; provided further, that there be established a program to assist

in the preservation and rehabilitation of facilities and land resources of agricultural fairs in the commonwealth through short-term preservation covenants, grants, demonstration projects and other means, under section 38C of chapter 128 of the General Laws; provided further, that funds authorized in this item may be allocated by the commissioner through competitive grants; provided further, that the commissioner may adopt regulations relative to these grants; and provided further, that not less than \$100,000 shall be expended for the continued operation of the shellfish propagation program in Westport \$30,000,000

2500-7014 For the agricultural environmental enhancement program on the abatement of all forms of pollution generated from agricultural activities originally funded under section 8 of chapter 258 of the acts of 1996; provided, that funds may be allocated by the commissioner through competitive grants awarded to public and non-public entities to carry out the purposes of this item \$3,000,000

Department of Conservation and Recreation.

2800-7011 For the acquisition of land and interests in land by the department of conservation and recreation and for associated costs, including planning, study, due diligence, title and appraisal services, site restoration, stewardship, and costs associated with the defense of eminent domain takings for the purpose of protecting significant natural and cultural resources of the commonwealth and enhancing the department's system of forests, parks and reservations; provided, that funds may be used for development and implementation of a stewardship program on lands under the care and control of the department of conservation and recreation including, but not limited to, resource and land use monitoring, signage, boundary delineation and monitoring, preparation of baseline documentation, stewardship planning, ecological monitoring, and enforcement of conservation restrictions or detection and resolution of encroachments on land owned in fee simple, and repair of damage to property related to illegal uses, including off-road vehicle trespass; provided further, that funds may be used for inventory, restoration and reclamation of recently acquired land, including demolition of structures, removal of debris, eradication of non-native species, and other services essential

to these reclamation efforts; provided further, that not less than \$1,500,000 shall be expended for design and permitting of Phase II of the Urban Neponset Reservation; provided further, that not less than \$3,000,000 shall be expended within the Saugus River watershed; provided further, that not less than \$197,132 shall be expended for the restoration of stone walls at Luther Hill Park in Spencer; provided further, that not less than \$200,000 shall be expended for the acquisition and restoration of a parcel on the Concord River in the town of Billerica; provided further, that not less than \$500,000 shall be expended for the planning, design, construction permitting and oversight of a boat ramp and associated parking and access road ways on the Concord River in the town of Billerica; provided further, that not more than \$6,000,000 shall be expended for the acquisition of the Silver Maple Forest in Belmont and Cambridge, for conservation purposes; and provided further, that not less than \$12,000,000 shall be expended for the restoration, remediation, and other necessary environmental improvements to the Lower Neponset River Watershed including, but not limited to, associated costs of engineering, design, permitting as well as costs relating to public outreach; provided however, that said project shall be carried out in cooperation with other state, federal and municipal agencies, including the Riverways Program in the Department of Fish and Game; provided further that not less than \$500,000 shall be expended for aesthetic, pedestrian, and vehicular traffic improvements at the intersection of Neponset Valley Parkway and Brush Hill Road in the town of Milton; provided further, that not less than \$10,000,000 to acquire land in the Waquoit Bay recharge area by the department of conservation and recreation; provided further, that not less than \$3,000,000 shall be expended for the design and construction of DCR park land in the Port Norfolk section of Dorchester in the City of Boston; provided further, that not less than \$2,500,000 shall be expended for the Town of Framingham to purchase the development rights for land on the Nobscot Scout Reservation for historic preservation and environmental protection; provided further, that not less than \$400,000 shall be expended for the acquisition and clean up of 58 Beech Street for the purpose of constructing a commun-

ity park in the area of West Roxbury in the city of Boston; provided further, that not less than \$5,000,000 shall be expended for the Department of Conservation and Recreation to purchase Kessler Woods in the City of Newton; provided further, that not less than \$100,000 shall be expended to the Udon Tower Conservation Project in the town of Millville; provided further, that not less than \$2,000,000 shall be expended for the repair and upgrading of dams in the city of Springfield; provided further, that not less than \$500,000 shall be expended for the repair of Eddy Pond Dam in the town of Auburn; provided further, that not less than \$1,125,000 shall be expended for a watershed baseline study and feasibility study of the Miles River Watershed protection project in the towns of Beverly, Wenham, Hamilton, and Ipswich; provided further, that not less than \$75,000 shall be expended for oil spill clean-up at Asa Waters Mansion in the town of Millbury

- \$76,000,000
- 2800-7012 For natural resource restoration and protection and to ensure compliance with storm water management and the federal Clean Water Act, including enhanced environmental compliance with laws and regulations, and improvements, and costs associated with site assessment, containment, clean-up, control, removal of, or response actions concerning hazardous materials or substances at forests, parks, reservations and other properties of the department of conservation and recreation \$30,000,000
- 2800-7013 For forest management and conservation purposes on state forests and parks of the department including, but not limited to, a program of habitat improvements, bio-diverse forestry, and wildlife enhancement to forest and parks, boundary and forest road and trail maintenance and restoration for forest management, recreation and fire fighting purposes, forest health projects and inventories, forest green certification, coordination with the department of fish and game, compliance projects, for the department's program to market and promote ecologically sustainable utilization of the commonwealth's biomass supplies for renewable energy projects, for the state match for the cooperative federal-state Urban & Community Forestry Program, and for fire suppression activities, fuels management, including prescribed fire to protect biodiversity and rare and endangered

species habitat, eradicate invasive species and forests pests and pathogens, and including necessary vehicles and equipment, and other forest management and conservation activities, provided that \$670,000 shall be expended for firefighting equipment in the town of Plymouth to support firefighting needs in Myles Standish State Forest \$10,000,000

2800-7015 For the protection, preservation and restoration of the commonwealth's significant natural and historic landscapes, and to provide assistance to cities and towns to further these purposes, including protection and stewardship of long distance trails and greenway corridors; provided, that program activities include, but are not limited to, technical assistance, preservation, acquisition of interests in land, construction, rehabilitation, public training, preservation maintenance and associated costs; provided further, that there shall be a program to support the department's mission of natural and cultural resource protection; provided further, that program activities include but are not limited to, scientific analysis, design, construction, rehabilitation, historic structure stabilization, landscape preservation, and archive management; provided further, that not less than \$1,200,000 shall be provided for the restoration of the John B. Gough Estate in the town of Boylston; provided further, that not less than \$300,000 shall be expended for access improvements and sediment control at White Brook and Broad Brook in Easthampton; provided further, that not less than \$250,000 shall be expended on the Eel Pond restoration project in the town of Mattapoisett; provided further, that not less than \$5,000,000 shall be expended for the creation and maintenance of a linked trail system for local and state parks along the Back River in the towns of Weymouth and Hingham; provided further, that not less than \$200,000 shall be expended for the City of Quincy restoration projects for the Wollaston Sailors Pond and the Montclair Bog; provided further, that not less than \$250,000 shall be expended for the control or eradication of invasive aquatic species at Lake Cochituate State Park; provided further, that not less than \$100,000 shall be expended for invasive weed control on the Charles River in the city of Waltham; provided further, that not less than \$50,000 shall be expended for control of invasive aquatic species at Noyes Pond in Tolland; provided

	further, that not less than \$100,000 shall be expended for the town of Ashland for Sudbury river cleanup; and provided further, that the department shall conduct a study of invasive aquatic species infestation in the Charles River	\$12,950,000
2800-7016	For the design, construction, reconstruction, rehabilitation or removal of department-owned dams, and, subject to rules and regulations of the department, municipal-owned dams, other publicly-owned dams, and other dams for which emergency action is required and related facilities and equipment; provided, that the department of conservation and recreation shall give priority to dams and flood control projects which pose the greatest risk to public health, safety or the environment, subject to rules and regulations of the department, and for a program of planning, permitting and construction of fish ways and other aquatic habitat improvements, including the removal or breaching of selected dams and impoundments on land under the care, custody and control of the department; provided further, that not less than \$1,000,000 shall be expended on the Williams Pond Dam in Orange; provided further, that not less than \$1,500,000 shall be expended for the repair and removal of Whitney Pond Dam; provided further, that not less than \$75,000 shall be expended on a feasibility study at Forge Dam Pond in Kingston; provided further, that not less than \$390,000 shall be expended for repairs to the Squannacook River Dam in Groton; provided further, that not less than \$500,000 shall be expended for repairs to the dam at Flint Pond in Tyngsborough; provided further, that not less than \$100,000 shall be expended for drainage for a culvert on Old Ferry Road to mitigate years of flooding on Frye road in town of Methuen; provided further, that not less than \$1,500,000 shall be expended for the construction of a dam at Van Horn Park in Springfield; provided further, that not less than \$2,000,000 shall be expended for repair and improvements to Saxton J. Foss Park in the city of Somerville; provided further, that not less than \$250,000 shall be expended for the design and repair of Newton Pond Dam in Shrewsbury; provided further, that not less than \$1,300,000 shall be expended for repairs to the Sheppard Pond Dam in Canton; provided further, that \$2,500,000 shall be expended to examine and implement proposed flood mitigation projects along the Aberjona River	

and Mystic Lakes in the Town of Winchester; provided further, that not less than \$3,350,000 be expended for phase II inspections and emergency repairs to the Notch reservoir and Mount Williams Reservoir Dams in the city of North Adams; provided further, that not less than \$2,500,000 shall be expended for repairs and renovations to the East Windsor Dam in the town of Dalton; provided further that not less than \$1,500,000 shall be expended for the Town Brook dams in Plymouth; provided further, that not less than \$48,000 shall be expended for repair of the dam at Johnson's Pond in Raynham; provided further, that not less than \$1,900,000 shall be expended for the reconstruction of the Rexhame drainage system in Marshfield; provided further, that not less than \$2,000,000 shall be expended for reconstruction of the Granville Reservoir Dam; provided further, that not less than \$100,000 shall be expended for repairs, maintenance, and operation of Lake Maspenock Dam in Hopkinton; provided further, that not less than \$2,700,000 shall be expended for environmental restoration of Milford Pond in Milford; provided further, that not less than \$350,000 shall be expended for repair and stabilization of the Connecticut River Dike in Hatfield; provided further, that \$250,000 shall be expended for the ecosystem restoration project and dam removal on the Green River in the city of Greenfield; provided further, that \$100,000 shall be expended for dam repairs in Medway; provided further, that not less than \$250,000 shall be expended for repairs to Eagle Dam in the town of Wrentham; provided further, that not less than \$1,000,000 shall be provided to the city of Leominster for the design and reconstruction of the bank stabilization project adjacent to Slack Brook; provided further, that not less than \$80,000 shall be expended for a study of the Mirror Lake Dam at Cogshall Park in the city of Fitchburg; provided further, that \$800,000 shall be expended for design, repair and safety stabilization of the Connecticut river dike in the town of Hadley; provided further, that not less than \$500,000 shall be expended for the repair of the Jacobs Pond dam in the town of Norwell; provided further, that not less than \$150,000 shall be expended to the town of Shutesbury for repairs to the dam at Lake Wyola; provided further, that not less than \$250,000 shall be expended for design, permits, and inspections of Lake

Wyola dam in Shutesbury; provided further, that not less than \$350,000 shall be expended for Town Creek Marsh Restoration and Flood Control in the vicinity of MBTA railroad line and Route 1 in the town of Salisbury; provided further, that not less than \$250,000 shall be expended for the design and construction of recreational fields in the town of Auburn; provided further, that not less than \$50,000 shall be expended for repair and reconstruction of Lawrence's Network of Community Gardens in the city of Lawrence; provided further, that not less than \$3,000,000 shall be expended for the repair and replacement of the Stoney Beach Sea Wall in the town of Hull; provided further, that not less than \$40,000 shall be expended for the purpose of providing matching funds for ADA compliant renovations to the Kid Spot Playground on Chestnut Street in the town of North Reading; provided further, that not less than \$350,000 shall be expended for the repair and reconstruction of the East Rodney French Boulevard Boat Ramp located in the city of New Bedford; provided further, that not less than \$300,000 shall be expended for the repair and reconstruction of the West Rodney French Boulevard Boat Ramp located in the city of New Bedford; provided further, that not less than \$4,000,000 shall be expended for the repair and maintenance of the Godfrey Brook in the town of Milford; provided further, that not less than \$50,000 shall be expended for improvements and repairs to Unity Park in the town of Sutton; provided further, that not less than \$1,250,000 shall be expended for creating a neighborhood network of gardens and trails in the city of Lawrence; provided further, that not less than \$50,000 shall be expended for developing the Quaboag River Trail; provided further, that not less than \$500,000 shall be expended for repairs to the Manns Pond Dam in the Town of Sharon; provided further, that not less than \$100,000 shall be expended for engineering and repairs to municipally-owned dams in the town of Ashburnham; provided further, that not less than \$250,000 shall be expended for repairs to the Wayside Pond Dam in the city of Gardner; provided further, that \$500,000 shall be expended for drainage improvements on Frye Road in the City of Methuen; provided further, that \$9,000 shall be expended for the installation of drainage on the pathway leading from the

Franklin School to the Berkeley Road neighborhood in the Town of North Andover; provided further, that not less than \$250,000 shall be expended for the repair of the canal wall of the John Whitin Pond sluiceway on Crown and Eagle Way; provided further, that not less than \$100,000 shall be expended for an asbestos sewer line clean-up in the town of Sutton; provided further, that not less than \$125,000 shall be expended for the implementation of a downtown sewer line in the town of Georgetown; provided further, that not less than \$400,000 shall be expended for an infiltration elimination program in Methuen; provided further, that not less than \$900,000 shall be expended for the restoration of the Bicentennial Trail at Wachusett Mountain State Park; and provided further, that not less than \$150,000 shall be expended for Developing the Spicket River Greenway in the city of Lawrence \$56,000,000

2800-7017 For the support of the protection and rehabilitation of the lakes and ponds and associated watersheds including, but not limited to, assistance and grant programs under sections 37A to 37D, inclusive, of chapter 21 of the General Laws; provided, that program activities shall include, but not be limited to, technical assistance, studies, preservation, environmental improvements and associated costs and for a program to provide for the registration of persons engaged in the business of drilling or digging wells and assuring adherence to professional standards in well construction in order to protect the ground water resources of the commonwealth and the consumers, including the provision of technical assistance to boards of health and the regulated community and the provision of ongoing education to well drillers and others, coordination with the office of the state geologist, including associated costs; provided further, that not less than \$25,000 shall be expended for the pond restoration and pollution abatement study for Rawson hill brook and pond in the town of Shrewsbury; and provided further, that not less than \$100,000 shall be expended for the Town of Ashland for preservation, maintenance, and environmental protection of Lake Waushakum \$5,000,000

2800-7018 To provide state coordination with a cooperative federal-state program with the United States Geological Survey, Department of Interior, for continuous data collection and analysis,

	including the operation of the statewide stream flow and ground water level monitoring networks standards and web sites, and to fund studies of current water resources research on stream flow and groundwater resource management, watershed studies, stream gauges, basin studies and topical studies and other related hydrologic studies and activities . . .	\$25,000,000
2800-7019	For the development of long-range capital improvement plans, designs, and related engineering specifications to improve and rehabilitate department properties and facilities, including but not limited to the resource management planning process under section 2F of chapter 21 of the General Laws; provided further, that not less than \$300,000 shall be expended for the Mystic River Master Plan	\$5,000,000
2800-7022	For the purpose of protecting and conserving the ecological and economic integrity of the commonwealth's privately held forestlands, including but not limited to acquisition of interests in land including easements, agreements, rights of first refusal and covenants; for a forestry conservation restriction program to acquire conservation restrictions under section 31 of chapter 184 for private working forests actively devoted to sustainable forestry, and classified as forest land under section 2 of chapter 61 of the General Laws, in order to encourage sustainable forestry, protect prime forest land, and help the viability and affordability of sustainable forestry; provided, that working forest conservation restrictions shall be held by the department of agriculture or the department of conservation and recreation or the municipality in which the land is located; provided further, that projects shall be rated based on the suitability of land to grow forest products, the fair market value of the land as determined by independent appraisers, proximity to other protected working forests, management history of the project to serve as a model of sustainable forestry and the degree to which the conservation restriction would serve to preserve and make affordable the practice of sustainable forestry in the commonwealth; and for grants to public and non-public organizations and private landowners for education, technical assistance, forest stewardship practices, enhancement of ecosystem services and carbon sequestration, estate planning, interests in land or associated land acquisition costs; grants to private forest landowners, forest businesses and non-profits for the forest viability pro-	

gram for enhancing sustainable economic benefits of forests, including business plans and implementation grants and no-development covenants to be held by the department of agriculture or the department of conservation and recreation, including but not limited to forest management plans for private landowners; provided, that projects and funding shall be approved by the secretary of energy and environmental affairs; and provided further, that projects may be carried out in cooperation with other governmental agencies, private landowners, and conservation organizations according to management agreements approved by the secretary \$4,000,000

2800-7097 For the design, construction, reconstruction, improvement or rehabilitation of department or navigable coastal and inland waterways projects, including but not limited to coastal protection, structures, dredging, rivers and stream cleaning, coastal structure maintenance, piers, dune stabilization, culvert repair, re-nourishment, erosion control and waterfront access and transportation improvements and related facilities and equipment; provided further, that \$3,000,000 shall be expended for the dredging of Plymouth Harbor; provided further, that not less than \$750,000 shall be expended for the dredging of the Fore River in the town of Braintree; provided further, that \$2,500,000 shall be expended for the costs of sand restoration and erosion control and prevention necessary for the protection of roadway and utility infrastructure on Plum island in the town of Newbury and the city of Newburyport; provided further, that not less than \$2,250,000 shall be expended for dredging of Hingham Harbor; provided further, that not less than \$600,000 shall be expended for the dredging of Morse's Pond and related items in the town of Wellesley; provided further, that not less than \$1,500,000 shall be expended for the repair or replacement of the Seaview Avenue seawalls in the town of Oak Bluffs or the installation of a coastal dune system in lieu thereof; provided further, that not less than \$6,000,000 shall be expended for repair and restoration of the Point Allerton seawall in the town of Hull; provided further, that not less than \$100,000 shall be made available to the town of Newbury for either the direct acquisition, or to facilitate the intragovernmental transfer of, a Lighter, Amphibious, Resupply, Cargo (LARC LX) used to transport personnel, equipment, and materials in

- the beachfront area of Plum Island; provided further, that not less than \$1,000,000 shall be expended for jetty repairs, dredging work, and associated improvements to the Merrimack River; provided further, that not less than \$1,500,000 shall be expended for the rehabilitation and cleanup of Lake Massasoit in Springfield; and provided further, that not less than \$600,000 shall be expended for the dredging of Apponagansett Bay in the town of Dartmouth . . . \$22,250,000
- 2800-7098 For dredging projects in the Commonwealth's coastal harbors and waterways, including those projects requiring a state or local match to partner with federally authorized projects . . . \$5,000,000
- 2840-7014 For the design, construction, reconstruction, removal, improvement or rehabilitation of department reservations, forests, parks, harbor islands, skating rinks, swimming pools, golf courses, tennis courts, basketball courts, playgrounds, other recreational facilities, beaches and related facilities, storage buildings, office buildings and other parks buildings and equipment and for the planning, design, construction, repair, reconstruction, rehabilitation, or improvement of department bike paths, greenways, recreational trails, and related facilities and equipment; provided, that not more than \$1,250,000 shall be expended for restoration and reconstruction of the former superintendent's house at Wachusett Mountain State Park; provided further, that not more than \$6,300,000 shall be expended for maintenance, repairs, and construction at the Connors Pool in Waltham; provided further, that not less than \$2,000,000 shall be provided for the reconstruction of the Vernon Hill multi-depth swimming pool in the city of Worcester; provided further, that not less than \$2,100,000 shall be provided for the reconstruction of the Bennett Field multi-depth swimming pool in the city of Worcester; provided further, that \$40,000 shall be expended for the construction and maintenance of trails in the town of Bourne; provided further, that not less than \$100,000 shall be provided to the town of Lynnfield for the purposes of conducting an environmental impact study on flooding and drainage issues at Reedy Meadow that also impact the communities of Wakefield, Saugus and Lynn; provided further, that not less than \$15,000,000 be expended for the planning, design, and maintenance of bike paths, facilities and greenways for the bi-

cycle recreating public; provided further, that not less than \$150,000 shall be expended for the construction and maintenance of walking trails, bike paths and sanitary facilities along the greenway surrounding Watson's Pond in the city of Taunton; provided further, that not less than \$50,000 shall be expended for the renovations to public parks in Spencer; provided further, that not more than \$150,000 be expended for renovations, repairs, or replacement at the Crosby Mansion and Cape House; provided further, that not less than \$50,000 shall be expended for improvements at Manning state forest in the town of Billerica; provided further, that not less than \$2,500,000 shall be expended for ice bed system replacement and HVAC and roof repairs at the Veterans' Memorial Hockey Rink in the city of Somerville; provided further, that not less than \$5,500,000 shall be expended for parking lot and road reconstruction at the Mount Wachusett state reservation; provided further, that not less than \$300,000 shall be expended for clean up, planning and design of a multi-use recreational field within or adjacent to the Blue Hills Reservation in the town of Canton; provided further, that \$3,405,000 shall be expended for improvements at Breakheart Reservation, including developing a master plan for the Breakheart Reservation area, rebuilding the barn as a green educational center, repairing the flume, adding playground equipment, covered picnic shelters, lifeguard chairs, a shuttle, a solar-powered circulator for Silver Lake, and permanent bathrooms, a changing and first aid station, and concession building by Silver Lake, improving Bark Place, repairing fire equipment, improving public safety within the designated swimming areas, including those areas at Camp Nihan, and improvements at Camp Nihan, including insulating walls and replacing windows in cabins, replacing woodstoves, and adding a solar-powered circulator for Peckham Pond, energy-efficient heating in Sprague Lodge, refrigeration units, backup power, and a wind-powered 110-volt system; provided further, that that not less than \$1,000,000 shall be provided for the purpose of partially matching federal coastal wetland restoration projects within the Rumney Marshes Area of Critical Environmental Concern; provided further, that not less than \$6,000,000 shall be expended for acquisition of the East Boston Camp property

in the town of Westford; provided further, that not less than \$1,000,000 shall be expended within the layout of the former Saugus Branch railroad, including developing a master plan, a multi-use trail, and the design and construction of park improvements on the Bacon property in Saugus; provided further, that not less than \$250,000 shall be provided to develop an open space protection plan for the Saugus River and its tributaries, including studies to improve flood and storage capacity and to protect public water supplies; provided further, that not less than \$800,000 shall be expended for the waterfront restoration project in Watertown; provided further, that not less than \$1,000,000 shall be expended for athletic fields in Walpole; provided further, that not less than \$5,659,000 shall be expended for construction of a permanent ice skating rink in Jamaica Plain; provided further that not less than \$4,400,000 shall be expended for the construction and rehabilitation of the Melnea Cass rink and pool in Boston as an enclosed public roller-skating rink; provided further, that not less than \$10,000,000 shall be expended for enhancements to Horseneck Beach State Reservation, including construction and rehabilitation of the Horseneck Beach campgrounds and Gooseberry Island; provided further, that not less than \$2,500,000 shall be expended for restoration of and equipment for the Schooner Ernestina; provided further, that not less than \$500,000 shall be expended for the construction of a trail system connecting to Crane's beach in Ipswich; provided further, that \$1,600,000 shall be expended for the Salisbury Beach boardwalk; provided further, that not less than \$150,000 shall be expended for improvements to Smith Beach in the town of Braintree; provided further, that \$1,000,000 shall be expended for the Newburyport waterfront park; provided further, that \$2,800,000 shall be expended for the Newburyport boardwalk; provided further, that \$200,000 shall be expended for building repairs and the installation of an equipment shed at the Great Falls Discovery Center, provided further, that \$280,000 shall be expended for repairs to the 3 level observation deck and replacement of guard rails at Mount Sugarloaf State Park; provided further, that not less than \$700,000 shall be expended for the Lowell Parks and Conservation Trust Concord River Greenway; provided further, that \$1,500,000

shall be expended for the rehabilitation and site improvements to the Brook Farm historic site in the West Roxbury section of the city of Boston; provided further, that \$2,000,000 shall be expended for the reconstruction, rehabilitation and site improvements of the Thompson Center in the Hyde Park section of the city of Boston; provided further, that not less than \$1,000,000 shall be expended for renovations at the Marine Park bathhouse in South Boston; provided further, that \$925,000 shall be expended for renovation and reconstruction of the Surf Drive Bath House and the Old Silver Beach Bath House in Falmouth; provided further, that not less than \$500,000 shall be expended for arsenic remediation at the Ledge road landfill in the town of Andover; provided further, that not less than \$10,000,000 shall be delivered to MassDevelopment to pay for costs and expenses associated with site assessment, asbestos and hazardous waste remediation, removal and abatement, demolition, renovation, infrastructure improvement, surveying, planning, construction, permitting, marketing and other site preparation at the former Belchertown State School property; provided further, that not less than \$1,000,000 shall be expended for the capital improvements to Lynn Heritage Park Visitors Center; provided further, that not less than \$250,000 shall be expended for the Steamline Trail wall repair project in the city of Fitchburg; provided further, that not less than \$150,000 shall be expended for the Crocker Field Restoration project in the city of Fitchburg; provided further, that \$4,000,000 shall be expended for Phase 1 of the improvement and redevelopment plan of the Three County Fairgrounds in the city of Northampton; provided further, that not less than \$350,000 shall be expended for renovations and construction at the Manning pool in the city of Brockton; provided further, that \$250,000 shall be expended for the planning and construction of a pavilion and amphitheatre at River Bend Farm Visitors' Center at the Blackstone River and Canal Heritage State Park; provided further, that \$250,000 shall be expended for planning and construction of the French River Greenway which traverses the communities of Dudley, Webster and Oxford; provided further, that not less than \$200,000 shall be expended for mechanical systems upgrades, including heating and air conditioning systems, to the Gardner

Heritage State Park Visitors Center; provided further, that not less than \$1,000,000 shall be expended within the layout of the former Saugus Branch railroad, including developing a master plan, a multi-use trail, and the design and construction of park improvements on the so-called Bacon property in Saugus; provided further, that not less than \$50,000 shall be expended for a design study for bicycle accommodations on Hammond Pond Parkway in the city of Newton, and all areas appurtenant thereto; provided further, that not less than \$75,000 shall be expended for a design study for bicycle/walking accommodations on a former railway right-of-way that connects the villages of Auburndale and Newton Lower Falls in the city of Newton, from the Auburndale Commuter Rail Station to the Riverside MBTA station along a rail trail to Wellesley Lower Falls and including the feasibility of reusing existing railroad bridges crossing route 128 and the Charles River along that right-of-way; provided further, that not less than \$173,000 shall be expended for a historical renovation of the New Salem Academy Building; provided further, that not less than \$918,000 shall be expended for the Quinebaug Rail Trail and bikeway along the former Providence and Worcester Railroad right-of-way through the towns of Southbridge, Dudley and Webster; provided further, that not less than \$4,000,000 shall be expended to create an upstream retention of storm water to reduce flooding in Jacobs Meadow and Cohasset Village in the town of Cohasset; provided further, that not less than \$75,000 shall be expended to increase the existing water supply capabilities of the Harold Parker Water Cistern in the town of Andover; provided further, that not less than \$275,000 shall be expended for the purpose of providing matching funds for the design, engineering, and construction of a boardwalk along the Ipswich River in the town of Reading; provided further, that not less than \$50,000 shall be expended for reclaiming and greening alleyways in the city of Lawrence; provided further, that not less than \$5,000,000 shall be expended for the rehabilitation and reconstruction of the Emmons Horrigan O'Neill Memorial Rink in the town of Charlestown; provided further, that not less than \$100,000 shall be expended for improvements to Thomson Field in the

town of North Andover; provided further, that not less than \$200,000 shall be expended for the design and construction of a walking path connecting the upper part of the city of Methuen to the Lower portion near Searle's estate in the city of Methuen; provided further that not less than \$250,000 shall be expended for municipal dam repairs in the town of Foxborough; provided further, that not less than \$6,000,000 shall be expended for acquisition of the east Boston camps property in the town of Westford; provided further, that not less than \$250,000 shall be expended for the study and planning of a water system in the town of Charlton; provided further, that not less than \$1,300,000 shall be expended for the Union Crossing Storm Management Project in the city of Lawrence; provided further that up to \$15,000 shall be expended for an environmental baseline study on the property commonly known as the Otis Fish & Game Club located on the Massachusetts Military Reservation; provided further that up to \$2,500 shall be expended for an application fee to the United States Army Corps of Engineers on behalf of the Otis Fish & Game Club for license fee for usage of said property; provided further, that not less than \$2,893,000 shall be expended for a closure and redevelopment plan of the Hull landfill in the town of Hull; provided further, that not less than \$500,000 be expended for a Heritage Park in the lower Millyard in the town of Amesbury; provided further, that not less than \$120,000 shall be expended for the development of comprehensive watershed hydrological studies and resulting watershed management plans for the Fish Brook, Pye Brook, and Parker River in the town of Boxford; provided further that not less than \$100,000 shall be expended for emergency repairs to the Grand Army of the Republic Monument on the Natick Common; provided further, that not less than \$300,000 shall be expended at Fort Phoenix State Reservation; provided further, that not less than \$1,000,000 shall be expended for the Riverwalk in the city of Lawrence; provided further, that not less than \$500,000 shall be expended for the creation of a Regional Sewer District Recharge Site in the town of Norton; provided further, that not less than \$100,000 shall be expended for the development of fields at the Cole Recreation Center; provided further, that not more than \$2,000,000 be expended for the construction and associated costs of a town

wading pool at Buttery Brook Park in South Hadley in consideration of the Department of Conservation and Recreation's demolition of the state pool formerly located in the park; provided further, that not less than \$200,000 shall be expended for parking and access improvements to Mount Tom Reservation from newly acquired land on East Street in the City of Easthampton; provided further, that not less than \$600,000 shall be expended for the study, preliminary design, site preparation and associated costs of the Greylock Glen environmental center and outdoor ampitheater in the town of Adams; provided further, that not less than \$75,000 shall be expended for improvements and pond and beach reclaiming at Howe State Park; provided further, that not less than \$500,000 shall be expended for a matching grant for the restoration of the Holmes Field Park Pool and Recreation Area in the city of Worcester; provided further, that not less than \$500,000 shall be expended for the construction of a visitors and education center in the Freetown State Forest located in the town of Freetown; provided further, that not less than \$1,000,000 shall be expended for the conversion of the landfill on Mountain Street in the Town of Sharon to athletic fields; provided further, that not less than \$2,000,000 shall be expended for the maintenance and facility care of the Connell Rink and Pool located in the Town of Weymouth; provided further, that not less than \$650,000 shall be expended for improvements, expansion and rehabilitation of the State swimming pool in Blunt Park in Springfield; provided that not less than \$250,000 shall be expended for repairs and renovations to the Hall Memorial Swimming and Wading Pool in the Town of Stoneham; provided further, that not less than \$200,000 shall be expended for mechanical systems upgrades, including heating and air conditioning systems, to the Gardner Heritage State Park Visitors Center; provided further, that not less than \$200,000 shall be expended for Phase V acquisition, engineering and design for the North Central Pathway Project in Gardner and Winchendon; provided further that not less than \$500,000 shall be expended for lights and security cameras for the bike path in the Connecticut River Bike Path from the South End to the North End in the city of Springfield; provided further that not less than \$250,000 shall be expended for lighting on

Plainfield Street in Kenefick Park in the City of Springfield; provided further, that not less than \$1,500,000 shall be expended for the rehabilitation of the Springfield Riverfront Park; provided further that not less than \$3,500,000 shall be expended for the construction of phase two of the Mystic Valley Parkway in the town of Arlington; provided further, that not less than \$3,700,000 shall be expended for the Community Boating Facility Pier Construction Project; provided further, that not less than \$50,000 shall be expended to the Quincy Network for supporting environmental education and initiatives in the Quincy schools in the city of Quincy; provided further, that not less than \$250,000 shall be expended for improvements to Prospect Hill Park in Waltham; provided further, that not less than \$250,000 shall be expended for the extension of the Wayside Rail Trail in the city of Waltham; provided further, that not less than \$100,000 shall be expended for the maintenance and enhancement of Hardy pond in the city of Waltham; provided further, that not less than \$30,000 shall be expended for well-water installation at the Gile Road facility in Milton; provided further, that not less than \$250,000 shall be expended for athletic fields in Milton; provided further, that not less than \$250,000 shall be expended for repair and renovation for the Ulin Rink in Milton; provided further, that not less than \$1,166,500 shall be expended to Marion's Camp and the Mumford Riverwalk Recreation Project; provided further, that not less than \$250,000 shall be expended for the Bellingham Rail-to-Trail Bikeway; provided further, that not less than \$250,000 shall be expended to Marion's Camp and the Mumford Riverwalk Recreation Project; provided further, that not less than \$250,000 shall be expended to the Mumford Riverwalk Recreation Project; provided further, that not less than \$200,000 be expended for the renovation of Liberty Heights Park in the City of Springfield; provided further, that not less than \$1,000,000 shall be expended for erosion damage in Forest Park in the City of Springfield; provided further, that not less than \$1,000,000 shall be expended for the restoration and rehabilitation of existing structures at Hazelwood Park in the City of New Bedford; provided further, that no less than \$50,000 to the Waltham Land Trust for supporting environmental education and initiatives in the

	Waltham Schools in the City of Waltham; provided further, that no less than \$10,000 for the Waltham Garden Club for the purposes of environmental beautification project in the City of Waltham; provided further, that not less than \$150,000 shall be expended for renovations to Hayes Stadium in the town of North Andover; provided further, that not less than \$1,000,000 shall be expended for improvements to Houghton's Pond athletic fields; provided further, that not less than \$2,000,000 shall be expended for capital improvements to the Trailside Museum; provided further, that not less than \$1,000,000 shall be expended on rehabilitation to Palmer's Island Lighthouse	\$220,950,000
2840-7017	For the design, construction, reconstruction, repair, improvement or rehabilitation of flood control facilities and water resource protection related facilities of the department, including its various pump stations and structures; provided, that \$180,000 shall be provided for the installation of a biofilter system at the Woodland Street Pump Station in the town of West Boylston	\$30,000,000

Division of Energy Resources

9300-7010	For the Leading by Example Program, so-called, to reduce greenhouse gas emissions and other environmental impacts at state agencies, authorities, and public colleges and universities; to stimulate increased public and private sector investment in clean energy and related enterprises, institutions, and projects in the Commonwealth, including providing economic assistance for the development of these enterprises and non-financial assistance	\$2,500,000
9300-7909	For the energy conservation improvement program under section 11 of chapter 25A of the General Laws; provided, that funds in this item shall be allocated from time to time by the commissioner of energy resources for the purposes of the energy audit program, the energy conservation improvement program, and the alternative energy property program, and for other programs that increase energy efficiency and the deployment of renewable resources at public facilities; provided further, that when expending these funds, the commissioner shall take into consideration, among other relevant factors, the amount of available state and federal financial resources, the needs of each program with respect to	

public buildings and facilities, the volume of requests or expected requests from other entities for assistance under each program, the expected costs and public benefits of each program and, after information has become available from the energy audit program, the priorities and needs indicated by that information; provided further, that funds shall be expended on the buildings and facilities owned by public entities; and provided further, that grants may be issued for the purposes of this item \$13,250,000

MASSACHUSETTS DEPARTMENT OF EDUCATION
University of Massachusetts Amherst

7100-0299 For the state geologist, provided, that funds from this item may be allocated for the purposes of leveraging additional federal funds to support bedrock, fracture, and geologic surface mapping, natural hazards mapping, and subsurface data preservation in support of the commonwealth’s interest in gathering and disseminating geologic information; provided that funds from this item may also be used to support the dissemination of geologic information in digital form \$2,500,000

SECTION 2B. To provide for a statewide program of improvement and preservation of the transportation assets of the commonwealth owned, managed, and maintained by the department of conservation and recreation, the sums set forth in section 2C, for the several purposes and subject to the conditions specified in that section, are hereby made available, subject to the laws regulating the disbursement of public funds, which sums are in addition to amounts previously appropriated for these purposes.

SECTION 2C.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
Department of Conservation and Recreation

2890-7010 For the design, construction, reconstruction, repair, improvement, or rehabilitation of department of conservation and recreation parkways, boulevards, bridges and related appurtenances and equipment including, but not limited to, the costs of engineering and other services for those projects rendered by department of conservation and recreation employees or by consultants; provided, that funds may be expended for pedestrian and bicycle safety, traffic calming, landscape improvements, street lighting, and safety equipment; provided further, that all work funded by this item shall be carried out

according to standards developed by the department of conservation and recreation pursuant to historic parkways preservation treatment guidelines to protect the scenic and historic integrity of the bridges and parkways under its control; provided further, that not less than \$1,300,000 shall be expended for sidewalk and drainage improvements to the Lynn Fells Parkway in Saugus; provided further, that not less than \$50,000 shall be expended for the repair of streetlamps on the Mystic Valley Parkway; provided further, that not less than \$420,000 shall be expended for design and construction of a traffic light at the intersection of Grove Street and Greenough Boulevard in Watertown; provided further, that not less than \$900,000 shall be expended to complete Phase I of Blue Hills Parkway improvements; provided further that not less than \$50,000 shall be expended to re-establish and increase tidal flow through the enlargement of the Parker Avenue-Border Street culvert in the town of Cohasset; provided further, that not less than \$400,000 shall be expended for improvements at Hunnewell Field in the town of Natick; provided further, that not less than \$50,000 shall be expended for the schematic design phase of the Sustainable Building demonstration project for the Hitchcock Center for the Environment in Western Massachusetts; provided further, that not less than \$750,000 shall be expended for the signalized intersection at Eliot Street and Arborway in the city of Boston as provided for in the Arborway Master Plan; provided further that not less than \$1,500,000 shall be expended for the monitoring, cleaning, maintenance, mitigation, and dredging of the Fellsmere Pond in the City of Malden; provided further that not less than \$4,000,000 shall be expended for the design and construction of a pedestrian bridge spanning the tracks at North Station along the southerly bank of the lower Charles River Basin in Boston; provided further, that not less than \$20,000 shall be expended for the "Friends of Wollaston Beach" for the environmental beautification and maintenance of Wollaston Beach in the City of Quincy; provided further that not less than \$100,000 shall be expended for improvements at Coolidge Field in Natick; provided further that not less than \$500,000 shall be expended for improvements to Sargent Field in Natick; provided further, that not less than

	\$5,000,000 shall be expended to repair and reconstruct the Nantasket beach seawall in the town of Hull; provided further, that not less than \$3,000,000 shall be expended for the maintenance, repairs, and reconstruction of seawalls in the towns of Scituate and Marshfield; and provided further, that not less than \$2,000,000 shall be expended for the restoration of the main access road in the Mount Tom State Reservation in Holyoke	\$75,000,000
2890-7011	For the design, maintenance, reconstruction, repair, and rehabilitation of vehicle bridges under the control of the department of conservation and recreation; provided, that notwithstanding any general or special law to the contrary, funds may be allocated through an interagency service agreement to the department of highways; provided further, that the agreement shall specify that a spending plan shall be filed each year with the commissioner of conservation and recreation providing a schedule of outlays from this item; provided further, that the agreement shall specify that a report shall be filed by the department of highways and the department of conservation and recreation to the joint committee on transportation and the joint committee on environment, natural resources and agriculture by September 30 of each year detailing the status of work undertaken through this item for the previous fiscal year; provided further, that all work funded by this item undertaken by the department of highways under any interagency service agreement shall be carried out according to standards developed by the department of conservation and recreation pursuant to historic parkways preservation treatment guidelines to protect the scenic and historic integrity of the bridges and parkways under its control; and provided further, that final design of the bridges shall be subject to the review and approval of the commissioner of conservation and recreation; provided further, that notwithstanding this act or any other general or special law to the contrary, the Storrow Drive tunnel, as part of the Storrow Esplanade parkland in Boston, shall continue to be under the design control of the department of conservation and recreation, including compliance sections 61 to 62H, inclusive of chapter 30 of the General Laws	\$250,000,000.

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 35II the following section:-

Section 35JJ. (a) There shall be established the Salisbury Beach Preservation Trust Fund to be used, without further appropriation, for the long-term preservation and maintenance of Salisbury Beach. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

(b) Notwithstanding any general or special law to the contrary, the department of conservation and recreation shall impose a surcharge of \$2 upon each fee charged and collected from admission into, camping, and parking in, the Salisbury Beach Reservation. The additional monies collected from the surcharge shall be deposited into the Salisbury Beach Preservation Trust Fund.

SECTION 4. Paragraph (1) of subsection (c) of section 22 of chapter 21A of the General Laws, as appearing in section 7 of chapter 169 of the acts of 2008, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) to reimburse a municipality in which the property tax receipts from a coal-fired electric generating station including, for the purposes of this clause, payments in lieu of taxes and other compensation specified in an agreement between a municipality and an affected property owner, are reduced; provided, however that the amount of the payment shall be the difference between the amount of the property tax receipts, as described above, in fiscal year 2008 and the amount of the property tax receipts, as described above, in subsequent tax years; 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 fiscal year 2008; 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.

SECTION 5. Section 6 of chapter 29C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the words "cent", in line 34, the following words:-, but all permanent loans and other forms of financial assistance made by the trust to finance the costs of certain water pollution abatement projects on the department's intended use plan for calendar year 2009 to calendar year 2019, inclusive, that meet the criteria listed below shall provide for a subsidy or other assistance in the payment of debt service such that the loans and other forms of financial assistance shall be the financial equivalent of a loan made at a zero rate of interest, and the costs of water pollution abatement projects on an intended use plan that are eligible for a permanent loan or other financial assistance from the trust at the financial equivalent of a loan made at a zero rate of interest shall not exceed 35 per cent of the total costs of all water pollution abatement projects on the intended use plan. Projects that meet the following criteria, as verified by the

department of environmental protection, are eligible for the zero rate of interest loans:

(1) the project is primarily intended to remediate or prevent nutrient enrichment of a surface water body or a source of water supply;

(2) the applicant is not currently subject, due a violation of a nutrient-related total maximum daily load standard or other nutrient based standard, to a department of environmental protection enforcement order, administrative consent order or unilateral administrative order, enforcement action by the United States Environmental Protection Agency or subject to a state or federal court order relative to the proposed project;

(3) the applicant has a Comprehensive Wastewater Management Plan approved pursuant to regulations adopted by the Department of Environmental Protection;

(4) the project has been deemed consistent with the regional water resources management plans if one exists;

(5) the applicant has adopted land use controls, subject to the review and approval of the department of environmental protection in consultation with the department of housing and economic development and, where applicable any regional land use regulatory entity, intended to limit wastewater flows to the amount authorized under zoning and wastewater regulations as of the date of the approval of the CWMP.

SECTION 6. Section 14 of chapter 61A of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words "forest use of" and inserting in place thereof the following words:- agricultural or horticultural use of such.

SECTION 7. Section 9 of chapter 61B of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words "forest use of such land" and inserting in place thereof the following words:- use and care of such land for recreational purposes.

SECTION 8. Section 6 of chapter 62 of the General Laws is hereby amended by adding the following subsection:-

(o)(1) As used in this subsection, the following words shall have the following meanings:-

"Bargain sale", the sale of an interest in real property by a taxpayer at a cost below appraised market value, when a portion of the value of the interest in real property is a qualified donation, as such term is defined herein and which meets the requirements of section 1011(b) of the Internal Revenue Code of 1986, as amended.

"Certified land", an interest in real property, the donation or bargain sale of which has first been determined by the secretary of environmental affairs to be in the public interest for natural resource protection including, but not limited to, drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities, or scenic and cultural values; provided, however, that the secretary of environmental affairs shall assure that all certified lands are protected in perpetuity.

"Interest in real property", any right in real property in the commonwealth, with or without improvements thereon, or water including, but not limited to, fee simple, life estate, restriction, easement, covenant, condition, partial interest, remainder, future interest, lease,

license, mineral right, riparian right or other interest or right in real property that may be conveyed concerning the power to transfer property.

"Public or private conservation agency", the commonwealth, or any subdivision thereof, or any municipality, or private nonprofit corporation organized for the purposes of land conservation, which is authorized to do business in the commonwealth, and which has tax-exempt status as a nonprofit charitable organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

"Qualified donation", a donation, or the donated portion of a bargain sale, made in perpetuity of a fee interest in real property or a less-than-fee interest in real property, including a conservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to chapter 184, provided that such less-than-fee interest meets the requirements of qualified conservation contributions under section 170(h) of the Internal Revenue Code of 1986.

"Taxpayer", a taxpayer subject to the income tax under this chapter.

(2) A taxpayer making a qualified donation of certified land to a public or private conservation agency shall be allowed a credit against the taxes imposed by this chapter. The credit shall be equal to 50 per cent of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed \$50,000.

(3) The fair market value of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A-13(c)(3), and shall be prepared by a qualified appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For any taxpayer to qualify for the credit provided for in subdivision (2), the taxpayer shall at the same time that the taxpayer files a return for the taxable year in which the credit is claimed, file with the department a summary of a qualified appraisal or, if requested by said department, the taxpayer shall submit the appraisal itself.

(4) In any one tax year, the credit used may not exceed the amount of tax liability otherwise owed by the taxpayer. The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 10 subsequent tax years.

(5) All or any tax credits issued in accordance with this section may be in addition to any charitable deductions claimed on the taxpayer's federal income tax return for the same qualified donations of certified lands.

(6) Any taxpayer claiming a state income tax or excise tax credit under this section may not claim an additional state income tax credit or deduction during any one tax year for costs related to the same interest in certified lands.

(7) Any tax credits which arise under this section from the qualified donation of certified land by a pass-through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited liability partnership, limited liability corporation, subchapter S organiza-

tion, or other fiduciary, shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, partner, shareholder, or beneficiary, for the same conveyance.

(8) Any tax credits which arise under this chapter from the qualified donations of certified land by a married couple shall be used only if the spouses file a joint return, if both spouses are required to file Massachusetts income tax returns. If only one spouse is required to file a Massachusetts income tax return, that spouse may claim the credit allowed by this chapter on a separate return.

SECTION 9. Chapter 63 of the General Laws is hereby amended by inserting after section 38Y the following section:-

Section 38Z. (a) As used in this section, the following words shall have the following meanings:-

“Bargain sale”, the sale of an interest in real property by a taxpayer at a cost below appraised market value, when a portion of the value of the interest in real property is a qualified donation, as such terms are defined herein, and which meets the requirements of section 1011(b) of the Internal Revenue Code of 1986, as amended.

“Certified land”, an interest in real property, the donation or bargain sale of which has first been determined by the secretary of environmental affairs to be in the public interest for natural resource protection including, but not limited to, drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities or scenic and cultural values; provided, however, that the secretary of environmental affairs shall assure that all certified lands are protected in perpetuity.

“Interest in real property”, any right in real property in the commonwealth, with or without improvements thereon, or water, including, but not limited to, fee simple, life estate, restriction, easement, covenant, condition, partial interest, remainder, future interest, lease, license, mineral right, riparian right, or other interest or right in real property that may be conveyed concerning the power to transfer property.

“Public or private conservation agency”, the commonwealth, or any subdivision thereof, or any municipality, or private nonprofit corporation organized for the purposes of land conservation, which is authorized to do business in the commonwealth, and which has tax-exempt status as a nonprofit charitable organization as described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

“Qualified donation”, a donation, or the donated portion of a bargain sale, made in perpetuity of a fee interest in real property or a less-than-fee interest in real property, including a conservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to chapter 184, provided that such less-than-fee interest meets the requirements of qualified conservation contributions under section 170(h) of the Internal Revenue Code of 1986.

“Taxpayer”, a taxpayer subject to the income tax under this chapter.

(b) A taxpayer making a qualified donation of certified land to a public or private conservation agency shall be allowed a credit against the taxes imposed by this chapter. The credit shall be equal to 50 per cent of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed fifty thousand dollars.

(c) The fair market value of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A-13(c)(3), and shall be prepared by a Qualified Appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For any taxpayer to qualify for the credit provided for in subsection (b) of this section, the taxpayer shall at the same time as the taxpayer files a return for the taxable year in which the credit is claimed, file with the department a summary of a qualified appraisal or, if requested by said department, the taxpayer shall submit the appraisal itself.

(d) In any one tax year the credit used may not exceed the amount of tax liability otherwise owed by the taxpayer. The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 10 subsequent taxable years.

(e) Any tax credits issued in accordance with this section may be in addition to any charitable deductions claimed on the taxpayer’s federal income tax return for the same qualified donations of certified lands.

(f) Any taxpayer claiming a state income tax or excise tax credit under this section may not claim an additional state income tax credit or deduction during any one tax year for costs related to the same interest in certified lands.

(g) Any tax credits which arise under this section from the qualified donation of certified land by a pass-through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited liability partnership, limited liability corporation, subchapter S organization, or other fiduciary, shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, partner, shareholder, or beneficiary, for the same conveyance.

SECTION 10. Chapter 83 of the General Laws is hereby amended by inserting after section 1 the following 8 sections:-

Section 1A. Notwithstanding the provisions of sections 1 and 3 to the contrary, any municipality or sewer district adopting this section is hereby authorized to lay out, construct, maintain and operate a system or systems of common sewers and main drains in public or private ways for that part of its territory as it adjudges necessary to reduce or eliminate the impacts of nutrient enrichment on surface water bodies or sources of drinking water with such connections and other works as may be required for a system or systems of sewerage

and drainage, and sewage treatment and disposal. Adoption of this section is subject to majority vote of the municipality and subject further to said municipality having an approved comprehensive water resources management plan hereinafter referred to as (CWMP) as defined by the department of environmental protection hereinafter referred to as (DEP).

Section 1B. At the commencement of operation of the municipalities' sewer system authorized by section 1A, the owner of land abutting upon a private or public way in which a common sewer has been laid shall be required by the board or officer having charge of the maintenance and repair of sewers to connect such land with a common sewer only if the land in question is within the areas identified in the department of environmental protection-approved CWMP and has been specifically identified in the plan as requiring wastewater collection and treatment for flows in existence on said properties at the time of adoption of this act in order to protect surface waters or drinking water resources from the effects of nutrient enrichment; or the on-site subsurface sewage disposal system serving said land fails to comply with the provisions of 310 CMR 15.000, et seq. and an on-site subsurface sewage disposal system cannot be constructed on the property in compliance with said regulations and an enhanced treatment system under remedial use cannot be designed and constructed to adequately treat sewage from said property; or to service housing of which at least 15 per cent of the housing units are deed restricted to residents with incomes no greater than 80 per cent of the area median income paying no more than 30 per cent of their income towards housing. The town shall not allow an abutting property owner utilizing an enhanced treatment system under remedial use to opt out of connecting to the sewer system unless the town implements a monitoring and inspection plan approved by the department of environmental protection for such remedial system or systems. Such plan may include the assessment of a reasonable fee by the board of health to implement the monitoring and inspection plan.

Notwithstanding any provision of sections 1 and 3 to the contrary, owners of land not identified in the CWMP as needing to be connected to the municipal treatment works shall not be permitted to connect to the sewer system. Said plan may be amended from time to time by the board or officer having charge of sewers, after a public hearing conducted to consider such amendment, and upon approval of the department of environmental protection. The board or officer having charge of sewers shall adopt regulations within 120 days after the adoption of this act establishing publication and notification procedures to carry out the purposes of this section.

Section 1C. After commencement of operations of the sewer system authorized pursuant to section 1A, additional connections shall be permitted within the final area of concern by such board or officer having charge of the maintenance and repair of sewers, subject to available capacity, only upon certification by the board of health that the on-site subsurface sewage disposal system on land abutting upon a private or public way in which a common sewer has been laid cannot comply with the provisions of 310 CMR 15.000, et seq., or in the case of new construction, expansion of an existing structure, a change in use, or increases in flow from said land, such expansion, change in use, or increase in flow does

not result in sewage flow in excess of the amount of said regulations flow capacity or actual flow resulting from a legal use of said land, whichever is greater, which existed on the date of adoption of this act as determined by the board of health. Notwithstanding anything to the contrary contained herein, the board or officer having charge of the maintenance and repair of sewers may at any time permit extensions, new connections or increases in flow to the sewer system, subject to capacity, to serve municipal buildings, public restrooms, or other public service uses, including but not limited to housing of which at least 15 per cent of the housing units are deed restricted to residents with incomes no greater than 80 per cent of the area median income paying no more than 30 per cent of their income towards housing.

Section 1D. Notwithstanding the provisions of chapters 80 and 83 to the contrary, a municipality acting under section 1A may make assessments upon owners of land abutting upon a private or public way in which a common sewer has been laid only at the time of actual connection to the common sewer. Nothing herein shall preclude the town from making estimated sewer assessments pursuant to section 15B. The municipality may make equitable adjustments to the annual charges established pursuant to section 16 for the use of common sewers by owners of land who connect under this act for the purpose of insuring an equitable distribution of the total sewer system costs, including assessments and sewer use charges.

Section 1E. Every decision by the board or officer having charge of sewers permitting or denying a connection to the sewer system pursuant to sections 1A to 1D, inclusive, shall be made in writing. Any person aggrieved by such a decision may appeal said decision within 30 days of issuance pursuant to the provisions of section 14 of chapter 30A.

Section 1F. In carrying out the provisions of sections 1A to 1E, inclusive, a municipality shall not discriminate against any person on the grounds of race, color, marital status, physical disability, age, sex, sexual orientation, religion, ancestry or national origin in any manner prohibited by federal or state law.

Section 1G. Notwithstanding the provisions of any general or special law to the contrary, a municipality with a comprehensive water resources management plan under review or approved by the department of environmental protection may establish and maintain a separate account into which it may collect and deposit and expend funds from property owners for the difference in cost between a conventional subsurface wastewater disposal system as required in 310 CMR 15.00, et seq, and the cost of a subsurface wastewater disposal system designed to reduce the nitrogen discharge from said system as long as the property in question is identified in the CWMP as being a priority for the installation of a wastewater collection and treatment system for the purposes of reducing the impacts of excessive nitrogen on marine waters and drinking water supplies. Funds from this account may be used only for the purpose of the construction, maintenance and operation of said wastewater treatment and collection works and shall be applied to the costs of connection and or betterment assessed to the property in question.

Section 1H. Notwithstanding section 7 of chapter 44, a municipality or sewer district adopting section 1A may borrow and assess betterments for a term not to exceed 50 years or

the useful life as approved by the department of environmental protection, whichever is shorter, for the construction its wastewater treatment systems and conveyances determined; and provided further that short term borrowing may extend for a period not to exceed 5 years.

SECTION 11. Chapter 94B of the General Laws is hereby amended by adding the following section:-

Section 23. (a) For the purposes of this section the term “children’s leaded jewelry”, shall mean jewelry marketed to or intended for use by children 12 years of age or younger that contains a concentration of lead that has more than 600 parts per million total lead content as of June 1, 2009, more than 300 parts per million total lead content as of June 1, 2010 and 100 parts per million total lead content as of June 1, 2012 as determined by the United States Consumer Product Safety Commission’s, hereinafter referred to as “CPSC”, screening test for total lead analysis based on the Canada Product Safety Bureau Method or similar methods subject to approval by the department, or would expose a child to greater than 90 micrograms of lead per day over a chronic exposure period as determined by the CPSC acid extraction test. Children’s leaded jewelry includes jewelry manufactured, shipped, or sold at retail or wholesale, indoors or outdoors, over the internet or through catalogs, and includes but is not limited to jewelry (1) sold in: (i) vending machines, (ii) toy stores or (iii) toy displays, toy departments or toy sections or (2) that may use images or otherwise be designed or packaged to be especially attractive to children.

(b) The commissioner shall treat any children’s leaded jewelry as a banned hazardous substance under this chapter.

(c) Wholesalers and retailers of children’s jewelry shall maintain documentation that such jewelry has been tested using the CPSC lead screening test and the CPSC acid extraction test or similar methods subject to approval by the department. The documentation shall be in the format and contain information required by protocols established by the department, and shall be made available to the department and consumers upon request.

(d) The commissioner shall promulgate rules and regulations to carry out the purposes of this section or to facilitate compliance therewith. Except for emergency regulations adopted pursuant to section 2 of chapter 30A, any regulation, as defined in section 1 of said chapter 30A, or any amendment or repeal of any such regulation adopted by the commissioner pursuant to this section, shall, after compliance with all applicable provisions of said chapter 30A, except section 5, be submitted to the general court. Said commissioner shall file the proposed regulation, amendment or repeal with the clerk of the house of representatives, together with a statement that the pertinent provisions of said chapter 30A, except section 5 have been complied with. The clerk of the house of representatives, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such regulations to the joint committee on consumer protection and professional licensure. Within 30 days after such referral, said committee may hold a public hearing on the regulations and shall issue a report to said commissioner. Said report shall contain any proposed changes to the regulations voted upon by the committee. The commissioner shall

review said report and shall adopt final regulations as deemed appropriate in view of said report and shall file with the chairmen of said consumer protection and professional licensure its final regulations. If the final regulations do not contain the changes proposed by the committee, the commissioner shall send a letter to the committee accompanying the final regulations stating the reasons why such proposed changes were not adopted. Not earlier than 45 days after the filing of such letter and final regulations with the said committee, said commissioner shall file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect. If no such proposed changes to the regulations are made to the commissioner within 60 days of the initial filing of the proposed regulation or any amendment or a repeal of such regulation with the clerk of the house of representatives, the commissioner may file the final regulations with the state secretary as provided in section 5 of said chapter 30A and said regulations shall thereupon take effect.

SECTION 12. Paragraph (a) of section 12 of chapter 372 of the acts of 1984, is hereby amended by striking out the fifth sentence, as appearing in section 62 of chapter 139 of the acts of 2006, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under this act shall not exceed \$6,450,000,000 outstanding at any 1 time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 13. Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as appearing in section 63 of said chapter 139, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under this act shall not exceed \$6,450,000,000 outstanding at any 1 time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 14. Section 44 of chapter 85 of the acts of 1994, as most recently amended by section 19 of chapter 236 of the acts of 2002, is hereby further amended by inserting after the word "reservation", in line 45, the following words:- , CCC Camp in Upton state forest.

SECTION 15. 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, the sum of \$1,431,301,330. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Preservation and Improvement of Environmental Assets Loan Act of 2008, and shall be issued for a maximum terms of years, not exceeding 30 years, that the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal of these obligations shall be payable from the General Fund unless otherwise specified. Bonds and interest on bonds issued under the authority of this section, notwithstanding any other provision of this act, shall be general

obligations of the commonwealth.

SECTION 16. 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, the sum of \$325,000,000. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Environmental Transportation Assets Loan Act of 2008 and shall be issued for a maximum term of years, not to exceed 30 years, which the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All these bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal of these obligations shall be payable from the General Fund unless otherwise specified. Bonds and interest on bonds issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

SECTION 17. Each agency acquiring land or an interest in land under section 2A may expend an amount not to exceed 5 per cent of the amount appropriated to that agency in section 2A for the purpose of reimbursing nonprofit land conservation organizations or land trusts for reasonable expenses directly associated with the acquisition of land or interests in land subsequently conveyed to the commonwealth. Reimbursements shall be made at the discretion of the agency. The secretary of energy and environmental affairs shall determine by regulation what shall constitute reasonable expenses. If the commonwealth does not take title to the property through no fault of the nonprofit organization or the commonwealth, the commonwealth may reimburse the nonprofit organization for reasonable expenses associated with due diligence. An organization receiving a reimbursement under this section shall convey the land or interest in land to the agency for an amount not to exceed the actual purchase price paid by the organization for the land or interest in land in addition to any reimbursement received under this section.

SECTION 18. No amounts authorized in section 2A shall be used by a recipient municipality for the supplementing or supplanting of normal operating expenses of any function of the municipality.

SECTION 19. Notwithstanding any general or special law to the contrary, funds may be expended for services rendered by agency employees or by consultants necessary to support projects authorized in section 2A and section 2C.

SECTION 20. Notwithstanding any general or special law to the contrary, upon acquiring any fee interest in land for purposes within Article XCVII of the Amendments to the Constitution, all state agencies, commissions and boards expending or receiving state funds under this act shall obtain the approval of the secretary of energy and environmental affairs before implementing or endorsing any prohibition of fishing, hunting or trapping on that land and shall provide the secretary with written justification of the prohibition.

SECTION 21. Notwithstanding section 30 of chapter 29 of the General Laws or section 65 of chapter 30 of the General Laws, a portion of the funds authorized in section 2A

may be used for the costs associated with the purchase of title insurance and services for title examinations, reports and certifications.

SECTION 22. All expenditures from items in section 2A authorized as grants to non-public entities shall be expended for public purposes and shall comply with Article 103 of the Amendments to the Constitution and 815 CMR 2.00.

SECTION 23. 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: 2240-9101, 2240-9105, 2240-9106, 2240-9107, 2890-0012, 2250-8881, 2260-9882, 2820-7882, 2820-8881, 2820-8882, 2820-8883, 2840-8886, 2840-8889, 2890-0013, 2890-0014, 2890-0015, 2890-0016, 2820-8936, 2800-0950, 2800-0951, 2800-0952, 2820-8951, 2840-8950, 2840-8952, 2840-8956, 2850-9951, 2890-0017, 2890-0019, 2260-9965, 2895-8968, 2000-7968, 2000-9963, 2250-9959, 2300-7967, 2300-8961, 2300-8970, 2320-8960, 2320-8978, 2800-1961, 2820-8960, 2820-8961, 2840-8963, 2840-8965, 2850-6966, 2850-6967, 2850-9969, 2896-8967, 2820-6996, 2840-9990, 2895-8998, 2000-1997, 2000-7992, 2000-7993, 2300-7991, 2300-7992, 2800-1122, 2800-7991, 2800-7992, 2800-7993, 2800-7994, 2820-1420, 2840-7991, 2840-7992, 2840-7993, 2840-7994.

SECTION 24. The division of marine fisheries shall make expenditures provided for in item 2300-7018 of section 2A of this act for a shore-based monitoring program of federally-managed fisheries for herring and mackerel within the commonwealth in accordance with this section.

The division shall make such expenditures and operate the program under the direction of an oversight committee, which shall consist of the 9 members of the marine fisheries advisory commission and 1 additional member who shall be a chairperson appointed by the secretary of environmental affairs. The division shall report annually to the oversight committee on program performance and expenditures.

All vessels in federally-managed herring and mackerel fisheries landing catch in the commonwealth shall offload the catch only under the supervision of certified shore-based fishery observers who are either commonwealth employees or independent third-party contractors, who will ensure that, at minimum, the following data are collected, recorded, and made available to the public in summarized fashion within 48 hours in an easily understood format that is consistent with national marine fisheries service requirements for the protection of individual vessel and dealer privacy: 1) actual weights of all landed target catch, incidental catch and bycatch, using methods approved by the division of standards; and 2) a breakdown, by species, of the composition of the entire landed catch by actual weight, landed catch to include all fish offloaded whether or not retained for processing. The observers shall also file an annual report summarizing the catch data for the previous year.

For the purposes of this section, a certified shore-based fishery observer means someone who has been certified by the commonwealth or the national marine fisheries service under the observer certification guidelines outlined in 50 CFR Part 648.11, or the equivalent

as approved by the program oversight committee, and who has no financial interest related to any small mesh pelagic fishery.

SECTION 25. (a) Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws and any 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 grant to the city of Lowell or release such real property interests owned by the commonwealth as may be necessary to permit the city of Lowell to acquire fee interests, easements or other rights for an overhead bridge, pedestrian and vehicular bridges, utility services, and public highway purposes in, over and to certain parcels of land within the Lowell Heritage State Park. Such real property interests are currently in the care and control of the division of conservation and recreation and are held for recreation and conservation purposes. Fee interests and easements granted to the city and releases of real property interests may be located within such volumetric areas in the air rights above, and the subsurface areas below, such parcels of land as are necessary for such purposes. Such fee interests and easements may also include the right to displace the water in the canals within such parcels to install bridge supports and access for the maintenance, repair and replacement of the bridges and utility services. The areas and volumes of such fee interests, easements or releases shall be substantially as shown on a plan entitled "Easement Plan of Land Located in Lowell, Massachusetts (Middlesex County)" dated June 5, 2008, prepared by Meridian Associates, Inc. (Sheets 1 and 2). The fee interests, easements or releases are further described in subparagraphs (1) to (4), inclusive.

(1) Fee interests, easements or releases of interests held by the department of conservation and recreation in parcels A-1, A-2, A-3, A-4, B-1 and B-2 may be granted for the purpose of constructing, renovating and maintaining pedestrian and vehicular access bridges and utility services, and other public highway purposes over the Lower Pawtucket Canal.

(2) Fee interests, easements or releases of interests held by the department of conservation and recreation in Parcels E-1, E-2, F-1, F-2 and F-3 may be granted for the purpose of constructing, renovating and maintaining pedestrian and vehicular access bridges and utility services, and other public highway purposes over the Hamilton Canal.

(3) Fee interests, easements or releases of interests held by the department of conservation and recreation in Parcels C-1, C-2, G-1 and G-2 may be granted for the purpose of constructing, renovating and maintaining pedestrian access structures and utility services and to provide public access from Jackson Street to the Appleton Mills Building.

(4) Fee interests, easements or releases of interests held by the department of conservation and recreation in Parcels D-1 and D-2 may be granted for the purpose of renovating and maintaining an existing overhead bridge from the Appleton Mills Building over Jackson Street.

(b) The commissioner of capital asset management and maintenance may make minor modifications to the plan if such modifications are necessary to carry out the purposes of this section.

(c) The consideration for the grants of fee interests, easements and releases described in subsection (a) shall be \$1. No instrument by or on behalf of the commonwealth, granting the fee interests or easements or releasing interests of the commonwealth as described in said subsection (a) shall be valid unless such instrument provides that the real property which is the subject of such grant of fee interest, easement or release shall be used solely for the purposes described in said subsection (a). Each grant of fee interest, easement or release shall stipulate that the real property interests granted or released shall revert to the commonwealth to the care and control of the division of conservation and recreation at the option of the commissioner of the division of capital asset management and maintenance if the property ceases to be used for the express purpose set forth in the grant or release instrument.

(d) The city of Lowell shall bear the cost of any surveys and other expenses deemed necessary by the commissioner of capital asset management and maintenance for the granting of fee interests, easements or releases pursuant to this section.

(e) To ensure a no-net-loss of lands protected for conservation and recreation purposes on account of the conveyances and releases authorized in this section, the grantee shall ensure that lands of equal or greater acreage and value, acceptable to the department of conservation and recreation, are permanently protected for such purposes under the ownership of either the city of Lowell or the commonwealth following substantial completion of the project to which the conveyances or releases pertain.

SECTION 26. Notwithstanding any general law or special law to the contrary, the uses permitted in the management and use agreement dated July 23, 2004, between the department of conservation and recreation and Kids Replica Ballpark, Inc. on land authorized and designated under chapter 275 of the acts of 1998, shall be deemed an overriding public interest within the meaning of 314 CMR 9.08, provided that the United States Army Corp. of Engineers determines that a section 404 permit is not required.

SECTION 27. (a) There shall be a special water infrastructure finance commission to develop a comprehensive, long-range water infrastructure finance plan for the commonwealth and its municipalities.

(b) The commission shall consist of the commissioner of environmental protection or his designee, the state treasurer or his designee, 1 member of the senate; 1 member of the house of representatives; 1 person to be appointed by the president of the senate and 1 person to be appointed by the speaker of the house of representatives, each of whom shall be a representative of a planning organization, environmental consumer organization or other public interest organization; 1 person to be appointed by the minority leader of the senate and 1 person to be appointed by the minority leader of the house, each of whom shall be from different geographic regions of the commonwealth and who shall be representatives of the business community; a representative of the Boston Water and Sewer Commission; and 9 persons to be appointed by the governor who shall not be employees of the executive branch and who shall reside in different geographic regions of the commonwealth, 1 of whom shall be a representative of the American Council of Engineering Companies of Massachusetts,

1 of whom shall be a representative of the Utility Contractors Association of New England, 1 of whom shall be a representative of the Massachusetts Waterworks Association, 1 of whom shall be a representative of the Massachusetts Municipal Association, 1 of whom shall be a representative of Clean Water Action, 1 of whom shall be a representative of Associated Industries of Massachusetts, 1 of whom shall be a representative of the Environmental League of Massachusetts, 1 of whom shall be a representative of the Conservation Law Foundation and 1 of whom shall be a representative of the Massachusetts Water Pollution Control Association. The aforementioned organizations shall provide a list of at least 3 but not more than 5 candidates for consideration by the governor. Each of the members shall be an expert or shall have experience in the field of law or public policy, water, wastewater or storm water planning, design and construction of water, wastewater or storm water projects, utility management, management consulting or organizational finance; provided, however, that at least 1 member shall have expertise in organizational finance. The governor shall designate a member to serve as the chairperson of the commission but the chairperson shall not be the commissioner of environmental protection, the state treasurer or their designees. The members of the commission shall be appointed not later 90 days after the effective date of this act and serve until the completion of the long-range infrastructure finance plan.

(c) In the course of its deliberations, the commission shall make it a priority to examine the technical and financial feasibility of sustaining, integrating and expanding public water systems, conservation and efficiency programs, wastewater systems and storm water systems of municipalities and the commonwealth, including regional or district systems. Further, the commission shall: (1) examine the water infrastructure needs of the commonwealth for the next 25 years as they relate to the funding gap between the water infrastructure needs of the commonwealth and the existing, available sources of funding; (2) develop mechanisms for additional funding for water infrastructure by increasing investment in critical water, wastewater, storm water and water conservation infrastructure; (3) provide mechanisms for improvements in the handling and management of water programs; (4) examine the potential threats to public health and public safety from the existing shortfalls in funding for water infrastructure; (5) examine and develop recommendations on ways in which the commonwealth and its municipalities may meet operation and maintenance, and capital improvement and reconstruction needs for the next 25 years including, without limitation, recommendations regarding debt reduction, enhancing existing sources of revenues, developing new sources of revenues, establishing new incentives for public-private partnerships in the development of real property resources and funding resources; and (6) examine the expanded use of full accounting systems and enterprise funding, asset management systems and best management practices, compliance with chapter 21G of the General Laws and Massachusetts water policy, and current federal and state funding programs.

The commission shall examine the finances of the various municipalities and regional water districts, including state and federal aid levels, and make recommendations for improvements to financial policies and procedures. The commission shall identify areas where

cost savings can be achieved across water agencies by consolidation, coordination and reorganization. The commission shall examine the projected federal funding, projected state funding, projected local funding, projected fee-based funding, debt financing and any other sources of projected funding to finance water infrastructure needs identified by the commission.

(d) The commission shall develop recommendations as to what funding or finance measures the commonwealth or its municipalities may pursue to satisfy any unmet funding needs identified by the commission. The recommendations shall also include any recommendation for interagency agreements, intermunicipal agreements, consolidations or mergers to enable the commonwealth and its municipalities to make the most effective use of water funding resources. The recommendations shall identify fair and equitable means of financing water infrastructure investments through taxes, fees, user charges or other sources.

(e) The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

(f) The commission shall prepare a written report detailing its financials relative to identified funding sources and its recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect. The commission shall submit its initial report to the governor, the secretary of environmental affairs, the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on the environment not later than 2 years after the effective date of this act.

(g) Any research, analysis or other staff support that the commission reasonably requires shall be provided by the executive office of environmental affairs and its agencies, with assistance from the Massachusetts Water Resources Authority.

SECTION 28. Notwithstanding any general or special law to the contrary, the department of highways may expend not more than \$5,000,000 for a pilot program to study the effectiveness of the structural health monitoring of bridges and tunnels through electronic means.

SECTION 29. Subject to appropriation, the secretary of transportation and public works shall create a quiet zone assistance grant program. Any public authority eligible to apply for the creation of a quiet zone, as defined by the United States Secretary of Transportation pursuant to 49 U.S.C. section 20153, may apply for a quiet zone assistance grant for financial aid for the improvements necessary to create said quiet zone. Eligible improvements must meet the standards specified by 49 USC 20153 and the United States secretary of transportation for quiet zones, and may include, but shall not be limited to, 4-quadrant gate systems, gates with medians or channelization devices, 1-way streets with gates, photographic enforcement, programmed enforcements, and public education and awareness programs. Any public authority may be eligible for a quiet zone assistance grant up to 50 per cent of the total cost to implement a new quiet zone.

SECTION 30. The Commissioner of the Department of Environmental Protection

shall submit a report to the Secretary of Energy and Environmental Affairs and the Joint Committee on Environment, Natural Resources and Agriculture prior to April 1, 2009 with an analysis of current efforts to protect the ground and surface waters of the Commonwealth together with legislative recommendations to adequately protect and oversee any new withdrawals of water from any new water source.

SECTION 31. (a). In this section, the term "Silver Maple Forest" shall refer to a property also known as the Belmont Uplands and comprised of Parcel 40-1 on the assessors' map of the town of Belmont and an adjoining triangular parcel in the city of Cambridge.

(b) Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or any other general or special law to the contrary, the department of conservation and recreation may acquire, by deed, easement, restriction, covenant or condition, but not through eminent domain, the Silver Maple Forest.

(c) Within 90 days of the effective date of this act, the commissioner of conservation and recreation shall conduct an appraisal of the fair market value of the Silver Maple Forest.

(d) Within 120 days of the effective date of this act, the commissioner shall determine an amount that the commonwealth may allocate from any lawfully available funds for the purpose of acquiring the Silver Maple Forest. This amount shall be the state contribution.

(e) Upon determining the state contribution, the commissioner shall inform the board of selectman in the town of Belmont, the board of selectmen in the town of Arlington and the city council in the city of Cambridge, in this section called the local authorities, the results of the appraisal and the amount of the state contribution, if any.

(f) Within 120 days of the transmittal by the commissioner, the local authorities shall each certify, in language to be determined by the commissioner, the amount of funds under their control which are available for contribution towards the cost of the acquisition of the Silver Maple Forest by the commissioner. The funds may include funds appropriated by the appropriating bodies in the town of Arlington, the town of Belmont and the city of Cambridge and may also include private funds received by, or on behalf of, the local authorities and held in escrow for application towards the acquisition.

(g) If the amount of the funds so certified equals or exceeds the difference between the appraised fair market value of the property and the state contribution, and if the owner of the property enters into an agreement to convey the property for conservation purposes, the commissioner shall, upon receipt of the funds, forthwith consummate the acquisition; provided, however, that any deed conveying the parcel shall contain the restriction required under subsection (h). If the amount of funds received does not equal or exceed the difference, this section shall become null and void.

(h) Notwithstanding any general or special law to the contrary, the property described in subsection (a) shall be conveyed subject to a conservation restriction imposed under section 31 of chapter 184 of the General Laws, for the preservation and protection of wildlife and habitat and passive public recreation and consistent purposes. The conservation restriction, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the owner, that lawfully exists

and is recorded in the appropriate registry of deeds.

SECTION 32. The water pollution abatement trust established under chapter 29C of the General Laws may make a loan to the city of Worcester for the components within the city of the project described in Department of Conservation and Recreation Waste Water Project No. WM93-001-SIA, Waste Water Facilities Plan West Boylston- Holden-Wachusett Reservoir Project, which are on the department of environmental protection's intended use plan for calendar year 2008. Notwithstanding any general or special law to the contrary, the commonwealth shall provide contract assistance to the trust under section 6 or section 6A of said chapter 29C in each fiscal year of the commonwealth in amounts sufficient to provide a subsidy or other assistance to the trust for all of the debt service payable on the loan.

SECTION 33. (a) The secretary of energy and environmental affairs shall promulgate regulations to define land eligible for certification under subsection (o) of section 6 of chapter 62 of the General Laws and under section 38X of chapter 63 of the General Laws. Such regulations shall be promulgated within 180 days after the effective date of this act.

(b) The secretary of environmental affairs shall, within 5 years after the effective date of this act, prepare a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, describing the certified lands conserved under subsection (o) of section 6 of chapter 62 of the General Laws and section 38X of chapter 63 of the General Laws.

(c) The commissioner of revenue shall, in consultation with the secretary of energy and environmental affairs, promulgate regulations to administer subsection (o) of section 6 of chapter 62 of the General Laws and section 38X of chapter 63 of the General Laws. Such regulations shall include provisions to prevent the generation of multiple credits with respect to the same property. Regulations shall be promulgated within 180 days after the effective date of this act.

(d) The commissioner of revenue shall, within 5 years after the effective date of this act, submit a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, calculating the annual tax savings under subsection (o) of section 6 of chapter 62 of the General Laws and section 38X of chapter 63 of the General Laws.

(e) There shall be a commission to study the transferability of tax credits under subsection (o) of section 6 of chapter 62 of the General Laws and section 38X of chapter 63 of the General Laws. The commission shall be composed of 9 persons, including the commissioner of the department of agricultural resources, or his designee, who shall serve as chairman; the commissioner of revenue, or his designee; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 2 members of the senate, 1 of whom shall be appointed by the minority leader; a representative of the American Farmland Trust; a representative of the Massachusetts Audubon Society; and a representative of The Nature Conservancy. The commission shall examine all aspects of transferability including, but not limited to: the status of its application in other states, potential fiscal impacts

and potential conservation benefits. The commission shall file a report of its findings and recommendations, including any drafts of legislation necessary to put its recommendations into effect, with the joint committee on revenue and the joint committee on environment, natural resources and agriculture on or before January 1, 2011.

SECTION 34. The secretary of administration and finance in conjunction with the secretary of energy and environmental affairs shall submit a report on the progress of, 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, the chairs of the joint committee on environment, natural resources and agriculture and the senate and house chairs of the joint committee on bonding, capital expenditures and state assets. 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 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 8 years after the effective date of this act.

SECTION 35. Nothing in sections 8, 9 or 34 of this act shall be construed to alter or amend any permitting requirements, reporting requirements, allocation procedures or other requirements set forth in any other provision of the General Laws.

SECTION 36. Sections 8 and 9 shall be effective for tax years beginning on and after January 1, 2010.

SECTION 37. Section 11 of this act shall take effect June 1, 2009.

SECTION 38. Section 23 of this act shall take effect on October 1, 2008.

This bill was returned on August 14, 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 2A: 0620-2050 2200-7016 7100-0299

SECTIONS 11, 27, 31, and 37.

SECTION 2C *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
1100-2500	3,500,000	110,180,000	“; provided further, that \$3,500,000 shall be expended for the redevelopment of the waterfront in the city of Beverly”

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
25000-7014	1,850,000	53,150,000	<p>“; provided further, that \$500,000 shall be expended for drainage improvements on Frye Road in the City of Methuen”</p> <p>and</p> <p>“; provided further, that not less than \$200,000 shall be expended for the Randolph Salt Shed”</p> <p>and</p> <p>“; provided further, that not less than \$300,000 shall be expended for improvements to the Bear Hole Watershed in the city of West Springfield”</p> <p>and</p> <p>“; provided further, that not less than \$150,000 shall be expended for wetland restoration and drainage repair on Myrtle Street in the town of Millis”</p> <p>and</p> <p>“; provided further, that not less than \$700,000 shall be expended to the town of Bedford for the design and construction of the Vine Brook Culvert project on Old Burlington Road adjacent to the Wilson Mill Dam”</p>
2000-7018	15,750,000	24,325,000	<p>“; provided further, that not less than \$2,000,000 shall be expended for wastewater improvements near Hyannis Harbor in Barnstable; provided further, that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow remediation in the cities of Springfield, Chicopee, Holyoke; provided further, that not less than \$350,000 shall be expended for a wastewater management study and environmental impact report in Acushnet; provided further, that not less than \$2,000,000 shall be expended to assist Gloucester with the costs of sewer collection and treatment infrastructure to improve coastal water quality and comply with federal and state regula-</p>

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			tory and judicial mandates”
			and
			“; provided further, that not less than \$3,500,000 shall be expended for infrastructure improvements to address water quality decline due to failing wells in Medway; provided further, that \$3,900,000 shall be expended for stormwater drainage improvements in Framingham”
			and
			“; provided further, that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow clean up on Hubbard Street in Ludlow”
2000-7024	1,600,000	1,500,000	“; provided further, that not less than \$1,600,000 shall be expended for wetland restoration and water quality projects in Woburn”
2000-7025	4,300,000	24,850,000	“; provided further that not less than \$800,000 shall be expended for the construction of a water tower at the Templeton Development Center; provided further, that not less than \$400,000 shall be expended for the restoration of wells located at the former Dever State School in the city of Taunton, which shall include, but not be limited to, the construction of replacement wells and installation of necessary equipment to maintain the wells for use a regional water supply”
			and
			“; provided further, that not less than \$1,000,000 shall be expended for a feasibility study and the construction of a wind turbine to be located in the Town of Weymouth”
			and

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			<p>“; provided further, that not less than \$1,500,000 shall be expended for the construction of a wind turbine in the town of Braintree for the purpose of providing power to a new tri-town water treatment plant under the care, custody and control of the Tri-Town Board of Water Commissioners of Braintree, Holbrook, and Randolph”</p> <p>and</p> <p>“; provided further, that \$600,000 shall be expended for the town of Falmouth to meet the cost of the contract and construction services for the 1.5 megawatt wind turbine at their wastewater treatment facility”</p>
2200-7011	3,850,000	11,350,000	<p>“; provided further, that not less than \$1,000,000 shall be expended for sewer extensions in the Spencer/Tuttle /Flint area of the town of Acton; provided further, that not less than \$1,000,000 shall be expended for separation of sewer and storm drains in Palmer; provided further, that not less than \$200,000 shall be expended for the identification and remediation of pollution sources for the Cole and Lees rivers; provided further, that not less than \$500,000 shall be expended for each of the next three years for the operation of an alternative sewage treatment demonstration project, to be managed by the Department of Environmental Protection in consultation with the Barnstable County Health Department, evaluating the potential for the use of urine diverting toilets and composting toilets as a means of cost effectively reducing nitrogen loading; and provided further, that not less than \$150,000 shall be expended for the identification and remediation of pollution sources for the Unquity Brook in the town of Milton”</p>
2200-7017	1,125,000	21,325,000	<p>“; projects; provided, that not less than \$1,125,000</p>

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Item	Reduce by	Reduce to	Wording Stricken
			be expended for a watershed study of the Miles River watershed and restoration in Ipswich, Beverly, Wenham and Hamilton”
2300-7011	50,000	12,950,000	“ ; provided that not less than \$50,000 shall be expended for the oversight and the enhancement of public safety and law enforcement on property owned by the city of Westfield located in the town of Montgomery”
2300-7013	20,000	9,980,000	“; provided further, that not less than \$20,000 shall be allocated for phosphorus management and algae reduction in West Monponsett pond in the town of Halifax”
2800-7011	19,125,000	56,875,000	“; provided further, that not more than \$6,000,000 shall be expended for the acquisition of the Silver Maple Forest in Belmont and Cambridge, for conservation purposes; and provided further, that not less than \$12,000,000 shall be expended for the restoration, remediation, and other necessary environmental improvements to the Lower Neponset River Watershed including, but not limited to, associated costs of engineering, design, permitting as well as costs relating to public outreach; provided however, that said project shall be carried out in cooperation with other state, federal and municipal agencies, including the Riverways Program in the Department of Fish and Game” and “; provided further, that not less than \$1,125,000 shall be expended for a watershed baseline study and feasibility study of the Miles River Watershed protection project in the towns of Beverly, Wenham, Hamilton, and Ipswich”
2800-7015	550,000	12,400,000	“; provided further, that not less than \$250,000 shall be expended on the Eel Pond restoration project in the town of Mattapoisett”

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Item	Reduce by	Reduce to	Wording Stricken
			and provided further, that not less than \$200,000 shall be expended for the City of Quincy restoration projects for the Wollaston Sailors Pond and the Montclair Bog”
			and “; provided further, that not less than \$100,000 shall be expended for the town of Ashland for Sudbury river cleanup”
2800-7016	7,434,000	48,566,000	“; provided further, that not less than \$100,000 shall be expended for drainage for a culvert on Old Ferry Road to mitigate years of flooding on Frye road in town of Methuen”
			and “; provided further, that not less than \$1,900,000 shall be expended for the reconstruction of the Rexhame drainage system in Marshfield”
			and “; provided further, that not less than \$2,700,000 shall be expended for environmental restoration of Milford Pond in Milford”
			and “; provided further, that \$250,000 shall be expended for the ecosystem restoration project and dam removal on the Green River in the city of Greenfield”
			and “; provided further, that not less than \$1,000,000 shall be provided to the city of Leominster for the design and reconstruction of the bank stabilization project adjacent to Slack Brook”
			and

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			<p>“; provided further, that not less than \$350,000 shall be expended for Town Creek Marsh Restoration and Flood Control in the vicinity of MBTA railroad line and Route 1 in the town of Salisbury;”</p> <p>and</p> <p>“; provided further, that \$500,000 shall be expended for drainage improvements on Frye Road in the City of Methuen; provided further, that \$9,000 shall be expended for the installation of drainage on the pathway leading from the Franklin School to the Berkeley Road neighborhood in the Town of North Andover”</p> <p>and</p> <p>“; provided further, that not less than \$100,000 shall be expended for an asbestos sewer line clean-up in the town of Sutton; provided further, that not less than \$125,000 shall be expended for the implementation of a downtown sewer line in the town of Georgetown; provided further, that not less than \$400,000 shall be expended for an infiltration elimination program in Methuen”</p>
2800-7017	125,000	4,875,000	<p>“; provided further, that not less than \$25,000 shall be expended for the pond restoration and pollution abatement study for Rawson hill brook and pond in the town of Shrewsbury; and provided further, that not less than \$100,000 shall be expended for the Town of Ashland for preservation, maintenance, and environmental protection of Lake Waushakum”</p>
2840-7014	15,218,000	205,732,000	<p>“; provided further, that not less than \$100,000 shall be provided to the town of Lynnfield for the purposes of conducting an environmental impact study on flooding and drainage issues at Reedy Meadow that also impact the communities of Wakefield, Saugus and Lynn”</p>

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and
			“; provided further, that not less than \$10,000,000 shall be delivered to MassDevelopment to pay for costs and expenses associated with site assessment, asbestos and hazardous waste remediation, removal and abatement, demolition, renovation, infrastructure improvement, surveying, planning, construction, permitting, marketing and other site preparation at the former Belchertown State School property;”
			and
			“; provided further, that not less than \$173,000 shall be expended for a historical renovation of the New Salem Academy Building”
			and
			“; provided further, that not less than \$4,000,000 shall be expended to create an upstream retention of storm water to reduce flooding in Jacobs Meadow and Cohasset Village in the town of Cohasset; provided further, that not less than \$75,000 shall be expended to increase the existing water supply capabilities of the Harold Parker Water Cistern in the town of Andover”
			and
			“; provided further, that not less than \$250,000 shall be expended for the study and planning of a water system in the town of Charlton”
			and
			“; provided further, that not less than \$120,000 shall be expended for the development of comprehensive watershed hydrological studies and resulting watershed management plans for the Fish Brook, Pye Brook, and Parker River in the town of Boxford”

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Item	Reduce by	Reduce to	<i>Wording Stricken</i>
			and “; provided further, that not less than \$500,000 shall be expended for the creation of a Regional Sewer District Recharge Site in the town of Norton”
2840-7017	180,000	29,820,000	“; provided, that \$180,000 shall be provided for the installation of a biofilter system at the Woodland Street Pump Station in the town of West Boylston”

SECTION 2C *Item reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
2890-7010	50,000	74,950,000	“; provided further that not less than \$50,000 shall be expended to re-establish and increase tidal flow through the enlargement of the Parker Avenue-Border Street culvert in the town of Cohasset”

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, 9, 33, and 36.

The remainder of the bill was approved by the Governor on August 14, 2008 at eleven o'clock and sixteen minutes, A.M.

Chapter 313. AN ACT DESIGNATING CERTAIN LAND IN THE TOWNS OF ACTON AND CONCORD FOR CONSERVATION, AGRICULTURE, OPEN SPACE AND RECREATIONAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. (a) The parcels of land identified in section 2, which are under the custody, control and care of the department of correction or the department of highways, are hereby designated for and shall be held solely for the purposes of open space protection, management and conservation, agriculture, forests, and limited public access for passive and specified active recreation and enjoyment.

(b) The department of correction, in consultation with the department of highways, the executive office of environmental affairs and the towns of Acton and Concord, may issue

regulations consistent with the purposes set forth in subsection (a) for the access, use and maintenance of those parcels designated in said subsection that are under the custody, control and care of the department of correction. The department of highways, in consultation with the department of correction, the executive office of environmental affairs and the towns of Acton and Concord may issue regulations consistent with the purposes set forth in subsection (a) for the access, use and maintenance of those parcels designated in said subsection that are under the custody, control and care of the department of highways.

(c) No parcel designated under subsection (a) shall be altered if the alteration shall be: (i) of a substantial nature; (ii) inconsistent with a permitted purpose under subsection (a); (iii) prohibited in subsection (d) or any applicable regulation or other law; or (iv) not approved previously in writing by the department having the custody, control and care of the parcel.

(d) No building or other permanent structure, utility system or paved roadway or area, excluding non-solid fencing and recreational equipment, shall be constructed on or over any parcel designated under subsection (a).

(e) Notwithstanding any other provision of this section to the contrary, the department of correction or department of highways may access, use and maintain any infrastructure existing as of the effective date of this act that is located on or over any parcel designated in subsection (a) if the parcel is under the respective custody, control and care of that department. Any such infrastructure use of parcels and related to accessing the infrastructure shall be reserved for its current purposes and uses and shall be excluded from subsection (a). For the purposes of this section, "infrastructure" shall include, without limitation, any building, structure, roadway, utility system, drainage system, and other improvement and appurtenance.

(f) Notwithstanding any other provision of this section to the contrary, the use, maintenance and rebuilding of any existing building, structure, improvement, appurtenance or road located on, above or below ground, or over the parcels, shall be perpetually subject to current uses, and shall be subject to any additional future uses not inconsistent with this act, including, without limitation, the use, maintenance, and related parking and access to a 5-bedroom house located on a portion of the parcel identified and described in clause (2) of subsection (a) of section 2.

(g) The designation of any parcel under subsection (a) shall be subject to any easement, restriction, condition, lease, license, agreement or grant of any right or interest in the parcel in existence as of the effective date of this act, including, without limitation, (i) agreements relating to approximately 15 acres of land on a portion of the parcel identified and described in clause (3) of subsection (a) of section 2 to be used for active recreation, including agreements regarding the use, maintenance, and related parking and access for said active recreation land; (ii) an easement for the water supply system for the town of Concord located on the parcel identified and described in said clause (3) of subsection (b) of said section 2; and (iii) a road located on the parcel identified and described in said clause (3) of

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said subsection (b) of said section 2, used to access the adjoining land owned by the town of Concord identified on assessor's map 1997.

SECTION 2. (a) The parcels in the town of Acton designated for the purposes described in section 1 shall be those lands of the commonwealth described in:

(1.) assessor's map G5, parcels 95 and 96, these parcels being a portion of the land granted to the commonwealth by deed recorded at the Middlesex south district registry of deeds, in this section referred to as the registry, at book 2647, page 41;

(2.) assessor's map H4, parcel 5, this parcel being a portion of the land granted to the commonwealth by a deed recorded at the registry at book 2647, page 41, but not to include from this parcel approximately 5.56 acres of land of the commonwealth described as parcel No. 4 on a plan of road recorded at the registry as plan number 2056 of 1950;

(3.) assessor's map H4, parcel 6, this parcel being a portion of the land granted to the commonwealth by deed recorded at the registry at book 2647, page 41, but not to include from this parcel approximately 2.63 acres of land of the commonwealth described as parcel No. 2 on a plan of road recorded at the registry as plan number 2056 of 1950; but specifically excluding that portion of this parcel, which land shall be subject to the restrictions of section 3, that is adjacent to the southerly location line of the November 14, 1950, state highway alteration of Massachusetts avenue on route 2, as shown on a plan of road recorded at the registry at plan 2056 of 1950, and being those lands within a distance of 200 feet southerly of and parallel to said highway location line extending from the Acton-Concord town line westerly to the intersection with School street, as shown on said plan;

(4.) assessor's map G4, parcel 176, this parcel having been taken by the commonwealth by an order of taking recorded at the registry at book 11703, page 603 and shown as parcel C on a plan of land recorded at the registry as plan number 684 of 1969;

(5.) assessor's map G4, parcel 184, this parcel having been taken by the commonwealth by an order of taking recorded at the registry at book 12717, page 213 and shown as parcel E on a plan of land recorded at the registry as plan number 1204 of 1974;

(6.) assessor's map G4, parcel 185, this parcel having been taken by the commonwealth by an order of taking recorded at the registry at book 12731, page 578 and shown as parcel F on a plan of land recorded at the registry as plan number 1323 of 1974;

(7.) assessor's map G4, parcel 187, this parcel being granted to the commonwealth by a deed recorded at the registry at book 7704, page 475 and being approximately 3.5 acres of a parcel of land shown as Lot 2 on a plan of land recorded at the registry as plan number 339 of 1939, but not to include approximately 34,254 square feet of this parcel having been taken by the commonwealth by an order of taking recorded at the registry at book 12731, page 578 and shown as parcel F on a plan of land recorded at the registry as plan number 1323 of 1974; and

(8.) assessor's map G4, parcel 198, this parcel having been granted to the commonwealth by a deed recorded at the registry at book 7704, page 476 and being approximately the 18 acres of a parcel of land shown on a plan of land recorded at the registry as plan number 165 of 1949, but not to include approximately 3.10 acres of this parcel owned by the

commonwealth and described as parcel No. 9 on a plan of road recorded at the registry as plan number 2056 of 1950.

(b) The parcels in the town of Concord designated for the purposes described in section 1 shall be those lands of the commonwealth described in:

(1.) assessor's parcel ID 2007, this parcel being a portion of the land granted to the commonwealth by a deed recorded at the registry at book 2647, page 41, but not to include from this parcel approximately 0.31 acre of land owned by the commonwealth described as parcel no. 11 on a plan of road recorded at the registry as plan number 2093 of 1950, and approximately 3,800 square feet of land owned by the commonwealth described as parcel no. 13 on the plan; but specifically excluding that portion of this parcel, which land shall be subject to the restrictions of section 3, that is adjacent to the northerly location line of the November 14, 1950, state highway alteration of Union turnpike on Route 2 as shown on a plan of road recorded at the registry at plan 2093 of 1950, and being those lands within a distance of 200 feet northerly of and parallel to the highway location line extending from the Acton-Concord town line easterly to the eastern property boundary of this parcel;

(2.) assessor's parcel ID 2016, this parcel being a portion of the land granted to the commonwealth by a deed recorded at the registry at book 2647, page 41, but not to include from this parcel approximately 0.70 acres of land owned by the commonwealth described as parcel no. 12 on a plan of road recorded at the registry as plan number 2093 of 1950; but specifically excluding that portion of this parcel, which land shall be subject to the restrictions of section 3, that is adjacent to the southerly location line of the November 14, 1950, state highway alteration of Union turnpike on Route 2 as shown on a plan of road recorded at the registry at plan 2093 of 1950, and being those lands within a distance of 200 feet southerly of and parallel to the highway location line extending from the Acton-Concord town line easterly to the intersection with the New York, New Haven and Hartford Railroad Company railroad right-of-way, as shown on the plan, further including those lands within a distance of 200 feet southwesterly of and parallel to the railroad easement extending southeasterly for the length of the easement to the northeasterly boundary point of assessor's parcel ID 2016;

(3.) assessor's parcel IDs 1999-2 and 1999-3, these parcels having been granted to the commonwealth by a deed recorded at the registry at book 5578, page 569 Area V, Area X and Area Y in a notice recorded at the registry at book 51404, page 128, but specifically excluding those portions of these parcels, which land shall be subject to the restrictions of section 3 described as Area V and Area Y adjacent to the northerly location line of the February 1, 1938, state highway alteration of Elm street on Route 2A as shown on a plan of road recorded at the registry at plan 100 of 1938, and the northerly location line of the June 11, 1940, state highway alteration of Elm street on Route 2A, as shown on a plan of road recorded at the registry at plan 519 of 1940, and being those lands within a distance of 200 feet northerly of and parallel to the highway location lines extending from the property boundary that divides Lot 2 and Lot 3 as shown on plan entitled "Plan of Land in Concord

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Formerly Belonging to George H. Pierce", dated July 29, 1931 and recorded with the registry at plan 696 of 1931, northwesterly along Elm street to a stone wall at the land now or formerly of Robbins, as shown on the plan of land; and an additional portion of the land described as Area V, being those lands adjacent to the northerly location line of the February 1, 1938 state highway alteration of Barretts Mill road, as shown on plans of road recorded at the registry at plan 100 and plan 225 of 1938, and being those lands within a distance of 200 feet northerly of and parallel to said highway location lines extending from the property boundary that divides Lot 2 and Lot 3, as shown on plan entitled "Plan of Land in Concord Formerly Belonging to George H. Pierce", dated July 29, 1931, and recorded with the registry at plan 696 of 1931, northeasterly along Barretts Mill road to a stone wall at the land now or formerly of Keefe shown on said plan of land.

SECTION 3. The department of correction may receive gifts or grants, in an amount not to exceed \$100,000, for the specific purpose of acquiring environmental services and equipment, including the purchase, installation and maintenance of recycling equipment. The department of correction may expend without further appropriation, all such funds received for such environmental services and equipment.

SECTION 4. This act shall take effect on December 31, 2008.

Approved August 14 , 2008.

Chapter 314. AN ACT FURTHER REGULATING EMPLOYMENT CONTRACTS FOR SCHOOL PRINCIPALS.

Be it enacted, etc., as follows:

SECTION 1. Section 41 of chapter 71 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 19 to 21, inclusive, the words "and shall be employed under written contracts of employment. Such contracts shall be for terms of up to three years in length" and inserting in place thereof the following words:- . School principals shall enter into individual employment contracts with their employing districts concerning the terms and conditions of employment. The initial contract with each individual school district shall be for not less than 1 year nor more than 3 years. The second and subsequent contracts shall be for not less than 3 nor more than 5 years unless: (i) said contract is a 1 year contract based on the failure of the superintendent to notify the principal of the proposed nonrenewal of his contract pursuant to this section; or (ii) both parties agree to a shorter term of employment. Notwithstanding the past employment conditions of a school principal, the conditions established by this paragraph shall apply to the initial contract of each school principal.

SECTION 2. Notwithstanding any general or special law to the contrary, a principal entering into a second subsequent contract with an employing school district on or after the

effective date of this act shall be treated as a school principal entering into his second contract period and shall be subject to all further terms and conditions established by the second paragraph of section 41 of chapter 71 of the General Laws.

Approved August 14 , 2008.

Chapter 315. AN ACT TO IMPROVE DROPOUT PREVENTION AND REPORTING OF GRADUATION RATES.

Be it enacted, etc., as follows:

SECTION 1. The department of elementary and secondary education shall provide public school districts with a standardized format for the accurate reporting of high school graduation and dropout data. The data shall facilitate the department's implementation of a longitudinal data collection system and reporting of graduation rates and shall include, but not be limited to, a 4-year graduation rate, 5-year graduation rate and adjusted graduation rates. The data shall be disaggregated in the following categories: limited English proficiency, low-income, special education, race or ethnicity and gender. Data shall be coded within the student information management system to reflect various withdrawal designations. The department shall provide each district with technical assistance to help them gather and analyze data. The department shall publish annually the reported data by various means, including on its electronic website.

SECTION 2. There shall be a graduation and dropout prevention and recovery commission to survey dropout prevention and recovery best practices and programs nationwide and to evaluate dropout prevention and recovery programs currently in use. The commission shall consist of: the secretary of education, or his designee, who shall serve as chair; the secretary of labor and workforce development, or his designee; the commissioner of elementary and secondary education, or his designee; the commissioner of higher education, or his designee; the commissioner of social services, or his designee; the commissioner of youth services, or his designee; the commissioner of transitional assistance, or his designee; the commissioner of mental health, or his designee; the commissioner of public health, or his designee; the chairs of the house and senate committees on ways and means, or their designees; the chairs of the joint committee on education, or their designees; 1 member to be appointed by the speaker of the house; 1 member to be appointed by the senate president; 1 member to be appointed by the minority leader of the house; 1 member to be appointed by the minority leader of the senate; 11 members to be appointed by the secretary of education, 1 of whom shall be a representative of the Boston Private Industry Council; 1 of whom shall be a representative of the Massachusetts Association of School Superintendents; 1 of whom shall be a representative of the Massachusetts Secondary School Administrators Association; 1 of whom shall be a representative from the Massachusetts Association of School Committees; 1 of whom shall be a representative from the committee

for public counsel services; 1 of whom shall be a representative of the Commonwealth Corporation; 1 of whom shall be a representative selected from a list of 3 nominees proposed jointly by the American Federation of Teachers of Massachusetts and the Massachusetts Teachers Association; 1 of whom shall be a representative of the Massachusetts Association of Regional Schools; and 3 of whom shall be experienced in successful dropout prevention efforts including, without limitation: public schools, the nonprofit sector, law enforcement or municipally-administered after-school and recreation programs.

SECTION 3. The commission shall examine and make recommendations on: (1) setting a goal and timeline for reducing the statewide annual dropout rate; (2) further developing early indicator systems to identify students who are at risk of dropping out, or who are not likely to graduate on time from high school without receiving additional support, and school policies that exacerbate dropping out; (3) expanding the definition of structured learning time, to include internships and work-study programs and exploring ways to encourage school districts to incorporate quality internships, work and learning programs into structured learning time to engage all students in relevant and rigorous curriculum; (4) developing a reimbursement mechanism for districts sending students to alternative education programs; (5) exploring the connection between school discipline policies and students' level of engagement or alienation from school, with emphasis on school referrals for discipline purposes and court-involved youth; (6) providing financial incentives for districts that are effective in graduating at-risk students and recovering high school dropouts; (7) raising the compulsory attendance age from 16 years of age to 18 years of age; (8) creating a dropout prevention and recovery grant program to: (i) provide school districts with funds to implement early indicator systems; (ii) create capacity within regions by engaging local workforce investment boards for outreach to dropouts and referral to local school districts and alternative education programs; or (iii) provide funds to local districts or nonprofit programs to develop alternative routes to a diploma or its equivalent to prevent students from dropping out and to meet the needs of those returning to education; (9) district activities in compliance with section 18 of chapter 76 of the General Laws and any regulations or administrative directives of the department regarding required and appropriate measures to identify, locate, interview and counsel high school drop-outs; provided, however, that the commission shall also make recommendations regarding mandatory reporting by districts on activities in fulfillment of statutory requirements and administrative directives; and (10) establishing a threshold annual dropout rate for each school district such that rates in excess of threshold levels would establish a mandatory requirement on districts to adopt and implement a districtwide action plan to reduce dropout rates and effectively track students. The commission's recommendations regarding the standards and requirements for such action plans shall include: (a) an outreach and referral strategy; (b) a comprehensive listing of alternative education options and other pathways to earn a diploma offered within the public school system; (c) plans for collaboration with teams of community stakeholders including, but not limited to, workforce investment boards through their youth and adult learning centers to develop a comprehensive approach to address the dropout issue;

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and (d) alternative options to enable students who have dropped out to return and receive a high school diploma, including options delivered directly by the public school district or by nonprofit organizations approved by the public schools.

SECTION 4. The commission shall conduct its first meeting not less than 90 days after the effective date of this act and shall conduct not less than 3 public hearings in geographically diverse regions of the commonwealth. The commission shall submit a report of its findings and recommendations together with legislation, if any, to the clerks of the house of representatives and the senate who shall forward the same to the house and senate chairs of the joint committee on education and the chairs of the house and senate committees on ways and means not later than May 15, 2009.

Approved August 14 , 2008.

Chapter 316. AN ACT EXEMPTING THE POSITION OF POLICE CAPTAIN IN THE TOWN OF HUDSON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of police captain in the town of Hudson shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of an incumbent holding the position of police captain in the town of Hudson on the effective date of this act.

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

Approved August 20, 2008.

Chapter 317. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TIMOTHY M. LARKIN, AN EMPLOYEE OF THE EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

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 executive office of administration and finance, 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 executive office of administration and finance shall establish a sick leave bank for Timothy M. Larkin, an employee of the information technology division of said office. Any employee

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of said office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Timothy M. Larkin. Whenever said Timothy M. Larkin terminates employment with the office or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the division 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 division.

Approved August 20, 2008.

Chapter 318. AN ACT RELATIVE TO RUTLAND HEIGHTS STATE HOSPITAL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds to carry out the purposes of a certain act passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 4 of chapter 245 of the acts of 2000 is hereby amended by adding the following sentence:- If the commissioner determines that a portion of the \$10,000,000 shall not be needed for the site, the commissioner may, subject to the laws regulating the disbursement of public funds and the approval thereof but notwithstanding any other provision of this chapter or chapter 53 or any other general or special law to the contrary, expend not more than \$1,400,000 of the \$10,000,000 to provide for demolition, preparation of plans and specifications and related administrative expenses for other real property owned by the commonwealth.

Approved August 20, 2008.

Chapter 319. AN ACT AUTHORIZING THE MAYOR TO APPOINT AN ADDITIONAL EIGHT MEMBERS TO THE RESERVE FORCE OF FIREFIGHTERS OF THE FIRE DEPARTMENT OF THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the mayor of the city of Revere may appoint an additional 8 members to the reserve force of firefighters of the fire department of the city of Revere, in addition to the number allowed by section 59C of chapter 48 of the General Laws.

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

Approved August 20, 2008.

Chapter 320. AN ACT REMOVING OF THE DEPUTY CHIEF OF POLICE OF THE TOWN OF ACTON FROM THE CIVIL SERVICE LAWS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, order, rule or regulation to the contrary, the position of the deputy chief of police of the town of Acton, shall be exempt from chapter 31 of the General Laws.

SECTION 2. The act shall take effect as of April 7, 2008.

Approved August 20, 2008.

Chapter 321. AN ACT RELATIVE TO CHILDREN'S MENTAL HEALTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after section 16O the following 4 sections:-

Section 16P. The secretary of health and human services shall facilitate the coordination of services for children awaiting clinically-appropriate behavioral health services by convening a monthly meeting of agencies within the executive office of health and human services, the department of early education and care, and the department of elementary and secondary education.

The secretary shall publish a monthly report on the status of children awaiting clinically-appropriate behavioral health services. The report shall include, but need not be limited to, the following data for the previous month: (i) the number of children who are MassHealth members who are awaiting psychiatric hospitalization in hospital emergency rooms or at emergency services sites after an exhaustive search has failed to identify an available bed in a psychiatric hospital and the average length of time each such child shall be required to wait before such a bed is identified; the number of such children in psychiatric hospitals awaiting post-hospitalization residential placement or community-based services, including their agency affiliation, if any; the number of such children temporarily placed and awaiting appropriate longer-term placement; (ii) an estimate of the numbers of available psychiatric hospital beds, residential school placements approved under chapter 71B, group homes by agency, and foster home placements, and how long those beds were available; and (iii) the data reported by the department of children and families under section 23 of chapter 18B and the department of mental health under section 24 of chapter 19.

The monthly report shall be submitted to the children's behavioral health advisory council, the child advocate and the general court by filing it with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, and the senate and house committees on ways and means.

Section 16Q. (a) There shall be a children's behavioral health advisory council within, but not subject to control of, the executive office of health and human services. The council shall advise the governor, the general court and the secretary of health and human services.

(b) The council shall consist of not fewer than 24 members and shall be comprised of: (i) the following 10 members, who shall serve ex officio: the commissioner of mental health, who shall serve as chair, the commissioner of children and families, the commissioner of youth services, the commissioner of mental retardation, the commissioner of public health, the commissioner of elementary and secondary education, the commissioner of early education and care, the commissioner of insurance, the director of Medicaid, and the child advocate, or their designees; (ii) additional persons appointed by the secretary of health and human services from the aforementioned agencies and from the executive office of health and human services; and (iii) 1 person from each of the following organizations appointed by the secretary of health and human services from a list of nominees submitted by each organizations:- Parent/Professional Advocacy League, Inc.; Massachusetts Psychological Association, Inc.; Massachusetts Association of Behavioral Health Systems, Inc.; Massachusetts Psychiatric Society, Inc.; Children's League of Massachusetts, Inc.; the Massachusetts chapter of the American Academy of Pediatrics; New England Council of Child and Adolescent Psychiatry, Inc.; Mental Health and Substance Abuse Corporations of Massachusetts, Inc.; the Massachusetts chapter of the National Association of Social Workers; Massachusetts Hospital Association, Inc., Blue Cross and Blue Shield of Massachusetts, Inc., Massachusetts Association for Mental Health, Inc., Massachusetts Behavioral Health Partnership, Massachusetts Society for the Prevention of Cruelty to Children, and Massachusetts Association of Health Plans, Inc.; and (iv) the following 4 community and provider members appointed by the secretary of health and human services: 2 persons under the age of 22 who are consumers of behavioral health services; a physician, pediatrician or child and adolescent psychiatrist from a community health center; and a professional with expertise in human services workforce development. The members of the children's behavioral health advisory council shall represent the culturally and linguistically diverse populations served by the executive office and its agencies.

The terms for nongovernmental members shall be 3 years. Upon the expiration of his term, a nongovernmental member shall serve until a successor has been appointed; provided, however, that if a vacancy exists prior to the expiration of a term, another nongovernmental member shall be appointed to complete the unexpired term.

(c) The council shall review: (i) the reports on the status of children awaiting clinically-appropriate behavioral health services provided by the secretary of health and human services under section 16P; (ii) the behavioral health indicators reports provided by the department of early education and care under subsection (g) of section 3 of chapter 15D; (iii) the research reports provided by the children's behavioral health research center under section 23 of chapter 19; and (iv) legislative proposals and statutory and regulatory policies impacting children's behavioral health services.

(d) The council shall make legislative and regulatory recommendations related to: (i) best and promising practices for behavioral health care of children and their families, including practices that promote wellness and the prevention of behavioral health problems and that support the development of evidence-based interventions with children and their parents; (ii) implementation of interagency children's behavioral health initiatives with the goal of promoting a comprehensive, coordinated, high-quality, safe, effective, timely, efficient, equitable, family-centered, culturally-competent and a linguistically and clinically appropriate continuum of behavioral health services for children; (iii) the extent to which children with behavioral health needs are involved with the juvenile justice and child welfare systems; (iv) licensing standards relevant to the provision of behavioral health services for programs serving children, including those licensed by entities outside of the executive office of health and human services; (v) continuity of care for children and families across payers, including private insurance; and (vi) racial and ethnic disparities in the provision of behavioral health care to children.

(e) The council shall submit an annual report, with legislative and regulatory recommendations, by October 1st to the governor, the secretary of health and human services, the commissioner of early education and care, the commissioner of elementary and secondary education, the child advocate and the general court, by filing them with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, the joint committee on health care financing and the senate and the house committees on ways and means.

(f) The meetings of the council shall comply with chapter 30A, except that the council, through its by-laws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

(g) The members of the council shall not receive a salary or per diem allowance for serving as members of the council, but shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties.

Section 16R. There shall be geographically-based interagency review teams to collaborate on complex cases when a child, which shall include a person under the age of 22 who is disabled or has special needs, may qualify for services from multiple state agencies consisting, as determined by the needs of the individual child, of representatives selected from agencies within the executive office of health and human services, the department of early education and care, and the department of elementary and secondary education. If appropriate and if proper consent has been provided, representatives of local education agencies and juvenile probation shall be invited to participate. Such a child may be referred to the team by a state agency, the juvenile court or the child's parent or guardian. The teams, after hearing from the parents or guardian of the child, relevant agencies and service providers, and reviewing relevant materials, shall determine which services, including case management services, are appropriate for the child and who shall provide those services. If the team is unable to reach a consensus decision, the matter shall be referred to the regional

directors of the respective agencies for resolution. The regional directors shall meet within 10 business days of the referral and shall issue their decision within 3 business days thereafter. If the regional directors are unable to resolve the case and the disagreement involves matters solely within the purview of the executive office of health and human services, the team shall notify the secretary of health and human services who shall render a decision within 30 days of the notice.

If the parent or guardian of the child disputes the decision of the team or the secretary, the parent or guardian may file an appeal with the division of administrative law appeals, established under section 4H of chapter 7, which shall conduct an adjudicatory proceeding and order any necessary relief consistent with state or federal law.

Nothing in this section shall be construed to entitle a child to services to which the child would be otherwise ineligible under applicable agency statutes or regulations.

Notwithstanding chapters 66A, 112 and 119 or any other law related to the confidentiality of personal data, the teams, the secretary and the division of administrative law appeals shall have access to and may discuss materials related to the case while the case is under review once the parent or guardian has consented in writing and those having access agree in writing to keep the materials confidential. Once the review is complete, all materials shall be returned to the originating source.

The secretary of health and human services, the commissioner of elementary and secondary education and the commissioner of early education and care shall jointly promulgate regulations to effectuate the purposes of this section.

The secretary of health and human services shall publish an annual report by February 15 summarizing the cases reviewed by the teams in the previous year, the length of time spent at each stage and their final resolution. The report shall be provided to the child advocate.

Nothing in this section shall limit the rights of parents or children under chapter 71B, the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 et seq.

Section 16S. The secretary of health and human services shall coordinate the purchase of behavioral health services for children to promote economy and efficiency and improve service delivery, thereby integrating services provided by the executive office of health and human services into a comprehensive, community-based behavioral health delivery system. The secretary shall establish guidelines for the department of children and families, the department of youth services, the department of public health, the department of mental retardation and the office of Medicaid for the delivery of behavioral health services to children, including children subject to proceedings under sections 39E to 39J, inclusive, of chapter 119, pursuant to which the commissioner of mental health shall be consulted in the design and implementation of the commonwealth's behavioral health services for children; and the secretary shall consult with the commissioner of early education and care and the commissioner of elementary and secondary education to establish similar guidelines for those respective departments.

SECTION 2. The second paragraph of section 2 of chapter 15D of the General Laws, inserted by section 24 of chapter 215 of the acts of 2008, is hereby further amended by adding the following clause:-

(t) subject to appropriation, provide consultation services and workforce development to meet the behavioral health needs of children in early education and care programs, giving preference to those services designed to prevent expulsions and suspensions.

SECTION 3. Section 3 of said chapter 15D, as appearing in section 32 of said chapter 215, is hereby amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(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.

The department shall include an annual report on behavioral health indicators that includes estimates of the annual rates of preschool suspensions and expulsions, the types and prevalence of behavioral health needs of children served by the department, the racial and ethnic background of the children with identified behavioral health needs, the existing capacity to provide behavioral health services, and an analysis of the best intervention and prevention practices, including strategies to improve the delivery of comprehensive services and to improve collaboration between and among early education and care and human services providers. The report and any recommendations for legislative or regulatory changes shall be submitted by February 15th to the secretary of health and human services, the secretary of administration and finance, the children's behavioral health advisory council, the child advocate, and the general court by filing it with the house committee on ways and means, the senate committee on ways and means, the joint committee on education, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, the clerk of the house and the clerk of the senate.

SECTION 4. Section 4 of said chapter 15D, as most recently amended by section 34 of said chapter 215, is hereby further amended by adding the following paragraph:—

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services and the commissioner of early education and care under section 16S of chapter 6A.

SECTION 5. Section 5 of said chapter 15D, as amended by section 35 of said chapter 215, is hereby further amended by adding the following clause:—

(17) training to identify and address infant toddler and early childhood behavioral health needs.

SECTION 6. Section 1 of chapter 18A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services under section 16S of chapter 6A.

SECTION 7. Section 7 of chapter 18B of the General Laws, as so appearing, is hereby amended by adding the following subsection:—

(m) The commissioner shall consult with the commissioner of mental health prior to taking any action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services under section 16S of chapter 6A.

SECTION 8. Said chapter 18B is hereby further amended by adding the following section:—

Section 23. If the department has care and custody of a child receiving inpatient psychiatric services, the department shall contact the child's parents or guardians, as appropriate, and a member of the child's treatment team within 3 business days of the hospitalization, shall maintain weekly contact with them until the child is discharged, and shall immediately begin discharge planning, with the priority of returning the child to his home or to a community placement. Not later than 5 business days after being notified that continued hospitalization is no longer clinically appropriate, the department shall determine the appropriate type of placement for the child and shall immediately initiate the placement referrals. The department shall document its activities in assisting with discharge placement, including identification of available resources for home-based, community or alternative residential placements, and the barriers, if any, to discharge to the most clinically-appropriate setting. If the initial placement shall not be deemed to be the most clinically-appropriate, the department shall continue to seek an appropriate placement. Not longer than 30 days after being notified that continued hospitalization is no longer clinically appropriate, the department shall refer the child to the interagency review team established pursuant to section 16R of chapter 6A. The department shall submit a monthly report to the secretary of health and human services detailing the activities undertaken pursuant to this section, including the length of time required to place each such child in a clinically appropriate post-discharge setting.

SECTION 9. Chapter 19 of the General Laws is hereby amended by adding the following 3 sections:—

Section 22. The commissioner of mental health shall be consulted on the design and implementation of the commonwealth's behavioral health services for children, under guidelines established by the secretary of health and human services under section 16S of chapter 6A.

Section 23. There shall be, within the department of mental health, a children's behavioral health research center, the primary mission of which shall be to ensure that the

workforce of clinicians and direct care staff providing children's behavioral health services are highly skilled and well trained, the services provided to children in the commonwealth are cost-effective and evidence-based, and that the commonwealth continues to develop and evaluate new models of service delivery. Subject to appropriation, the center shall conduct activities as the commissioner may direct in furtherance of its primary mission, which may include: (i) collecting quarterly data from state agencies, the juvenile court, the commissioner of probation, service providers and insurance providers relative to children's behavioral health services; (ii) researching the best practices for the identification and treatment of children's behavioral health needs; (iii) evaluating the demand for and the availability, cost and quality of, children's behavioral health services provided by the commonwealth; (iv) publishing annual progress reports, including the estimated costs and benefits of implementing new programs or practices, the status of racial and ethnic disparities, and the capacity of the behavioral health system to meet clinically appropriate inpatient, residential and community-based service demands; and (v) providing information on a regular basis to the children's behavioral health advisory council, established by section 16Q of chapter 6A.

The center shall publish an annual report including: (i) narrative and statistical information about service demand, delivery and cost, and identified service gaps during the prior year; (ii) the effectiveness of the services delivered during the prior year; and (iii) review of research analyzed or conducted during the prior year. The center shall submit the annual report by February 1st to the governor, the children's behavioral health advisory council, the child advocate and the general court, by filing it with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, the joint committee on health care financing and the senate and the house committees on ways and means.

Section 24. If the department is notified that a child who is eligible for department services is receiving inpatient psychiatric services, the department shall contact the child's parents or guardians and a member of the child's treatment team within 3 business days of being so notified, shall maintain weekly contact with them until the child is discharged, and shall, with the consent of the child's parent or guardian, immediately begin discharge planning, with the priority of returning the child to his home or to a community placement. Not later than 5 business days after being notified that continued hospitalization is no longer clinically appropriate, the department shall determine the appropriate type of placement for the child and, with the consent of the child's parent or guardian, shall immediately initiate the placement referrals. The department shall document its activities in assisting with discharge placement, including identification of available resources for home-based, community or alternative residential placements, and the barriers, if any, to discharge to the most clinically-appropriate setting. If the initial placement shall not be deemed to be the most clinically appropriate, the department shall continue to seek an appropriate placement. Not longer than 30 days after being notified that continued hospitalization is no longer clinically appropriate, the department shall refer the child to the interagency team established pursuant to section 16R of chapter 6A. The department shall submit a monthly report to the

secretary of health and human services detailing the activities undertaken pursuant to this section, including the length of time required to place each such child in a clinically-appropriate, post-discharge setting.

SECTION 10. Section 2 of chapter 19B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services under section 16S of chapter 6A.

SECTION 11. Section 1A of chapter 69 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the commissioner and the secretary of health and human services under section 16S of chapter 6A.

SECTION 12. Section 2 of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:—

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services under section 16S of chapter 6A.

SECTION 13. Section 1 of chapter 176O of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Ambulatory review” the following definition:—

“Behavioral health manager”, a company, organized under the laws of the commonwealth or organized under the laws of another state and qualified to do business in the commonwealth, that has entered into a contractual arrangement with a carrier to provide or arrange for the provision of behavioral health services to voluntarily enrolled members of the carrier.

SECTION 14. Subsection (a) of section 7 of said chapter 176O, as so appearing, is hereby amended by adding the following clause:—

(7) a statement: (i) that an insured has the right to request referral assistance from a carrier if the insured or the insured’s primary care physician has difficulty identifying medically necessary services within the carrier’s network; (ii) that the carrier, upon request by the insured, shall identify and confirm the availability of these services directly; and (iii) that the carrier, if necessary, shall obtain out-of-network services if they are unavailable within the network.

SECTION 15. Said chapter 176O is hereby further amended by adding the following 3 sections:—

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Section 18. A carrier for whom a behavioral health manager is administering behavioral health services shall be responsible for the behavioral health manager's failure to comply with the requirements of this chapter in the same manner as if the carrier failed to comply.

Section 19. A carrier for whom a behavioral health manager is administering behavioral health services shall state on its new enrollment cards issued in the normal course of business, within one year, the name and telephone number of the behavioral health manager.

Section 20. (a) A behavioral health manager shall provide the following information to at least 1 adult insured in each household covered by their services:

(1) a notice to the insured regarding emergency mental health services that states:

(i) that the insured may obtain emergency mental health services, including the option of calling the local pre-hospital emergency medical service system by dialing the 911 emergency telephone number or its local equivalent, if the insured has an emergency mental health condition that would be judged by a prudent layperson to require pre-hospital emergency services;

(ii) that no insured shall be discouraged from using the local pre-hospital emergency medical service system, the 911 emergency telephone number or its local equivalent;

(iii) that no insured shall be denied coverage for medical and transportation expenses incurred as a result of such emergency mental health condition; and

(iv) if the behavioral health manager requires an insured to contact either the behavioral health manager, carrier or the primary care physician of the insured within 48 hours of receiving emergency services, notification already given to the behavioral health manager, carrier or primary care physician by the attending emergency physician shall satisfy that requirement;

(2) a summary of the process by which clinical guidelines and utilization review criteria are developed for behavioral health services; and

(3) a statement that the office of patient protection, established by section 217 of chapter 111, is available to assist consumers, a description of the grievance and review processes available to consumers under chapter 176O, and relevant contact information to access the office and these processes.

(b) The information required by subsection (a) may be contained in the carrier's evidence of coverage and need not be provided in a separate document. Every disclosure described in this section shall contain the effective date, date of issue and, if applicable, expiration date.

(c) A behavioral health manager shall submit material changes to the information required by subsection (a) to the bureau of managed care, established by section 2 of chapter 176O, at least 30 days before their effective dates and to at least 1 adult insured in every household residing in the commonwealth at least biennially.

(d) A behavioral health manager that provides specified services through a workers'

compensation preferred provider arrangement that meets the requirements of 211 CMR 112.00 and 452 CMR 6.00 shall be considered to comply with this section.

SECTION 16. Section 77 of chapter 177 of the acts of 2001 is hereby repealed.

SECTION 17. Notwithstanding subsection (b) of section 16Q of chapter 6A of the General Laws, the initial terms of the 14 nongovernmental members appointed under clauses (iii) and (iv) of said subsection (b) of said chapter 6A on the children's behavioral health advisory council, established by said section 16Q of said chapter 6A, shall be designated by the secretary of health and human services as follows: 5 members for terms of 1 year, 5 members for terms of 2 years, and 4 members for terms of 3 years.

SECTION 18. (a) The office of Medicaid shall convene a working group on the early identification of children's developmental, mental health and substance abuse problems in pediatric primary care settings. The working group shall include representatives from the pediatric, mental health, and substance abuse communities, and patient and child advocacy organizations. It shall review the office of Medicaid's current regulations on the early and periodic screening, diagnosis and treatment program, and make recommendations about the periodicity of screenings, the screening tools used, the training and education of those conducting the screenings and treatment protocols. The recommendations shall be submitted by July 31, 2009 to the general court by filing them with the clerks of the senate and house of representatives, the joint committee on mental health and substance abuse and the senate and house committees on ways and means. (b) Notwithstanding any general or special law to the contrary, by October 31, 2009, the office of Medicaid and the division of health care finance and policy shall develop 1 or more reimbursement rates for use by primary care providers conducting developmental, mental health and substance abuse screenings. The rates shall be reasonably calculated to cover the cost of screening tools and the time to screen, score and interpret the results. Screenings shall be reimbursed separately from the standard office visit case rate for children enrolled in MassHealth. The office of Medicaid shall require a managed care organization providing these screenings to children enrolled in MassHealth to reimburse separately for these screening services.

SECTION 19. (a) There shall be a task force on behavioral health and public schools, within the department of early education and care, to build a framework to promote collaborative services and supportive school environments for children, to develop and pilot an assessment tool based on the framework to measure schools' capacity to address children's behavioral health needs, to make recommendations for using the tool to carry out a statewide assessment of schools' capacity, and to make recommendations for improving the capacity of schools to implement the framework.

(b) The task force, consisting of 10 members who shall serve ex officio and 16 members appointed by the commissioner of elementary and secondary education shall include the commissioner of elementary and secondary education, who shall serve as chairperson, the commissioner of early education and care, 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 director of Medicaid

the commissioner of youth services, and the child advocate, or their designees; 2 parents of children with behavioral health needs; 1 adult who had behavioral health needs as a child; 4 community-based behavioral health providers, 1 of whom works with schools, 1 of whom works with parents of children with behavioral health needs, 1 of whom has expertise in the behavioral health effects of trauma, and 1 of whom is implementing the remedial plan related to *Rosie D. v. Romney*, 410 F.Supp.2d 18 (CA No. 01-30199-MAP); 1 advocate who represents parents or children in the areas of behavioral health, trauma, and education; 2 school principals; 2 teachers; 2 school psychologists; and 2 school-based student support persons selected from schools participating in the commonwealth's Safe and Supportive Learning Environments grant program established by subsection (b) of section 1N of chapter 69 of the General Laws, the Schools Initiative of the executive office of health and human services, the federal grant program to integrate schools and mental health systems established by 20 U.S.C. § 7269, or similar programs.

(c) The task force shall: (i) build a framework that promotes collaboration between schools and behavioral health services and promotes supportive school environments where children with behavioral health needs can form relationships with adults and peers, regulate their emotions and behaviors, and achieve academic and nonacademic school success and reduces truancy and the numbers of children dropping out of school; (ii) develop a tool based on the framework to assess the capacity of schools to collaborate with behavioral health services and provide supportive school environments that can improve outcome measures such as rates of suspensions, expulsions and other punitive responses, hospitalizations, absenteeism, tardiness, truancy and drop-out rates, time spent on learning and other measures of school success; (iii) pilot the assessment tool in at least 10 schools; (iv) make recommendations for using the tool to carry out a statewide assessment; and (v) make recommendations for improving the capacity of schools to implement the framework.

(d) The framework shall address:

(i) leadership by school administrators to create structures within schools that promote collaboration between schools and behavioral health providers within the scope of confidentiality laws;

(ii) professional development for school personnel and behavioral health service providers that: clarifies roles and promotes collaboration within the scope of confidentiality laws; increases cultural competency; increases school personnel's knowledge of behavioral health symptoms, the impact of these symptoms on behavior and learning, and the availability of community resources; enhances school personnel's skills to help children form meaningful relationships, regulate their emotions, behave appropriately and succeed academically, and to work with parents who may have behavioral health needs; increases providers' skills to identify school problems and to provide consultation, classroom observation and support to school personnel, children and their families; and increases school personnel's and providers' knowledge of the impact of trauma on learning, relationships, physical well being and behavior, and of school-wide and individual approaches that help traumatized children succeed in school;

(iii) access to clinically, linguistically and culturally-appropriate behavioral health services, including prevention, early intervention, crisis intervention, screening, and treatment, especially for children transitioning to school from other placements, hospitalization, or homelessness, and children requiring behavioral health services pursuant to special education individual education plans;

(iv) effective academic and non-academic activities that build upon students' strengths, promote success in school, maximize time spent in the classroom and minimize suspensions, expulsions, and other removals for students with behavioral health challenges;

(v) policies and protocols for referrals to behavioral health services that minimize time out of class, safe and supportive transitions to school, consultation and support for school staff, confidential communication, appropriate reporting of child abuse and neglect under section 51A of chapter 119 of the General Laws, and discipline that focuses on reducing suspensions and expulsions and that balances accountability with an understanding of the child's behavioral health needs and trauma; and

(vi) policies and protocols for a truancy prevention program certification by the department which may include mechanisms to provide technical assistance to school districts and to encourage each school district to adopt and implement a truancy prevention program which meets the certification criteria.

(e) The commissioner of elementary and secondary education shall convene the task force on or before December 31, 2008.

(f) The task force shall submit an interim report to the governor, the child advocate and to the general court by filing the report with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, and the joint committee on education, on or before December 31, 2009. The interim report shall: (i) describe the framework; (ii) explain the assessment tool and the results of its pilot use; and (iii) propose methods of using the tool to assess statewide capacity of schools to promote collaborative services and supportive school environments.

(g) The task force shall submit a final report to the governor, the child advocate, and to the general court by filing the report with the clerks of the senate and the house of representatives, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, and the joint committee on education on or before June 30, 2011. The final report shall: (i) detail the findings of the statewide assessment; and (ii) recommend a plan for statewide utilization of the framework.

SECTION 20. The MassHealth behavioral health contractor, in collaboration with the department of mental health and the department of elementary and secondary education, shall develop a proposal for the provision of behavioral health consultative services to schools. The proposal, to the extent possible, shall incorporate existing models for effectively providing such services. Consultative services available under this proposal shall include emergency triage, prevention, early intervention and classroom-based approaches to

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behavioral health care, and shall provide effective behavioral health identification and treatment strategies for teachers, school staff and parents. The proposal shall be submitted to the secretary of health and human services by December 1, 2009.

SECTION 21. (a) There shall be an office of compliance coordination, within the executive office of health and human services, to provide administrative oversight, monitoring and implementation of the remedial plans and court orders related to *Rosie D. v. Romney*, 410 F.Supp.2d 18 (CA No. 01-30199-MAP) and the commonwealth's provision of early and periodic screening, diagnostic and treatment services for Medicaid-eligible children with serious emotional disturbances.

(b) There shall be a compliance coordinator in charge of the office, who shall be appointed by and report directly to the secretary of health and human services. The compliance coordinator shall: (i) facilitate compliance by MassHealth; (ii) serve as the primary liaison for any court-appointed monitor, special master or agent, and provide the court appointee with access to documentation in the possession of executive office, its agencies or their contractors needed to monitor compliance with the remedial plan or court orders; and (iii) promote consistency, where appropriate, with other state programs serving persons with similar service needs.

(c) The compliance coordinator shall issue semiannual compliance reports describing the commonwealth's compliance with the remedial plan and court orders and identifying any obstacles to compliance. The reports shall be submitted to the general court by filing with the clerks of the senate and the house of representatives, the senate and house committees on ways and means, the joint committee on mental health and substance abuse and the joint committee on health care financing.

SECTION 22. Section 18 is hereby repealed.

SECTION 23. Section 19 is hereby repealed.

SECTION 24. Section 20 is hereby repealed.

SECTION 25. Section 21 is hereby repealed.

SECTION 26. Section 22 shall take effect on November 1, 2009.

SECTION 27. Section 23 shall take effect on July 1, 2011.

SECTION 28. Section 24 shall take effect on December 2, 2009.

SECTION 29. Section 25 shall take effect on December 31, 2011.

Approved August 20, 2008.

Chapter 322. AN ACT RELATIVE TO THE CREMATION OF BODIES OF CERTAIN DECEASED PERSONS.

Be it enacted, etc., as follows:

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Section 43M of chapter 114 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the third sentence the following 3 sentences:- Notwithstanding any general or special law to the contrary, a funeral establishment in possession of the cremated remains of a human body which is not claimed by a next-of-kin or duly authorized representative within 12 months after the date of cremation may have the remains interred or placed in a common grave, niche, or crypt in a cemetery, or scattered in an area of the cemetery designated for that purpose; provided, however, that if the deceased is a veteran of the United States Armed Forces the deceased shall be interred at a veterans' cemetery. Each cemetery and funeral establishment shall maintain permanent records of such disposition. There shall be no liability for a funeral establishment, cemetery or crematory, or any employee or agent thereof that disposes of unclaimed cremated remains in accordance with this section.

Approved August 20, 2008.

Chapter 323. AN ACT PROHIBITING RESTRICTIVE COVENANTS FOR SOCIAL WORKERS.

Be it enacted, etc., as follows:

Chapter 112 of the General Laws is hereby amended by inserting after section 135B the following section:-

Section 135C. A contract or agreement creating or establishing the terms of a partnership, employment, or any other form of professional relationship with a social worker licensed under this chapter that includes a restriction of the right of the social worker to practice in any geographic area for any period of time after termination of the partnership, employment or professional relationship shall be void and unenforceable with respect to that restriction. This section shall not render void or unenforceable the remainder of the contract or agreement.

Approved August 23, 2008

Chapter 324. AN ACT AUTHORIZING THE APPOINTMENT OF CERTAIN PERSONS AS FIREFIGHTERS IN THE CITY OF FALL RIVER

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the personnel administrator of the human resources division shall place on the current civil service eligible list for firefighter in the city of Fall River or on the next list if the current list has expired the names of David W. O'Brien, Michael T. Walsh, Patrick M. Burke, Nicholas Suneson, Scott Chretien and Rachael Gettys on the top of such list requested

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by the city from the division from which the next 6 original appointments to the position of firefighter shall be made by the city.

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

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House of Representatives on July 30, 2008, and in concurrence by the Senate on July 31, 2008, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 325. AN ACT AUTHORIZING A SUPERANNUATION RETIREMENT ALLOWANCE FOR LEO SENEAL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 15 of chapter 32 of the General Laws or any other general or special law or rule or regulation to the contrary, Leo Senecal of the city of North Adams shall be eligible to receive a superannuation retirement allowance from the North Adams retirement board. This allowance shall be subject to all other provisions of said chapter 32.

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

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto, was passed by the House of Representatives on July 30, 2008, and in concurrence by the Senate on July 31, 2008, the objections of the Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 326. AN ACT RELATIVE TO POLLING PLACES IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 24 of chapter 54 of the General Laws or any other general or special law to the contrary, the board of election commissioners of the city of Boston shall designate the polling place for each voting precinct in the city of Boston and cause it to be suitably fitted up and prepared. The board of election commissioners shall locate the polling place in a public, orderly and convenient portion of the precinct; provided, however, that if the board of election commissioners determines that the public convenience would be better served, it may designate a polling place in an adjacent precinct of the city.

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In circumstances in which accessibility concerns arise, the board of election commissioners may designate a polling location in a non-adjacent precinct of the city. Such precinct shall be located not more than 2 precincts away from the original precinct, regardless of direction or ward.

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

Approved September 1, 2008.

Chapter 327. AN ACT AUTHORIZING THE PLACEMENT OF 2 QUESTIONS ON THE BALLOT AT THE BIENNIAL STATE ELECTION RELATIVE TO THE LICENSING OF SALES OF WINES AND MALT BEVERAGES IN THE CITY OF MELROSE.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 11 of chapter 138 of the General Laws or any other general or special law to the contrary, the state secretary shall cause to be placed on the official ballot to be used in the city of Melrose at the biennial state election to be held in the year 2008 the following 2 questions:-

(1) “Shall the city of Melrose, acting through its liquor licensing commission, be granted the authority to issue up to 3 licenses to establishments that would sell wines and malt beverages only for consumption off premises; provided, however, that the sale of wines and malt beverages shall be incidental to the sale of food?”

Yes _____ No _____

(2) “Shall the city of Melrose, acting through its liquor licensing commission, be granted the authority to issue licenses to restaurants having a seating capacity of not fewer than 50 persons nor more than 99 persons for the sale therein of wines and malt beverages only in conjunction with a food establishment permit with full menu service?”

Yes _____ No _____

For the purposes of this act, the term “establishment” as used in Question 1 above shall mean a food operation whose floor area is less than 3,000 square feet; provided, however, that the term “establishment” shall not be a grocery store, supermarket or a convenience store which sells at retail, food for consumption off premises and whose floor area is greater than 3,000 square feet. An establishment, regardless of square footage, that sells tobacco products or Massachusetts state lottery tickets shall be considered a “convenience store” for purposes of this act.

(b) If a majority of the voters voting in the November 2008 biennial state election vote in the affirmative on Question 1 above, then the city of Melrose shall be authorized to issue up to 3 licenses to establishments for the sale of wines and malt beverages only for consumption off premises. If a majority of the voters voting in the November 2008 biennial state election vote in the affirmative on Question 2, then the city of Melrose shall be authorized to issue licenses to restaurants having a seating capacity of not fewer than 50 persons nor more than 99 persons for the sale of wines and malt beverages only. The licenses shall be subject to all the other provisions of chapter 138 of the General Laws.

(c) The authority of the city of Melrose, acting through its liquor licensing commission, to issue liquor licenses hereunder shall not become effective until such time as the liquor licensing commission has adopted additional rules and regulations relative to alcoholic beverage licenses as addressed herein.

(d) A license issued which allows for the sale of wines and malt beverages only for consumption off premises may not be the subject of a sale or transfer by the licensee. Upon the licensee failing to renew or otherwise continue operating under the license, the license shall revert to the liquor licensing commission in the city of Melrose.

(e) The state secretary shall have the authority to print the questions numbered sequentially after any statewide ballot questions.

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

Approved September 5, 2008.

Chapter 328. AN ACT PROVIDING THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH PROVIDING THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

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

SECTION 1. Section 1 of chapter 298 of the acts of 2000 is hereby amended by striking out, in lines 4 and 5, the words “. All such bonds shall be payable not later than June 30, 2035”.

SECTION 2. Section 19 of said chapter 298 of the acts of 2000 is hereby amended by striking out, in lines 5 and 6, the words “. All such notes shall be payable not later than June 30, 2010”.

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SECTION 3. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 5 of chapter 4 of the acts of 2005 shall be issued for a term not to exceed 20 years as recommended by the governor in a message to the general court dated June 2, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 10 of chapter 119 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated June 2, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

Approved September 9, 2008.

Chapter 329. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ALICE ELDRIDGE, AN EMPLOYEE OF THE DEPARTMENT OF REVENUE.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of revenue shall establish a sick leave bank for Alice Eldridge, 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 Alice Eldridge. Whenever Alice Eldridge 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 September 12, 2008.

Chapter 330. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF FALMOUTH AS THE RALEIGH D. COSTA MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

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The bridge that spans the Coonamessett river on state highway Route 28 in the village of Teaticket in the town of Falmouth shall be designated and known as the Lieutenant Raleigh D. Costa memorial bridge. The department of highways shall erect and maintain signs bearing this designation in accordance with the standards of the department.

Approved September 12, 2008.

Chapter 331. AN ACT DESIGNATING A CERTAIN INTERCHANGE IN THE TOWN OF YARMOUTH AS THE STATE TROOPER ELLEN ENGELHARDT INTERCHANGE.

Be it enacted, etc., as follows:

The interchange of route 6 westbound with Willow street in the town of Yarmouth shall be designated and known as the State Trooper Ellen Engelhardt Interchange, in recognition of the services of State Trooper Ellen Engelhardt who was severely injured in the line of duty. The department of highways shall erect and maintain suitable markers bearing this designation in compliance with the standards of the department.

Approved September 12, 2008.

Chapter 332. AN ACT AUTHORIZING A CERTAIN QUESTION TO BE PLACED ON THE 2008 STATE ELECTION BALLOT IN THE TOWN OF LITTLETON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 42C of chapter 54 of the General Laws or section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, in order to ascertain the will of the voters of the town of Littleton 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 Littleton the following question:

“Shall the town of Littleton be authorized to exempt from the provisions of proposition 2½, the amounts required to pay for the bond issued in order to construct a new police station to be located on town-owned property at 500 Great road, including original equipment and landscaping, paving and other site improvements incidental or directly related thereto? Yes ___; No ___”

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

Approved September 16, 2008.

Chapter 333. AN ACT RELATIVE TO BIOMEDICAL RESEARCH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote biomedical research 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 12J of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsections (a) I and (a) II and inserting in place thereof the following 2 subsections:-

(a) I. No person shall use any live human fetus whether before or after expulsion from its mother's womb, for scientific, laboratory, research or other experimentation. This section shall not prohibit procedures incident to the study of a human fetus while it is in its mother's womb or a neonate; provided that in the best medical judgment of the physician, made at the time of the study, the procedures do not substantially jeopardize the life or health of the fetus or neonate; and provided further that, in the case of a fetus, the fetus is not the subject of a planned abortion. In any criminal proceeding, a fetus shall be conclusively presumed not to be the subject of a planned abortion if the mother signed a written statement at the time of the study, that she was not planning an abortion.

This section shall not prohibit or regulate diagnostic or remedial procedures the purpose of which is: (i) to determine the life or health of the fetus or neonate involved; (ii) to preserve the life or health of the fetus or neonate involved or the mother involved; (iii) to improve the chances of a viable birth for a fetus with a congenital or other fetal conditions that would otherwise substantially impair or jeopardize the fetus's health or viability; or (iv) research approved by an institutional review board applying federal regulations for the protection of fetuses and neonates, that are conducted for the purpose of developing, comparing or improving diagnostic or therapeutic fetal or neonatal interventions to improve the viability or quality of life of fetuses, neonates and children.

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

A fetus is a live fetus for purposes of this section when, in the best medical judgment of a physician, it shows evidence of life as determined by the same medical standards as are used in determining evidence of life in a spontaneously-aborted fetus at approximately the same stage of gestational development.

For purposes of this section, "institutional review board" shall mean a board that has a minimum of 5 members who meet regularly to review research applying the standards of 45 CFR Part 46 or 21 CFR Parts 50 and 56, as may be amended from time to time.

(a) II. No experimentation shall knowingly be performed upon a dead fetus or dead neonate unless the consent of the parent or guardian has first been obtained; provided, however, that such consent shall not be required for a routine pathological study. In any criminal

proceeding, consent shall be conclusively presumed to have been granted for the purposes of this section by a written statement, signed by the parent or guardian who is at least 18 years of age, to the effect that the parent or guardian consents to the use of the dead fetus or dead neonate for scientific, laboratory, research or other experimentation or study. Such written consent shall constitute authorization for the transfer of the dead fetus or dead neonate.

SECTION 2. Said section 12J of said chapter 112, as so appearing, is hereby further amended by striking out subsection (a) IV and inserting in place thereof the following subsection:-

(a) IV. No person shall knowingly sell, transfer, distribute or give away any fetus or neonate for a use which is in violation of this section.

SECTION 3. Said section 12J of said chapter 112, as so appearing, is hereby further amended by adding the following subsection:-

(b) X. Upon receipt of a request from an institution conducting, or preparing to conduct, research pursuant to this section, the attorney general shall provide a written advisory opinion concerning whether such research is regulated, prohibited, authorized by this chapter by or whether it is exempt from this chapter. If in the opinion of the attorney general the research described in the request is exempt from, or authorized by this chapter, the opinion shall constitute an affirmative defense to any criminal prosecution brought pursuant to this section. Opinions issued by the attorney general pursuant to this section shall be maintained in a publicly accessible manner by the attorney general and shall be filed with the commissioner of public health.

Approved September 17, 2008.

Chapter 334. AN ACT RELATIVE TO AN INTERMUNICIPAL AGREEMENT AND BETTERMENT ASSESSMENTS IN THE TOWN OF LUNENBURG.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or the vote taken on May 6, 2006 to the contrary, the town of Lunenburg may levy betterment assessments in connection with the engineering, permitting and construction of drinking water improvements at the Meadow Woods Mobile Home Park in the town. The improvements were authorized by said vote of the town on May 6, 2006. Such assessments may be levied by the town without regard to whether the improvements are constructed directly by the town or by another governmental unit pursuant to an intermunicipal agreement. Except as otherwise provided in this act, sections 42G to 42K, inclusive, of chapter 40 of the General Laws and chapter 80 of the General Laws relative to the apportionment, division, reassessment and collection of assessments, and interest, shall apply to assessments levied pursuant to this act.

SECTION 2. Notwithstanding any general or special law to the contrary, the board of assessors of the town of Lunenburg may, and at the request of the owner of the land assessed shall, apportion all betterment assessments or unpaid balances thereof made under section 1 into a number of equal annual payments, not exceeding 40, as determined by the board or as requested by the owner. Such payments may be further apportioned and collected by the town on quarterly tax bills or a single tax bill at the option of the town. An owner of land assessed may pay the total amount due without a prepayment penalty. Any assessments paid to the town pursuant to this section may be treated by the town as in lieu of payments anticipated to be made by the Lunenburg Water District of Lunenburg pursuant to the vote of the town taken on May 6, 2006.

SECTION 3. Notwithstanding any general or special law to the contrary, the board of assessors of the town of Lunenburg may, and at the request of the owner of the land assessed shall, apportion all sewer assessments or unpaid balances thereof, levied in connection with the engineering, permitting and construction of wastewater improvements at the Meadow Woods Mobile Home Park as authorized by the vote of the town on May 6, 2006, into a number of equal annual payments, not exceeding 40, as determined by the board or as is requested by the owner. Such payments may be further apportioned and collected by the town on quarterly tax bills or a single tax bill at the option of the town. An owner of land may pay the total amount due without a prepayment penalty.

SECTION 4. Notwithstanding section 4A of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Lunenburg may enter into an intermunicipal agreement with the Lunenburg Water District for a maximum term of years not exceeding 50 years, relating to the engineering, permitting, construction and operation of drinking water improvements at the Meadow Woods Mobile Home Park in the town, such improvements and such agreement having been authorized by a vote of the town on May 6, 2006. Except as otherwise provided in this act, the intermunicipal agreement shall be subject to said section 4A of said chapter 40.

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

Approved September 17, 2008

Chapter 335. AN ACT RELATIVE TO THE PLACEMENT OF TWINS IN SCHOOLS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 71 of the General Laws is hereby amended by adding the following section:-

Section 90. A parent or guardian of twins or higher order multiples may, if the children are in the same grade level at the same school request that the children be placed in

the same classroom or in separate classrooms. The school may recommend classroom placement to the parents and provide professional education advice to the parents to assist in making the best decision for their children's education; provided, however, that the school shall provide the placement requested by the children's parent or guardian. The parent or guardian must request the classroom placement not later than 14 days after the first day of each school year or 14 days after the first day of attendance of the children during a school year.

For purposes of this section, "higher order multiples", shall mean triplets, quadruplets, quintuplets, or more.

SECTION 2. This act shall take effect on or before August 1, 2009.

Approved September 17, 2008.

Chapter 336. AN ACT RELATIVE TO SUDDEN, UNEXPLAINED CHILD DEATHS.

Be it enacted, etc., as follows:

SECTION 1. The state child fatality review team established in section 2A of chapter 38 of the General Laws shall conduct a study of training and protocols related to sudden, unexplained deaths of children under the age of 3. The team shall examine the feasibility of adopting statewide training and protocols, including those developed by the Centers for Disease Control and Prevention, for first responders and investigators, including emergency medical systems personnel, municipal police, state police and medical examiners. The training and protocols shall promote: (1) forensically competent death scene investigations and autopsies; (2) sensitivity toward families and child care providers affected by these deaths, including notification of available community resources and support groups; and (3) coordination with experts, including the Massachusetts Center for Sudden Infant Death Syndrome at Boston Medical Center, to provide research data on these deaths. The team shall solicit input from persons who have been affected by the sudden, unexplained deaths of a child under the age of 3.

The team shall submit a report of its findings and any legislative or regulatory recommendations to the secretary of public safety, the secretary of health and human services, and the general court, by filing the report with the house and senate clerks, not later than July 1, 2009.

SECTION 2. This act shall be known as the Paige Victoria Perry Act.

Approved September 17, 2008.

Chapter 337. AN ACT AUTHORIZING CERTAIN PERSONS TO TAKE THE CIVIL SERVICE EXAMINATION FOR APPOINTMENT AS FIREFIGHTERS 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 or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a firefighter, James Carnell of the town of Arlington shall be eligible to take the next open, competitive examination for appointment to the position of firefighter in the town of Arlington and, provided that he meets all other requirements, shall be eligible for certification and appointment to such position.

SECTION 2. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a firefighter, Robert Griffin of the town of Arlington shall be eligible to take the next open, competitive examination for appointment to the position of firefighter in the town of Arlington and, provided that he meets all other requirements, shall be eligible for certification and appointment to such position.

SECTION 3. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a firefighter, Matthew Earley of the town of Arlington shall be eligible to take the next open, competitive examination for appointment to the position of firefighter in the town of Arlington and, provided that he meets all other requirements, shall be eligible for certification and appointment to such position.

SECTION 4. This act shall take effect upon its passage and shall expire on December 31, 2010.

Approved September 23, 2008.

Chapter 338. AN ACT AUTHORIZING CERTAIN PERSONS TO TAKE THE CIVIL SERVICE EXAMINATION FOR APPOINTMENT AS POLICE OFFICERS 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 or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a police officer, Tara R. Diab of the town of Arlington shall be eligible to take the next open, competitive examination for appointment to the position of police officer in the town of Arlington and, provided that she meets all other requirements,

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shall be eligible for certification and appointment to such position.

SECTION 2. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment to the position of police officer, Matthew Silva of the town of Arlington shall be eligible to take the next open, competitive examination for appointment as a police officer in the town of Arlington and, provided that he meets all other requirements, shall be eligible for certification and appointment to such position.

SECTION 3. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment to the position of police officer, Thomas Wesley of the town of Arlington shall be eligible to take the next open, competitive examination for appointment as a police officer in the town of Arlington and, provided that he meets all other requirements, shall be eligible for certification and appointment to such position.

SECTION 4. This act shall take effect upon its passage and shall expire on December 31, 2010.

Approved September 23, 2008.

Chapter 339. AN ACT AUTHORIZING THE TOWN OF ARLINTON TO ISSUE PENSION OBLIGATION BONDS OR NOTES.

Be it enacted, etc., as follows:

SECTION 1. The town of Arlington may issue, at 1 time or from time to time, bonds or notes for the purpose of funding the unfunded pension liability of the retirement system of the town. No bonds or notes, shall be issued without, for each issuance, the prior and specific approval of the board of selectmen, the treasurer, the finance committee and a $\frac{2}{3}$ vote of town meeting. The proceeds of any such issuance, other than amounts to be applied to issuance costs and expenses, shall be transferred by the town to the retirement system, 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 town in accordance with law. The terms of any such bonds or notes shall not exceed 30 years from the date of issuance and the amount of any such bonds or notes shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws. 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 such bonds or notes. Except as otherwise provided in this act, such bonds or notes shall be subject

to said chapter 44.

SECTION 2. The aggregate principal amount of the bonds or notes issued during any calendar year under authority of this act shall not be greater than the amount sufficient to extinguish the unfunded pension liability of the retirement system of the town of Arlington as of a particular date as determined in accordance with this section, plus an amount to provide for issuance costs and other expenses necessary or incidental thereto. 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 which amount shall be approved by 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 and an allocation of the unfunded pension liability of the retirement system of the town among each governmental unit the employees of which are members of the retirement system.

SECTION 3. The maturities of such bonds or notes shall be scheduled so that the annual combined payments of principal and interest for each issue shall be as nearly equal as practicable in the opinion of the treasurer and board of selectmen, in any manner that shall provide for a more rapid amortization of principal, or in accordance with 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 Arlington 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 this act that is equal to the proportion of the total unfunded 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 town, by each such governmental unit's proportional share of the annual debt service expense as determined herein, 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 Arlington 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 September 23, 2008.

Chapter 340. AN ACT PROVIDING FOR A BALLOT QUESTION IN THE TOWN OF ARLINGTON RELATIVE TO THE SALE OF ALL ALCOHOLIC BEVERAGES IN CERTAIN RESTAURANTS.

Be it enacted, etc., as follows:

SECTION 1. (a) 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 such licenses authorized to be held or chapter 29 of the acts of 2006, or any other general or special law to the contrary, the board of selectmen of the town of Arlington shall cause to be placed on the official ballot at the annual town meeting to be held in 2009 the following question:-

“Shall the board of selectmen be authorized to grant 5 licenses for the sale of all alcoholic beverages to be drunk on the premises in restaurants and function rooms having a seating capacity of not less than 50 persons?”

Yes_____ No_____

(b) If the majority of votes cast in answer to the question is in the affirmative, the town shall be taken to have authorized the board of selectmen to grant 5 licenses for the sale of all alcoholic beverages to be drunk on the premises of restaurants and function rooms having a seating capacity of not less than 50 persons. The licenses shall be subject to all other provisions of said chapter 138.

SECTION 2. The board of selectmen shall include a summary of the question to be printed on the ballot with the question.

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

Approved September 23, 2008.

Chapter 341. AN ACT RELATIVE TO PUBLIC PARKING IN THE CITY OF FITCHBURG.

Be it enacted, etc., as follows:

Notwithstanding section 3B of chapter 7 of the General Laws or any other general or special law to the contrary, the administrative office of the trial court shall allow the general public to park in the Fitchburg superior courthouse parking lot on weekdays between 5:00 p.m. and a designated closing time and all day on weekends provided that: (1) the closing time is before midnight and is agreed upon by a neighborhood association comprised of governmental and charitable organizations located within 50 yards of the parking lot; (2) the neighborhood association erects and maintains signs near the entrances to the parking lot that state the times that the parking lot is available for use by the general public; (3) the association locks and secures the entrance to the parking lot at the closing time every day as directed by courthouse staff; (4) the association arranges and pays for the towing of unauthorized vehicles that are in the parking lot when courthouse staff unlock the parking lot's entrance;

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(5) the association assumes responsibility for collecting and disposing of any trash discarded on the lot during the hours in which the association or the public has access to the lot; and
(6) the association holds harmless and indemnifies the administrative office of the trial court from any liability arising from, or related to, the use of the lot permitted by this section.

Approved September 23, 2008.

Chapter 342. AN ACT RELATIVE TO BLOOD DONATIONS BY MINORS.

Be it enacted, etc., as follows:

Section 184C of chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:- A minor 16 to 17 years of age may donate his blood with the prior assent thereto of his parent or guardian.

Approved September 24, 2008.

Chapter 343. AN ACT DESIGNATING THE FITCHBURG DISTRICT COURTHOUSE AS THE GELINAS COURTHOUSE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to change the name of the Fitchburg district courthouse, 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 Fitchburg district courthouse shall be designated and known as the Gelinas Courthouse, in honor of the Honorable Andre A. Gelinas and the late A. Andre Gelinas, Esq. for their many contributions to the judiciary, the bar and the city of Fitchburg. The division of capital asset management and maintenance shall erect suitable markers bearing the designation in compliance with the standards of the division.

SECTION 2. This act shall take effect on September 12, 2008.

Approved October 6, 2008.

Chapter 344. AN ACT VALIDATING THE ACTIONS TAKEN AT THE ANNUAL TOWN ELECTION HELD IN THE TOWN OF LANESBOROUGH.

Be it enacted, etc., as follows:

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SECTION 1. Notwithstanding sections 9 and 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, the votes taken by the town of Lanesborough at its May 15, 2007 annual town election and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the posting for the warrant of said election.

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

Approved October 6, 2008.

Chapter 345. AN ACT AUTHORIZING THE TOWN OF MAYNARD TO BORROW MONEY FOR CERTAIN REMEDIATION WORK.

Be it enacted, etc., as follows:

SECTION 1. The town of Maynard may borrow, from time to time, such sums of money as may be necessary for the payment of the costs of remediation work required by the department of environmental protection at the town department of public works site at 38 Winter street to address the release of petroleum to soil and groundwater discovered during the replacement of 5,000 gallon underground storage tanks at such site, including engineering services relating thereto, and ongoing operating, assessment and remediation efforts as required by the department of environmental protection or otherwise and may issue bonds or notes therefor. Each authorized issue shall constitute a separate loan and each such loan shall be payable for a period not to exceed 20 years from the date of issuance. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section 10 of chapter 44 of the General Laws but, except as provided herein, shall be subject to the provisions of that chapter.

SECTION 2. The vote of the town passed under article of the warrant for the town meeting held on October 29, 2007, authorizing a borrowing for the petroleum contamination remediation project described in section 1 is hereby ratified and confirmed.

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

Approved October 6, 2008.

Chapter 346. AN ACT AUTHORIZING THE TOWN OF BELMONT TO PLACE A CERTAIN QUESTION RELATIVE TO THE GRANTING OF A CLUB LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

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(a) Notwithstanding sections 11, 11A and 17 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 Belmont shall cause to be placed on the official ballot at a regular or special town election the following question:

“Shall the licensing authority in the town of Belmont be authorized to grant a club license to the Veterans of Foreign Wars, Post 1272 for the sale of all alcoholic beverages pursuant to section 12 of chapter 138 of the General Laws?”

(b) The town shall include below the ballot question a fair and concise summary of the ballot question.

(c) If a majority of the votes cast in answer to the question is in the affirmative, the town shall be taken to have authorized the issuance of a club license to the Veterans of Foreign Wars, Post 1272 for the sale of all alcoholic beverages pursuant to said section 12 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17. Once issued, the licensing authority shall not approve the transfer of the license to any other person, organization, corporation or location.

Approved October 6, 2008.

Chapter 347. AN ACT AUTHORIZING THE TOWN OF WAYLAND TO ESTABLISH A DEPARTMENT OF PUBLIC WORKS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 130 of the acts of 1962 is hereby repealed.

SECTION 2. Chapter 254 of the acts of 1966 is hereby repealed.

SECTION 3. There is hereby established in the town of Wayland a department of public works, in this act called the department, which shall be under the supervision, direction and control of the town administrator.

SECTION 4. (a) There shall be a board of public works consisting of 5 members, in this act called the board. From the effective date of this act until not earlier than the 2010 annual town election, the members of the board shall be designated as follows:

(i) 1 member who shall be appointed by the board of road commissioners;

(ii) 1 member who shall be appointed by the board of water commissioners;

(iii) 1 member who shall be appointed by the park and recreation commission;

(iv) 1 member who shall be appointed by the board of health; and

(v) 1 member who shall be appointed by the board of selectmen. In making their appointments to the board, the board of road commissioners, the board of water commissioners, the park and recreation commission and the board of health shall consider their respective current and former members. When the initial board first enters upon the performance of its duties it shall file written notice thereof with the town clerk whereupon the board of road commissioners and the board of water commissioners shall be abolished

and the park and recreation commission shall thereafter be known as the recreation commission. Vacancies occurring in the board after its initial appointment and before the 2010 annual town election shall be filled by roll call vote of the board of selectmen and the remaining members of the board acting jointly. Commencing with the 2010 annual town election, the manner of selection of the members of the board shall be by election at the annual town election. The initial members thereof shall be elected to terms as follows, 1 to serve for 1 year, 2 to serve for 2 years, and 2 to serve for 3 years and thereafter when the term of member expires, such member's successor shall be elected for a term of 3 years. In all cases, each member shall serve until his successor is appointed or elected and qualified. Vacancies in the elected board shall be filled in accordance with section 11 of chapter 41 of the General Laws. All members of the board shall be registered voters of the town.

(b) The board shall have the powers and duties vested by general or special law or by town by-law in the following boards, commissions and officers, except as provided in this act:-

- (1) road commissioners and board of road commissioners;
- (2) surveyors of highways;
- (3) superintendent of streets;
- (4) water commissioners and board of water commissioners;
- (5) park commissioners, except conducting recreation activities or programs;
- (6) cemetery commissioners;
- (7) tree warden; and
- (8) any other public works related powers and duties that may be, from time to time, vested in the board by general or special law, town by-law or town meeting vote.

(c) The town's sanitary landfill and any other solid waste disposal facilities or services that may be provided, made available or arranged by the town shall be under the supervision and control of the board.

(d) In addition, the board shall be responsible for the custody, care, management, control, operation, repair and maintenance of all town-owned land, equipment, facilities, vehicles and other personal property and accounts, budgetary funds, other funds and staff formerly under the jurisdiction of the board of road commissioners, the board of water commissioners and the park and recreation commission and used by the commissions for public works or park purposes. In consultation with the recreation commission, the board shall annually establish a plan for the periodic maintenance, repair and improvement of all town-owned land on which programs, events and activities are conducted or coordinated by the recreation department. The board shall be responsible for carrying out the plan.

(e) The board shall have the authority to adopt and amend rules and regulations relative to all matters and affairs under its jurisdiction. Prior to adopting or amending such rules and regulations, the board shall hold a public hearing thereon, notice of which, giving the time, date and place shall be placed in a newspaper of general circulation in the town, once in each of 2 successive weeks, with the first such publication being not less than 14 days before the hearing. Any such rules and regulations so adopted or amended shall be filed

in the office of the town clerk whereupon they shall take effect. After any such rules and regulations are so filed, they may be published and included in the code of the town of Wayland or in separate pamphlets and shall be posted on the town's official website or on the official website of the board and a copy shall be filed in the town library.

SECTION 5. The town administrator, in consultation with the board, shall appoint and fix the tenure, compensation and fringe benefits of, and may enter into an employment agreement with, a director of public works, subject to appropriation and the provisions of the town's by-laws and personnel by-laws and wage and salary classification plan. The director shall exercise and perform, under the operational and administrative direction of the town administrator and the policy direction of the board, the powers, rights and duties which have been transferred to the department and as set forth in the town's by-laws. The director need not be a resident of the town during tenure of office. No member of the board shall be eligible for appointment as director of public works. The director shall be a managerial and confidential employee as such is defined by chapter 150E of the General Laws and relevant case law from the Massachusetts labor relations commission.

SECTION 6. No existing contract, agreement or liability shall be affected by the abolition or modification of a board, commission or office effectuated by this act, but the board shall in all respects be the lawful successor of the boards, commissions and offices so abolished or modified.

SECTION 7. Each regular full-time or part-time employee of a board, commission or office abolished or modified by this act shall be transferred to and become an employee of the department. No such employee shall forfeit rate of compensation, grade, step or time of service solely on account of the establishment of the department. All collective bargaining agreements or employment contracts in force on the effective date of this act shall not be affected by this act. Nothing in this section shall be construed as limiting the town's rights, including, but not limited to, the right to determine the level of services, to reorganize, to create and abolish positions, to combine positions, reclassify positions, modify the organizational structure of the department of public works or to negotiate and agree to amendments, modifications or revisions to any collective bargaining agreement or employment contract or to amend or modify any by-law of the town.

SECTION 8. (a) Upon the filing of written notice in accordance with subsection (a) of section 4, the town's park and recreation commission shall be thereafter known as the recreation commission. The recreation commission shall consist of 5 members elected for terms of 3 years. The terms of the members of the recreation commission shall be staggered in the same manner as the terms of the park and recreation commission. The members of the park and recreation commission in office immediately prior to the effective date of this act shall continue in office as members of the recreation commission provided for in this section.

(b) The recreation commission shall have the power and authority to conduct recreation programs and activities on land or in facilities or buildings owned, leased or held by the town for park, playground or recreation purposes and, with the approval of the school committee, for school purposes.

(c) The recreation commission shall also be responsible for the custody, management, control and operation of all accounts, budgetary funds, other funds and staff formerly under the jurisdiction of the park and recreation commission and held or employed for playground or recreation purposes.

(d) The town administrator, in consultation with the recreation commission, shall also have the power and authority to appoint and fix the tenure, compensation and fringe benefits of, and may enter into an employment agreement with, a recreation director, subject to appropriation and the provisions of the town's by-laws and personnel by-laws and wage and salary classification plan. The recreation director shall exercise and perform, under the supervision and direction of the board and the administrative direction of the town administrator, the powers, rights and duties of the commission set forth in this section and the town's by-laws. The recreation director need not be a resident of the town during tenure of office. No member of the board shall be eligible for appointment as the recreation director. The recreation director shall be a managerial and confidential employee as such is defined by chapter 150E of the General Laws and relevant case law from the Massachusetts labor relations commission.

SECTION 9. This act shall take effect on July 1, 2009.

Approved October 6, 2008.

Chapter 348. AN ACT RELATIVE TO THE DEPARTMENT OF FINANCE IN THE TOWN OF UPTON.

Be it enacted, etc., as follows:

Chapter 132 of the acts of 1995 is hereby repealed.

Approved October 6, 2008.

Chapter 349. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF MASSACHUSETTS NONPROFIT AWARENESS DAY.

Be it enacted, etc., as follows:

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

Section 15GGGGG. The governor shall annually issue a proclamation setting apart the second Monday in June as Massachusetts Nonprofit Awareness Day, in recognition of the outstanding contributions of the Massachusetts nonprofit sector to the general welfare of the citizens of the commonwealth and recommending that the day be observed in an appropriate manner by the people.

Approved October 6, 2008.

Chapter 350. AN ACT AUTHORIZING A CERTAIN TRANSFER OF FUNDS IN THE TOWN OF KINGSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53F½ of chapter 44 of the General Laws or any general or special law or state regulation to the contrary, the town of Kingston may transfer a sum of money from the Waste Water Enterprise Fund to the town's general fund to reimburse the general fund for the substantial contribution made by the town to the costs of establishing the waste water enterprise and the town shall apply such sum of money for the fiscal year 2009 operating budget with no further action by the town. The authority granted herein recognizes that a transfer of funds from the subject enterprise fund will not harm the enterprise, that the town is facing significant fiscal constraints and would otherwise be required to limit operations or reduce the level of services provided and that the Kingston town meeting has determined that the transfer contemplated herein is in the best interests of the town.

SECTION 2. Any action taken by the town of Kingston at the April 5, 2008 annual town meeting to transfer surplus revenue from the Waste Water Enterprise Fund and to appropriate such funds for the fiscal year 2009 operating budget of the town and all actions taken pursuant thereto and in reliance thereon, are hereby ratified, validated and confirmed as though such transfer had occurred after the effective date of this act.

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

Approved October 8, 2008.

Chapter 351. AN ACT RELATIVE TO AFFORDABLE HOUSING IN THE TOWN OF CHELMSFORD.

Be it enacted, etc., as follows:

SECTION 1. The development by the Chelmsford Housing Authority, or an entity directly or indirectly owned, controlled or managed by the Chelmsford Housing Authority or its board members, of a new affordable housing project on land located on the northwesterly side of Harding street and northeasterly of, but not adjacent to, Putnam road containing 110,135 square feet more or less, or any part thereof, shall not be subject to any general or special law related to the procurement and award of contracts for the design, construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency, but shall remain subject to sections 25 to 27F, inclusive, of chapter 149 of the General Laws. Contracts for the construction, reconstruction, alteration, remodeling or repair of any publicly owned works which service such project and would otherwise be subject to section 39M of chapter 30 of the General Laws shall not be exempted by this act

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from said section 39M of said chapter 30. A conveyance of the land or the project, whether by leasehold or fee estate, to a private entity shall be subject to chapter 30B of the General Laws to the extent such land or project is conveyed to an entity which is not directly or indirectly owned, controlled or managed by the Chelmsford Housing Authority or its board members on the date of the conveyance.

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

Approved October 8, 2008.

**Chapter 352. AN ACT AUTHORIZING THE TOWN OF KINGSTON TO INSTALL,
FINANCE AND OPERATE WIND ENERGY FACILITIES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Kingston may design and install wind energy facilities at its wastewater treatment facility on Cranberry road in the town, and other such sites as approved by the town, to prepare and improve such sites, acquire all equipment necessary for the wind energy facilities, to make improvements and extraordinary repairs to the facilities, and pay all other costs incidental and related thereto.

SECTION 2. The town of Kingston may issue from time to time bonds or notes in order to finance all or a portion of the costs of the wind energy facilities authorized pursuant to section 1. Notwithstanding any provisions of chapter 44 of the General Laws to the contrary, the maturities of any such bonds issued by the town of Kingston 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 practical in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than 5 years from the anticipated date of commencement of regular operation of the wind energy facilities financed thereby, as determined by the town treasurer and the last payment of principal of the bonds shall be not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section 10 of said chapter 44 but, except as otherwise provided herein, shall be subject to said chapter 44.

SECTION 3. Notwithstanding any general or special law to the contrary, the town of Kingston may operate any wind energy facilities installed pursuant to section 1, sell any electricity generated from such facilities and sell any other marketable products resulting from its generation of wind energy at such facilities or from its generation of any type of renewable energy at any renewable energy facility which the town is authorized by law to operate, including electronic certificates created to represent the generation attributes as de-

fined under 225 CMR 14.02, of each megawatt hour of energy generated by the wind energy facilities or any such other renewable energy producing facilities. The board of selectmen of the town of Kingston may enter into contracts on behalf of the town of Kingston for the sale of electricity and energy facilities with such parties and upon such terms and conditions as the board of selectmen determines to be in the best interests of the town of Kingston.

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

SECTION 5. There shall be established in the town of Kingston a wind facilities enterprise fund, to which the provisions of section 53F½ of chapter 44 of the General Laws shall apply, except as provided herein, for the receipt of all revenues from the operation of the wind energy facilities authorized pursuant to this act and from any other renewable energy producing facilities which the town is authorized by law to operate and all moneys received for the benefit of the wind energy facilities and any such other renewable energy facilities, other than the proceeds of bonds or notes issued therefor. Such receipts shall be used to pay costs of operation and maintenance of the wind energy facilities and any such other renewable energy facilities, to pay costs of future repairs, extensions, reconstruction, enlargements, additions and improvements thereto, and to pay the principal and interest on any bonds or notes issued therefor. The board of selectmen shall be the appropriate local entity for purposes of estimating the income and proposing a line-item budget for the enterprise. This budget may include amounts to be appropriated to a capital reserve fund to be established within the enterprise fund which may be expended for capital purposes of the enterprise, including the costs of extraordinary repairs, extensions, reconstruction, enlargements and additions to the wind energy facilities. Funds appropriated to the capital reserve fund may accumulate from year to year, subject to appropriation by the town. Any funds remaining in the enterprise fund, at the end of each fiscal year in excess of the amounts required to meet the obligations of the fund, other than amounts in the capital reserve fund, and which would otherwise be treated as surplus revenue pursuant to section 53F½ of chapter 44 of the General Laws, shall be returned to the general fund of the town, without any further action of the town, and shall be available for appropriation for any municipal purpose.

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

Approved October 8, 2008.

Chapter 353. AN ACT VALIDATING A CERTAIN ELECTION IN THE TOWN OF MEDWAY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, all votes cast by the voters of the town of Medway at the annual town election held on May 5, 2008 are hereby ratified, validated and confirmed in all respects, notwithstanding any defects or omissions in the calling of said town election.

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

Approved October 8, 2008.

Chapter 354. AN ACT ESTABLISHING THE MASSACHUSETTS CREATIVE ECONOMY COUNCIL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith the Massachusetts creative economy council, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law to the contrary, there shall be established within the executive office of housing and economic development a Massachusetts creative economy council, hereinafter in this section referred to as the council. The council shall develop a statewide strategy for the enhancement, encouragement, and growth of the creative economy in the commonwealth and to promote through public and private means responsive public policies and innovative private sector practices.

(b) The council shall consist of 25 members: 3 of whom shall be members of the senate, 1 of whom shall be appointed by the senate minority leader; 3 of whom shall be members of the house of representatives, 1 of whom shall be appointed by the house minority leader; the secretary of the executive office of housing and economic development or his designee, who shall serve as chair of the council; the executive director of the Massachusetts office of travel and tourism or his designee; the executive director of the Massachusetts cultural council or his designee; the director of the Massachusetts office of business development or his designee; the executive director of the Massachusetts advocates for the arts, sciences, and humanities or his designee; the director of the John Adams Innovation Institute or his designee; and 11 persons to be appointed by the governor, 1 of whom shall be the president of the Massachusetts Technology Leadership Council, Inc., or his designee; 1 of whom shall be the chairman of the Massachusetts Lodging Association or his designee; 1 of whom shall be the president of the Massachusetts Restaurant Association or his designee; 1 of whom shall be the president of the Massachusetts College of Art and Design or her designee; 1 of whom shall be the chancellor of the University of Massachusetts Lowell or his designee; 3 of whom shall be directors of regional tourism councils; 1 of whom shall

be a representative of the Salem Partnership, Inc., 1 of whom shall be a representative of the Salem state college assistance corporation; 1 of whom shall be a representative of the Berkshire Creative Economy Initiative; 1 of whom shall be the executive director of the Worcester Cultural Coalition; and 1 of whom shall be an owner of a sole proprietorship in the creative economy.

Members of the council shall serve for a term of 2 years, and may be reappointed. The council may adopt rules for the appointment of members, and may increase or decrease the number of members. Members of the council shall serve without pay. The council shall meet at least 4 times annually.

(c) The duties of the council shall include, but shall not be limited to: researching and evaluating studies conducted within the commonwealth and in other states to locate and identify best practices that easily transfer to the commonwealth; reviewing the recommendations of the "Innovation Agenda: Growing the Creative Economy in Massachusetts" statewide conference of May 3, 2006, and the Berkshire Creative Economy Report, and other statewide and regional research-based recommendations, to develop a statewide strategy for enhancement of the creative economy; providing recommendations on restructuring economic programs within state government to enhance creative economy efforts; providing strategies and proposing legislation, if necessary, to provide linkage between programs to enhance the creative economy; establishing metrics to measure the effect of the creative economy on other sectors of the economy by developing and conducting extensive statewide research and creating a database from the results; fostering education and workforce development in the creative economy sector by stimulating efforts to develop career pathways for creative industries; researching the potential for an online resource directory, including but not limited to, the development and promotion of a web based resource highlighting the creative economy and its member companies and organizations; researching the potential for a comprehensive communications program targeting member communities, organizations, stakeholders, and interested parties including, but not limited to, the promotion of networking across the creative economy sector; and researching methods to brand Massachusetts as a creative economy leader.

The council shall report to the general court the results of its investigation and study, and its recommendations together with drafts of legislation, if any, by filing the same with the clerks of the house of representatives and the senate who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on tourism, arts, and cultural development, and the chairs of the joint committee on community development and small business, on or before July 1, 2009.

The council may define the creative economy to include without limitation the many interlocking industry sectors that center on providing creative services such as advertising, architecture or creating and promoting intellectual property products such as arts, film, computer games, multimedia, or design.

(d) The council shall annually submit on or before December 1, a written report of its activities during the previous year to the clerks of the house of representatives and the senate who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on tourism, arts, and cultural development, and the chairs of the joint committee on community development and small business. The report shall include recommendations to the general court regarding proposed changes to this section, or any other section or chapter of the General Laws, or any regulations promulgated pursuant thereto, necessary to promote the creative economy in the commonwealth.

SECTION 2. This act shall expire on December 31, 2012.

Approved October 8, 2008.

Chapter 355. AN ACT RELATIVE TO CERTAIN AFFORDABLE HOUSING IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Construction and development activity related to redevelopment by the Boston Housing Authority of the federally funded Washington Beech public housing project, or any part thereof, shall not be subject to any general or special law related to the procurement and award of contracts for the construction, reconstruction, installation, demolition, maintenance or repair of buildings by a public agency but shall be subject to sections 26 to 27H, inclusive, of chapter 149 of the General Laws. Contracts for the construction, reconstruction, alteration, remodeling or repair of any publicly owned public works that service this project and would otherwise be subject to section 39M of chapter 30 of the General Laws shall be subject to said section 39M if the redevelopment of the project is funded in part by a state or federal low income housing credit grant or loan or pursuant to the issuance of tax exempt bonds authorized by the General Laws. A conveyance of the project, whether by leasehold or fee estate to an urban redevelopment corporation organized under chapter 121A of the General Laws or to a nonprofit state and federally tax exempt corporation organized for the purpose of revitalizing the project shall be subject to chapter 30B of the General Laws to the extent that the project is conveyed to an entity that is not owned, controlled or managed by the Boston Housing Authority on the date of the conveyance.

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

Approved October 8, 2008.

Chapter 356. AN ACT AUTHORIZING THE CITY OF LYNN TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES TO SALVY THE FLORIST.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing board of the city of Lynn may grant a license for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138, to Salvy the Florist at 793 Western avenue in the city of Lynn. The license shall be subject to all of said chapter 138, except said section 17.

Notwithstanding any general or special law, rule or regulation to the contrary, the licensing board shall not approve the transfer of the license to any other location. The license may be re-issued by the licensing board at the same location if an applicant for the license files with the board a letter 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 board 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. This act shall take effect upon its passage.

Approved October 9, 2008.

Chapter 357. AN ACT RELATIVE TO THE SUPERVISION OF LIMITED PURPOSE TRUST COMPANIES BY THE COMMISSIONER OF BANKS.

Be it enacted, etc., as follows:

Section 9A of chapter 172 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 12 to 15, inclusive, the words “no person, other than an attorney licensed to practice law in the commonwealth, shall conduct such business in the commonwealth without having acquired the certificate” and inserting in place thereof the following words:- this section shall not apply to an attorney licensed to practice law in the commonwealth or to a person exercising trust or fiduciary powers in the commonwealth under lawful authority.

Approved October 9, 2008.

Chapter 358. AN ACT FURTHER REGULATING CERTAIN RETIREMENT BENEFITS.

Be it enacted, etc., as follows:

Section 90C of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words "served such city, town or district for a period of not less than twenty-five years" and inserting in place thereof the following words:- attained 25 years of creditable service.

Approved October 9, 2008.

Chapter 359. AN ACT AUTHORIZING THE TOWN OF BRIDGEWATER TO ESTABLISH A REVOLVING FUND FOR LIBRARY PURPOSES.

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 Gloria Phillips, 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 Gloria Phillips. Whenever Gloria Phillips 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 of public health.

Approved October 9, 2008.

Chapter 360. AN ACT PROVIDING THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH TO FINANCE BROADBAND ACCESS, BRIDGE REPAIRS, HIGHER EDUCATION, TRANSPORTATION, ENERGY AND ENVIRONMENTAL NEEDS AND CERTAIN OTHER GENERAL GOVERNMENTAL NEEDS OF THE COMMONWEALTH.

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:

SECTION 1. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 7 of chapter 231 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any general or special law to the contrary, the notes which the state treasurer may issue under section 7 of chapter 233 of the acts of 2008 shall be issued for a term not to exceed 15 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 8 of chapter 233 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 3 of chapter 258 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 5. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 47 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 6. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 48 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 7. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 49 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 8. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 50 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 9. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 51 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 10. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 52 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 11. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 53 of chapter 303 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 12. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 16 of chapter 304 of the acts of 2008 shall be issued for a term not to exceed 10 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 13. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 17 of chapter 304 of the acts of 2008 shall be issued for a term not to exceed 20 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 14. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 18 of chapter 304 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 15. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 19 of chapter 304 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

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SECTION 16. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 15 of chapter 312 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 17. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 16 of chapter 312 of the acts of 2008 shall be issued for a term not to exceed 30 years as recommended by the governor in a message to the general court dated August 20, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

SECTION 18. Notwithstanding any general or special law to the contrary, the bonds which the state treasurer may issue under section 46 of chapter 130 of the acts of 2008 shall be issued for a term not to exceed 20 years as recommended by the governor in a message to the general court dated June 30, 2008 under section 3 of Article LXII of the Amendments to the Constitution.

Approved October 9, 2008.

Chapter 361. AN ACT RELATIVE TO THE ANNUAL REPORTS OF PUBLIC CHARITIES.

Be it enacted, etc., as follows:

SECTION 1. Section 8F of chapter 12 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 13, the words "one hundred thousand dollars" and inserting in place thereof the following figure:- \$200,000.

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

Approved October 9, 2008.

Chapter 362. AN ACT RELATIVE TO THE ANNUAL REPORTS OF PUBLIC CHARITIES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Bridgewater, acting by and through its board of library trustees, may establish a revolving fund which shall be kept separate and apart from all other monies of the town by the town treasurer and into which shall be deposited funds received by the Bridgewater Library for the payment of fines and for lost or

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damaged items. The fund shall be expended, without appropriation, by the library director or any other person so authorized by the board of library trustees for the purchase of books and other library materials.

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

Approved October 9, 2008.

**Chapter 363. AN ACT PROVIDING ACCESS TO INFORMATION FOR PARENTS
OF A CHILD WITH SPECIAL NEEDS.**

Be it enacted, etc., as follows:

The fourth paragraph of section 3 of chapter 71B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 3 sentences:- To insure that parents can participate fully and effectively with school personnel in the consideration and development of appropriate educational programs for their child, a school committee shall, upon request by a parent, provide timely access to parents and parent-designated independent evaluators and educational consultants for observations of a child's current program and of any program proposed for the child, including both academic and non-academic components of any such program. Parents and their designees shall be afforded access of sufficient duration and extent to enable them to evaluate a child's performance in a current program and the ability of a proposed program to enable such child to make effective progress. School committees shall impose no conditions or restrictions on such observations except those necessary to ensure the safety of children in a program or the integrity of the program while under observation or to protect children in the program from disclosure by an observer of confidential and personally identifiable information in the event such information is obtained in the course of an observation by a parent or a designee.

Approved October 10, 2008.

**Chapter 364. AN ACT DESIGNATING THE COMMUNITY COLLEGES
COLLECTIVELY AS THE GOVERNOR FOSTER FURCOLO
COMMUNITY COLLEGES.**

Be it enacted, etc., as follows:

Chapter 15A of the General Laws is hereby amended by inserting after section 5 the following section:-

Section 5A. For the purposes of this chapter, those community colleges within the system of public institutions of higher education established in section 5 shall collectively

be known as the Governor Foster Furcolo Community Colleges.

The foregoing was laid before the Governor on the Second day of October, 2007 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 365. AN ACT ESTABLISHING THE WALPOLE ECONOMIC DEVELOPMENT AND INDUSTRIAL CORPORATION.

Be it enacted, etc., as follows:

SECTION 1. The general court finds and declares that: (1) unused, underused or undeveloped areas exist in parts of the town of Walpole including the areas at the South Street Superfund Site; (2) each area constitutes an economic liability, substantially impairs or arrests the sound growth of the town, retards the economic well-being of the commonwealth and causes risks to the town's sole source aquifer that lies beneath the properties; (3) each area has decreased the value of private investments and threatens the sources of public revenue; (4) redevelopment of the areas is necessary to retain existing industrial and commercial enterprises, to attract new industrial and commercial development, and to promote the sound economic growth of the town; (5) the exercise of powers by the corporation established by this act and any assistance that may be given by the town or other public body in connection therewith are public uses and purposes for which public money may be expended; (6) the acquisition, planning, clearance, development, rehabilitation or rebuilding of the unused, underused and underdeveloped areas for industrial and commercial purposes are public benefits for which private property may be regulated by wholesome and reasonable order, law and direction and for which public funds may be expended for the welfare of the town and the commonwealth; (7) there exists in the town a condition of unbalanced development which causes social hardships, increases the public assistance burdens, impairs the security of family life, impedes the economic and physical development of the town and adversely affects the welfare and prosperity of the people; (8) underemployment has been caused in substantial part by industrial and commercial companies moving from the town; (9) some existing industrial and commercial facilities within the town are obsolete and inefficient; (10) the facilities are underutilized, thereby creating additional underemployment; (11) the obsolescence and abandonment of existing facilities are causing serious injury to the economy of the town; (12) the industrial and commercial sectors of the economy provide some of the best opportunities for jobs at higher wages for the inhabitants of the town; (13) new industrial and commercial sites are required to attract and house new industrial and commercial development and to retain existing industrial and commercial operations in need of expansion space; and (14) the modest efforts of private industry have not provided the necessary industrial and commercial sites within

the area due to the problems encountered in the assembly of suitable building sites, the unreliable commitment of private capital for development and the inability of private enterprise alone to plan, finance and coordinate industrial and commercial development projects.

SECTION 2. As used in this act, the following words shall have the following meanings, unless the context requires otherwise:

“Corporation”, the Walpole Economic Development and Industrial Corporation, established in section 3.

“Cost of a project”, costs, whether incurred before or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition, or removal of existing buildings or structures, including the cost of acquiring any lands to which the buildings or structures may be moved, financing charges, interest before and during the carrying out of a project, interest for up to 2 years after completion or estimated completion date of a project, planning, engineering and legal services, administrative expense, the funding of notes issued for capital purposes, the reserve for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and other expenses incidental to the determination of the feasibility of a project or to carrying out the project or to placing the project in operation.

“Director”, the director of the department of housing and community development.

“Economic development area”, a blighted open area or a decadent area, as respectively defined in section 1 of chapter 121B of the General Laws, which is located in the town of Walpole and is zoned for general or restricted manufacturing uses or for general industrial uses whether restricted or not, or for commercial and business uses, or an open and underutilized land which is suitably zoned for the kinds of activities identified herein, including but not limited to, research and development, commercial, light industrial and business uses.

“Economic development plan”, a detailed plan, as approved from time to time by vote of town meeting as herein provided, for 1 or more economic development projects within an economic development area, which plan shall be consistent with local objectives respecting appropriate land uses and shall be sufficiently complete to indicate the boundaries of the area, intended land acquisition areas, demolition, removal and rehabilitation of structures, and such development, redevelopment and general public improvements as may be proposed to be carried out within the area, and establish the appropriate land uses for the area. The plan shall include design guidelines, maximum densities and building requirements. The plan shall also describe the process by which the corporation shall notify the public of the availability of development sites within the economic development area in order to encourage competing development proposals and shall include the criteria that will be used in judging the development proposals to assure maximum overall public benefits. The plan as adopted shall, for purposes of chapter 30B of the General Laws, be considered the plan required by clause (25) of subsection (b) of section 1 of said chapter 30B. Plans as described

herein shall also be consistent with town's master plan, as approved at town meeting.

"Economic development project", (1) a project to be undertaken in accordance with an economic development plan for acquisition by the corporation of land and the improvements thereon, if any, within an economic development area and for clearance and development of the land so acquired; (2) a project for the removal, or rehabilitation or conservation of an economic development area, or for the demolition, removal, or rehabilitation of improvements on land within an economic development area whenever necessary to eliminate unhealthy, unsanitary or unsafe conditions, lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, or eliminate obsolete or other uses detrimental to the public welfare; or (3) a project involving a combination of the foregoing types of projects. An economic development project may include improvements necessary for carrying out the objectives of the economic development project, together with site improvements necessary for the preparation of a site for uses in accordance with the economic development plans of the town, and making land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise, including sale, initial leasing or retention by the corporation for industrial, business or manufacturing or other uses approved by the town meeting in accordance with the economic development plans. An economic development project may also include the construction by the corporation of the buildings, structures or other facilities for the industrial, commercial, business, manufacturing or other uses approved by the town meeting and contemplated by the economic development plan and the repair, removal or rehabilitation of the buildings, structures or facilities now located in the area which are to be repaired, moved or rehabilitated. An economic development project shall not be undertaken until (1) a public hearing relating to the economic development plan covering the project has been held by the corporation after due notice; and (2) the economic development plan has been approved by an affirmative two-thirds vote of an annual town meeting or a special town meeting called for the purpose. If an economic development project covered by an economic development plan is not commenced within 7 years after the approval of the plan, the approval of the plan shall lapse.

"MOBD", the Massachusetts office of business development.

"Selectmen", the board of selectmen of the town of Walpole.

"South Street Superfund Site", the Blackburn and Union Privileges Superfund Site as designated by the department of environmental protection which is also known as the South Street Superfund Site located on South street.

"Town administrator", the town administrator of the town of Walpole.

"Town meeting", town meeting of the town of Walpole acting in lawfully convened session.

SECTION 3. (a) There is hereby established in the town of Walpole a public body politic and corporate known as the Walpole Economic Development and Industrial Corporation. There shall be 7 members of the board of directors of the corporation who shall be appointed by the selectmen. The members of the board shall be residents of the town of

Walpole. At least 1 member shall be experienced in industrial or commercial development, 1 in financial matters, 1 in real estate matters, 1 in municipal government, and at least 1 member shall be appointed from the community at large. The board of selectmen shall designate 1 of the 7 members as chairperson and another as vice-chairperson. Each member shall be sworn to the faithful performance of his official duties as a director of the corporation. A majority of the directors shall constitute a quorum for the transaction of business, but the action of a majority of the entire board shall be required for any transaction. For the purposes of section 11A of chapter 30A of the General Laws, the corporation shall be considered to be an authority established by the general court to serve a public purpose in the commonwealth.

(b) Of the members of the corporation first appointed, 2 shall be appointed to serve for 1 year from the first day of July in the current year, 2 for 2 years from that date, and 3 for 3 years from that date; but the initial appointments may be made at any time after the effective date of this act.

(c) Upon the expiration of the term of office of a member, or of a subsequent member, his successor shall be appointed in like manner for a term of 3 years. In the event of a vacancy in the office of a member, his successor shall be appointed in like manner to serve for the unexpired term. Unless reappointed, no member of the corporation shall hold office after the expiration of his term and the appointment of a successor to a person whose term has expired shall be for the remainder of the term which would have begun at the expiration if the successor had then been appointed.

A member may be removed by the board of selectmen for malfeasance, misfeasance or willful neglect of duty, but only after reasonable notice and a public hearing, unless the same are expressly waived in writing. For purposes of chapter 268A of the General Laws, the members of the corporation shall be considered to be special municipal employees.

(d) Before the issuance of any bonds under this act, each member of the corporation shall execute a surety bond with a surety company authorized to transact business in the commonwealth as surety, in the penal sum of \$50,000 conditioned upon the faithful performance of the duties of his office, each surety bond to be approved by town counsel and filed in the office of the state secretary. The members of the corporation shall not receive compensation for the performance of their duties hereunder, but each member shall be reimbursed for expenses actually incurred in the performance of his duties. Every reimbursement shall be open to public inspection from and after the requisition therefor.

SECTION 4. The directors of the corporation: shall adopt a corporate seal for the corporation and designate the custodian thereof; may from time to time appoint and at pleasure remove a clerk, a treasurer or other officer of the corporation as they consider necessary and may determine their duties and their compensation, which shall be paid by the corporation; shall cause at all times accurate accounts to be kept of all receipts and expenditures of the funds of the corporation; and shall make a report annually in December to the board of selectmen, MOBD and to the director, containing an abstract of the accounts and detailed information of all receipts and expenditures, including prices for land purchased

or taken and any buildings constructed thereon, contracts for construction of facilities and for the leasing thereof, and such other detailed information considered helpful. The office of treasurer and clerk may be the same person. The corporation shall cause an audit of its book and accounts to be made at least once in each fiscal year by a certified public accountant and the cost thereof shall be treated as an item of current expense. Except as otherwise provided in this act, the corporation shall have power to exercise care of its property and the management of its business affairs, and to sell and convey real estate or other property not needed for its business or affairs, by deed or other instrument sealed with the corporate seal, signed and acknowledged by a majority of the board of directors. The treasurer shall give bond for the faithful performance of his duties, with a surety company authorized to do business in the commonwealth as surety, in a sum as the board may determine, the premium therefor to be paid by the corporation. Chapter 31 of the General Laws and any rule made thereunder shall not apply to a person employed or engaged by the corporation under this act.

SECTION 5. (a) The corporation may:

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

(2) adopt by-laws for the regulation of its affairs and the conduct of its business, and alter the same at its pleasure;

(3) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts and attorneys and other employees, agents and consultants necessary in its judgment, and fix their compensation;

(4) receive and accept from a federal agency, the commonwealth or the town grants, loans or advances for or in aid of an economic development program, plan or project and receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which the grants, loans, advances and contributions may be made; and the town may borrow outside its debt limits to obtain money for loans to the corporation, or within its debt limits to obtain money for grants to the corporation, with the approval of MOBD and the director of housing and community development;

(5) borrow money, and, from time to time, make, accept, endorse, execute and issue bonds, debentures, promissory notes, bills of exchange and other obligations of the corporation, for moneys borrowed or in payment for property acquired or for other purposes of the corporation, and secure the payment of those obligations by mortgage, pledge, deed, indenture, agreement or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to the property, rights or privileges of the corporation;

(6) issue revenue bonds of the corporation, payable solely from revenues, for the purpose of paying all or part of the cost of a project or projects, except that the town may, upon request by the corporation, pledge its full faith and credit to the solvency of the corporation;

(7) invest funds not required for immediate use or disbursement in certificates of deposit or in obligations of the government of the United States or in obligations of the payment of the principal of, and interest on, which is guaranteed by the government of the United States;

(8) provide advisory services and technical assistance necessary or desirable to carry out the purposes of this act;

(9) prepare or cause to be prepared plans, designs, drawings, specifications and estimates of cost for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair of economic development projects and from time to time modify the plans, designs, drawings, specifications and estimates;

(10) finance pollution control facilities in the same manner provided by this act for economic development projects, in which event all provisions of this act which are applicable to economic development projects apply to the pollution control facilities, insofar as the provisions are apt, except as otherwise provided;

(11) subject to the approval of town meeting, designate areas of the town as economic development areas;

(12) acquire and hold by bequest, devise, grant, gift, purchase, exchange, lease, assignment, judicial order or decree, or otherwise, for any of its objects and purposes, a property, either real or personal, or an interest therein; and without limiting the generality of the foregoing, acquire by purchase, on terms and conditions and in a manner as it may consider proper, or by the exercise of the power of eminent domain following a public hearing and an affirmative two-thirds vote at an annual town meeting or a special town meeting called for the purpose, with the advice of MOBD and the director of housing and community development, in accordance with chapter 79 or chapter 80A of the General Laws insofar as they apply, private lands, or any interests therein, as it considers necessary for carrying out this act or for providing for the relocation of persons and businesses displaced as a result of carrying out economic development plans, programs and projects; provided, however, that section 40 of said chapter 79 shall apply to a taking by the corporation, except that the security therein required shall be deposited with the town treasurer and shall be in an amount at least 25 per cent higher than the aggregate average assessed valuations in the 3 previous calendar years of all real estate to be taken by eminent domain; and provided further, that the date as of which the value of the lands shall be determined for eminent domain purposes shall be the date on which the economic development plan is submitted to town meeting;

(13) make relocation payments to persons and businesses displaced as a result of carrying out economic development plans, programs and projects, including payments on a pro tanto basis;

(14) procure insurance against loss in connection with its property and other assets and operations in amounts and from insurers as it considers desirable;

(15) clear and improve property acquired by it, and engage in or contract for construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or

repair thereof;

(16) arrange or contract with the town for the planning, replanning, opening, grading or closing of streets, roads, alleys or other places or for the furnishing of facilities or for the acquisition by the town of property or property rights or for the furnishing of property or services in connection with a project or projects;

(17) sell, convey, mortgage, lease, transfer, option, exchange or otherwise dispose of, any property, either real or personal, or any interest therein, as the objects and purposes of the corporation may require, subject to such limitations as may be prescribed by law;

(18) loan on mortgages, including purchase money mortgages, on real estate and personal property within economic development areas, foreclose the same when in default, and bid for and purchase property at any foreclosure or other sale; and in that event, deal with the property in a manner necessary or desirable to protect the interests of the corporation therein;

(19) manage a plan, program or project whether owned or leased by the corporation and enter into agreements with the commonwealth or the town or any agency or instrumentality thereof or with a person, firm, partnership or corporation either public or private for the purpose of causing a plan, program or project to be managed;

(20) act with respect to 1 or more projects, as a corporation organized under section 3 or section 18B of chapter 121A; provided, however, that the accounts for each project shall be kept separately, and the income of 1 project shall not be expended upon or for the benefit of another project;

(21) borrow money for the purposes of aiding in the construction of equipment required by the commonwealth or the United States to abate air or water pollution;

(22) apply to the federal government or to the commonwealth for economic development and urban renewal assistance grants to meet in part the cost of approved economic development projects, receive and administer the grants, contract with the commonwealth for financial assistance, apply for and receive advances for the estimated costs of surveys and plans and administrative expenses in preparation for economic development projects and apply for, receive and administer community development action grants, all to the same extent and subject to the same terms and conditions as an urban renewal agency pursuant to sections 53 to 57A, inclusive, of chapter 121B of the General Laws;

(23) accept the assignment and transfer of tax titles from the treasurer of the town of Walpole pursuant to section 19; accept the transfer of tax possession properties located in the South Street Superfund Site and enjoy the benefits of exemptions available to the town or to economic development and industrial corporations with respect to potential liability for contamination of the properties, including but not limited to the exemptions contained in subsections (d) and (f) of the definition of "Owner", or "Operator" in section 2 of chapter 21E of the General Laws and any other exemptions to be found under applicable laws and regulations promulgated thereunder, for economic development projects approved by town meeting; enter into agreements with the treasurer for the payment of amounts necessary for

redemption upon such terms and conditions as agreed by the corporation, the treasurer and the board of selectmen; take immediate possession of the land as provided in section 53 of chapter 60 of the General Laws, and until the tax title acquired by assignment is redeemed, collect the rent and other income from that land, which rent and income after the payment of all necessary expenses incurred in the care, repair and management of the land, shall be applied on account of the taxes, assessments, interest, charges and costs due the town of Walpole on the land; and foreclose the rights of redemption by filing petitions with the land court as provided in chapter 60 of the General Laws; and

(24) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) The corporation shall pay the reasonable relocation costs of persons and businesses displaced as a result of carrying out economic development plans, but the corporation shall not be required hereby to pay or contribute to the payment of the costs of any relocation in excess of \$40,000.

SECTION 6. (a) An economic development project shall not be undertaken until: (1) a public hearing relating to the town's economic development plans covering the project has been held by the corporation after due notice; (2) the economic development plan has been approved by an affirmative two-thirds vote of an annual town meeting or a special town meeting called for the purpose by the town. If an economic development project covered by an economic development plan is not commenced within 7 years after the approval of the plan, the approval of the plan shall lapse.

(b) An economic development plan submitted to town meeting for approval under this act: (1) shall require that every person occupying the whole or any part of the economic development area during the period of 40 years after the approval of the plan shall make every reasonable effort, in employing persons in his business, to give to the fullest practicable extent preference to residents of the town and (2) shall be accompanied by a report on the plan by the planning board of the town to whom the plan shall have been submitted before its submission to town meeting, by a statement of the proposed method for financing each project covered by the plan, by a comprehensive relocation plan and by other information as the corporation considers advisable.

(c) Notice of the public hearing required by subsection (a) shall be given by the corporation to: (1) persons, groups and organizations as have requested in writing that notice be given them; (2) MOBD and the director of housing and community development and any agency, whether of the town or of the commonwealth, which is likely in the judgment of the corporation to have an actual or potential interest in the economic development plan; (3) the senator for the senatorial district of the commonwealth, and the representative for the representative district thereof, within which the economic development area or part thereof lies; and (4) each community group supported in whole or in part by public funds, whose territory covers all or part of the economic development area.

(d) If an economic development plan is so approved by town meeting, the corporation shall have the powers and duties imposed by this act to undertake and carry out the economic

development projects covered by the plan. The corporation shall not be required to submit an economic development plan so approved to MOBD for further approval.

SECTION 7. Except as provided herein, rents and charges for services or facilities furnished or supplied by the corporation shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the commonwealth or the town. If the rents and charges are derived from a project in connection with which revenue bonds have been issued, they shall, with all other revenues derived from the project, except the part thereof necessary to pay the cost of maintenance, repair and operation and to provide reserves therefor as provided for in the resolution authorizing the issuance of the bonds or in the trust agreement, but including the part thereof necessary to provide reserves for the payment of the principal of and the interest on the revenue bonds as may be provided for in the resolution or trust agreement, and including also the proceeds of sales by the corporation of property within the project area, be set aside at the regular intervals provided for in the resolution or trust agreement in a sinking fund which is hereby pledged to and charged with the payment of: (1) the interest upon the bonds as the interest shall fall due; (2) the principal of the bonds as the same shall fall due; (3) the necessary charges of paying agents for paying principal and interest; and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided.

SECTION 8. The corporation shall be liable in contract or in tort in the same manner as a private corporation. The directors, employees, officers and agents of the corporation shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sale on execution, but if the corporation refuses to pay a judgment entered against it in a court of competent jurisdiction, the superior court, sitting within and for the county in which the corporation is situated, may, by writ of mandamus, direct the treasurer of the agency to pay the judgment. The real estate of the corporation shall not be subject to liens under chapter 254 of the General Laws; but sections 28 and 29 of chapter 149 of the General Laws shall be applicable to construction work by the corporation.

SECTION 9. (a) The real estate and tangible personal property of the corporation shall be considered public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; but in lieu of taxes, betterments and special assessments, the town may determine a sum to be paid to it annually in any year or period of years, the sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of the real estate, including buildings and other structures, for the 3 years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.

(b) The town may agree with the corporation upon the payments to be made, or the corporation may make and the town may accept the payments, the amount of which shall not in either case be subject to the foregoing limitation.

(c) Nothing in this act shall be construed to prevent the taxation to the same extent and in the same manner as other real estate is taxed, of real estate acquired by the corporation

for an economic development project and sold by it, or the taxation to the same extent and in the same manner as real estate of the commonwealth is taxed, of real estate so acquired by the corporation and leased by it; provided, however, that real estate so acquired by the corporation and sold or leased to an urban redevelopment corporation or other entity operating under chapter 121A of the General Laws or to an insurance company or savings bank or group of savings banks operating under said chapter 121A, shall be taxed as provided in said chapter 121A and not otherwise.

(d) The corporation and the debentures, revenue bonds and revenue refunding bonds issued under this act, their transfer and the income therefrom including profit made on the sale thereof, shall at all times be free from taxation by the commonwealth or the town.

SECTION 10. (a) To provide funds for the general purposes of the corporation, including working capital, the corporation may from time to time issue debentures; but the debentures outstanding at any 1 time shall not exceed \$5,000,000 unless specifically approved by MOBD and the director of housing and community development. The debentures, unless otherwise authorized by law, shall not constitute a debt of the commonwealth or of the town of Walpole or a pledge of the faith and credit of the commonwealth or of the town of Walpole and shall be subordinated to all other obligations of the corporation and shall be payable at such time or times and in the installments, if any, as the corporation shall determine, but solely out of the net assets of the corporation and the holders thereof shall be entitled to interest thereon but only out of the net earnings of the corporation, and in no event at a rate higher than the rate specified therein.

(b) The debentures may be secured by a trust agreement by and between the corporation and a corporate trustee, which shall be located within the commonwealth and shall be a trust company or bank having the powers of a trust company. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the debenture holders as may be reasonable and proper and not in violation of law. It shall be lawful for a bank or trust company incorporated under the laws of the commonwealth which may act as depository under the trust agreement to furnish indemnifying bonds or to pledge securities as may be required by the corporation. The trust agreement shall set forth the rights and remedies of the debenture holders and of the trustee, and may restrict the individual right of action by debenture holders. In addition to the foregoing, the trust agreement may contain other provisions as the corporation may consider reasonable and proper for the security of the debenture holders. All expenses incurred in carrying out the trust agreement may be treated as an item of current expense.

(c) Debentures may be issued under this act without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth or the town of Walpole and without any other proceedings or the happening of any other condition or things other than those proceedings, conditions, or things which are specifically required by this act.

SECTION 11. The town may raise and appropriate or may borrow, or may agree with the corporation or with the federal government or the commonwealth to raise and appro-

private and to borrow, in aid of the corporation, sums necessary to carry out the purpose and powers of the corporation including defraying part of the development, acquisition and operating costs of any project. Indebtedness of the town authorized under this section shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws and shall be payable within 20 years and otherwise subject to sections 16 to 27, inclusive, of said chapter 44; but the sole amount of indebtedness of the town, outstanding at any 1 time under this section and clauses (1), (2), and (4) of section 20 of chapter 121B of the General Laws shall not exceed 5 per cent of the town equalized valuation as defined in section 1 of said chapter 44. Indebtedness incurred under this act shall also be subject to approval under section 22 of said chapter 121B in like manner as indebtedness incurred under said section 20.

SECTION 12. (a) The corporation may provide by resolution, at 1 time or from time to time, for the issuance of revenue bonds of the corporation for the purposes of paying all or any part of the cost of a project or projects. The principal of and interest on the bonds shall be payable solely from the funds herein provided for the payment. The bonds of each issue shall be dated, shall bear interest at the rates, and shall mature at the time or times, not exceeding 50 years from their date or dates, as determined by the corporation, and may be made redeemable before maturity, at the option of the corporation, at the price or prices and under the terms and conditions as fixed by the corporation before the issuance of the bonds. The corporation shall determine the form of the bonds, including interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at a bank or trust company within the commonwealth. In case an officer whose signature or a facsimile of whose signature shall appear on bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until the delivery. The bonds may be issued in coupon or registered form or both, as the corporation may determine and provision may be made for the registration of coupon bonds as to principal alone and also as to both principal and interest. The corporation may sell the bonds in a manner either at public or at private sale, and for a price as it may determine to be in the best interests of the corporation.

(b) The proceeds of the bonds shall be used solely for the payment of the cost of the project or projects, and shall be disbursed in the manner and under the restrictions, if any, as the corporation may provide. Before the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The corporation may also provide for the replacement of bonds which may become mutilated or may be destroyed or lost. Revenue bonds may be issued under this act subject only to those proceedings, conditions or things which are specifically required by this act.

(c) The corporation may provide by resolution for the issuance of revenue refunding

bonds of the corporation for the purpose of refunding any revenue bonds then outstanding and issues under this act, including the payment of a redemption premium thereon and interest accrued or to accrue to the date of redemption of the bonds and, if considered advisable by the corporation, for the additional purpose of constructing or reconstructing extensions or improvements of the project. The issue of the bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the corporation in respect of the same shall be governed by this act insofar as the same may be applicable.

(d) While bonds issued by the corporation remain outstanding, the powers, duties or existence of the corporation shall not be diminished or impaired in any way that will affect adversely the interests and rights of the holders of the bonds.

(e) Revenue and revenue refunding bonds issued under this act, unless otherwise authorized by law, shall not constitute a debt of the commonwealth or of the town, or a pledge of the faith and credit of the commonwealth or of the town, but the bonds shall be payable solely from the funds herein provided therefor from revenues. If the corporation, the town or the commonwealth is not obliged to pay the revenue and revenue refunding bonds, the revenue and revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the corporation nor the commonwealth nor the town shall be obliged to pay the same or the interest thereon except from revenues and that neither the faith and credit nor taxing power of the commonwealth or of the town is pledged to the payment of the principal of or the interest on the bonds.

(f) Revenue and revenue refunding bonds issued under this act shall have all the qualities and incidents of negotiable instruments as defined in section 3-104 of chapter 106 of the General Laws.

SECTION 13. (a) In the discretion of the corporation, the revenue bonds or revenue refunding bonds may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the commonwealth. The trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or part thereof.

(b) Either the resolution providing for the issuance of bonds or the trust agreement may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including without limiting the generality of the foregoing provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, the custody, safeguarding, investment and application of moneys, the use of surplus bond or note proceeds and the establishment of reserves. The resolution or trust agreement may also contain covenants by the corporation in relation to, among other things: (1) the establishment, revision and collection of rents and charges for services or facilities furnished or supplied by the corporation as shall provide revenues sufficient with other revenues of the

project, if any, to pay (i) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (ii) the principal of and the interest on the revenue bonds as the same shall become due and payable, (iii) payments in lieu of taxes, betterment and special assessments, and (iv) reserves for all such purposes, (2) the purposes for which the proceeds of the sale of the bonds will be applied and the use and disposition thereof; (3) the use and disposition of the gross revenues of the corporation from the project, any additions thereto and extensions and improvements thereof, including the creation and maintenance of funds for working capital and for renewals and replacements to the project; (4) the amount, if any, of additional revenue bonds payable from the revenues of the project; and the limitations, terms and conditions on which the additional revenue bonds may be issued; and (5) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of the corporation. It shall be lawful for bank or trust company incorporated under the laws of the commonwealth to act as depository of the proceeds of bonds or of revenues and to furnish the indemnifying bonds or to pledge securities required by the corporation. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, the trust agreement may contain other provisions that the corporation considers reasonable and proper for the security of the bondholders. Expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the project. The pledge by the trust agreement or resolution shall be valid and binding from the time when the pledge is made. The revenues or other moneys so pledged and then held or thereafter received by the corporation shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act and the lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which pledge is created need be filed or recorded except in the records of the corporation, and no filing need be made under chapter 106 of the General Laws.

SECTION 14. Revenue bonds and revenue refunding bonds issued under this act shall be securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments and within the limits set by section 14 of chapter 167E of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. The bonds shall be obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by section 2 of chapter 167F of the General Laws. The bonds are hereby made securities which may properly and legally be deposited with and received by a state or municipal officer or an agency or political subdivision of the commonwealth for

a purpose for which the deposit of bonds or other obligations of the commonwealth is now or may hereafter be authorized by law.

SECTION 15. A holder of bonds or debentures issued under this act or of coupons appertaining thereto, and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce rights under the laws of the commonwealth or granted hereunder or under the trust agreement, and may enforce and compel the performance of duties required by this act or by the trust agreement, to be performed by the corporation or by an officer thereof.

SECTION 16. Insofar as this act is inconsistent with any other general or special law, excluding the state or town building code, and the town zoning by-law, this act shall be controlling.

SECTION 17. This act, being necessary for the welfare of the town and its inhabitants, shall be liberally construed to effect its purpose.

SECTION 18. If the town shall modify its charter or adopt a new charter, then without amendment of this act, the provisions of this act which refer to specific town officials or town bodies shall be understood, upon a charter change, to refer to those who under such change exercise the same or equivalent functions.

SECTION 19. The treasurer of the town of Walpole may assign a tax title affecting properties located in the South Street Superfund Site to the corporation without the public auction required under section 52 of chapter 60 of the General Laws. The assignment shall be in a form approved by the commissioner of the department of revenue and shall be recorded within 60 days of its date. The instrument of assignment shall state the amount for which the tax title on each parcel could have been redeemed on the date of the assignment. The treasurer may enter into a payment plan with the corporation for the total amount necessary for redemption upon terms and conditions agreed by the selectmen, the treasurer and the corporation. All other provisions of section 52 of said chapter 60 shall still be applicable.

SECTION 20. This act shall take effect upon its passage.

Approved October 15, 2008.

Chapter 366. AN ACT AUTHORIZING THE TOWN OF MILTON TO BORROW MONEY TO FUND CERTAIN PAYMENTS OF MEDICAL EXPENSES INCURRED BY PUBLIC SAFETY PERSONNEL RESULTING FROM INJURIES SUSTAINED IN THE LINE OF DUTY.

Be it enacted, etc., as follows:

SECTION 1. The town of Milton may borrow up to the following amounts of money for payment of legally-obligated medical expenses incurred from July, 2008 to June, 2013, inclusive, by certain public safety personnel resulting from injuries sustained in the line of duty: up to \$850,000 for such expenses incurred from July, 2008 to June, 2009, inclusive; up to \$850,000 for expenses incurred from July, 2009 to June, 2010, inclusive; up to \$850,000 for expenses incurred from July, 2010 to June, 2011, inclusive; up to \$850,000 for expenses incurred from July, 2011 to June, 2012, inclusive; and up to \$850,000 for expenses incurred from July, 2012 to June, 2013, inclusive. The town may issue bonds and notes for the amounts, 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 October 20, 2008.

Chapter 367. AN ACT ADJUSTING TRANSFERS TO ACCOUNT FOR TIMING DISCREPANCIES IN FEDERAL REIMBURSEMENTS.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are to make forthwith certain changes in law, each of which is immediately necessary to carry out appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of public convenience.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law to the contrary, in order to adjust for timing discrepancies for federal reimbursements that were anticipated in fiscal year 2008 but will not be received until fiscal year 2009, the comptroller shall adjust fiscal year 2008 transfers previously authorized and shall make additional fiscal year 2009 transfers in the manner provided in this act.

(b) The comptroller shall adjust transfers required under sections 61 and 64 of chapter 302 of the acts of 2008 in order to ensure that, after complying with clause (a) of section 5C of chapter 29 of the General Laws, there are sufficient funds to transfer \$25,000,000 to the Massachusetts Life Sciences Investment Fund under clause (1) of subsection (a) of section 89 of chapter 182 of the acts of 2008. The comptroller shall first adjust transfers required under

said section 61 of said chapter 302 and, if needed, shall then adjust transfers required under said section 64 of said chapter 302 to effect the transfer of this amount under said clause (1) of said subsection (a) of said section 89 of said chapter 182 of the acts of 2008.

(c) Upon receipt of federal reimbursements in fiscal year 2009 that were anticipated in fiscal year 2008, the comptroller shall make transfers from the General Fund to the funds specified in sections 61 and 64 of chapter 302 of the acts of 2008 in amounts not to exceed the amounts previously required under those sections. The comptroller shall first transfer funding in accordance with the amount previously required under said section 64 of said chapter 302 and, if funds remain, shall transfer the remaining amount of funds previously required under said section 61 of said chapter 302.

(d) The comptroller shall transfer from the General Fund amounts necessary to bring the undesignated balance in the fund established by section 35M of chapter 10 of the General Laws to zero.

(e) The comptroller shall take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds provided for in subsections (b), (c) and (d). The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

SECTION 2. Section 1 shall take effect as of June 30, 2008.

Approved October 28, 2008.

Chapter 368. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN SPECIAL TOWN MEETING IN THE TOWN OF HOPKINTON.

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 Hopkinton at the special town meeting held on May 6, 2008, 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.

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

Approved October 28, 2008.

Chapter 369. AN ACT TEMPORARILY EXTENDING THE GRACE PERIOD FOR VOTER RESIDENCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for voting for the citizens of the commonwealth who have moved within the commonwealth and not re-registered to vote, therefore it is hereby declared to be

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an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 51 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- A person otherwise qualified to vote for national or state officers shall not, by reason of a change of residence within the commonwealth, be disqualified from voting for national officers and statewide ballot questions in the city or town from which he has removed his residence until the expiration of 18 months from such removal.

SECTION 2. Said section 1 of said chapter 51, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:- A person otherwise qualified to vote for national or state officers shall not, by reason of a change of residence within the commonwealth, be disqualified from voting for such national or state officers in the city or town from which he has removed his residence until the expiration of 6 months from such removal.

SECTION 3. Section 1 is hereby repealed.

SECTION 4. Sections 2 and 3 shall take effect on November 5, 2008.

Approved October 29, 2008.

Chapter 370. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GARY TUCK, AN EMPLOYEE OF THE DEPARTMENT OF REVENUE.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of revenue shall establish a sick leave bank for Gary Tuck, 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 Gary Tuck. Whenever Gary Tuck 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 October 29, 2008.

**Chapter 371. AN ACT INCLUDING THE TOWN OF PEPPERELL WITHIN THE
AYER ECONOMIC TARGET AREA AND ECONOMIC
OPPORTUNITY AREA.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 498 of the acts of 1993 is hereby amended by striking out section 18 and inserting in place thereof the following section:-

Section 18. Designation as Commonwealth Economic Target and Opportunity Areas. Devens and the town of Ayer are hereby designated Economic Target Areas and Economic Opportunity Areas as defined in section 3 of chapter 23A of the General Laws. Pursuant to such designations, certain development projects within Devens, and the towns of Shirley, Pepperell and Ayer, shall be eligible for tax deductions, credits and abateements and other economic incentives as provided for in chapter 19 of the acts of 1993. The designation of Devens and the towns of Ayer, Pepperell and Shirley as Economic Target Areas shall be in addition to the Economic Target Areas that are authorized to be established throughout the commonwealth pursuant to section 6 of chapter 110 of the acts of 1993. For the purposes of this act, the Ayer Economic Target Area and Economic Opportunity Area shall include the land located in the town of Groton known as the West Groton Mill or the Old Leatherboard Mill, and shown on the town of Groton assessors' map M as parcel 129.

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

Approved October 29, 2008.

**Chapter 372. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LINDA
MCKINLEY, AN EMPLOYEE OF THE DEPARTMENT OF
TRANSITIONAL ASSISTANCE.**

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

Be it enacted, etc., as follows:

Notwithstanding any special or general law, rule or regulation to the contrary, the department of transitional assistance shall establish a sick leave bank for Linda McKinley, an employee of the department. An employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Linda McKinley. Whenever Linda McKinley 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 shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank

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as determined by the department.

Approved November 6, 2008.

Chapter 373. AN ACT ESTABLISHING A SICK LEAVE BANK FOR STEPHEN KAZARIAN, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Stephen Kazarian, 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 Stephen Kazarian. Whenever Stephen Kazarian 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 November 6, 2008.

Chapter 374. AN ACT RELATIVE TO CERTAIN HEALTH INSURANCE OPTIONS FOR MUNICIPAL RETIREES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith certain health insurance options for municipal employees, 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 32B of the General Laws is hereby amended by inserting after section 18 the following section:—

Section 18A. In a governmental unit that has accepted section 10 and that accepts this section, all retirees, their spouses and dependents insured or eligible to be insured under

this chapter, if enrolled in Medicare Part A at no cost to the retiree, spouse or dependents or eligible for coverage thereunder at no cost to the retiree, spouse or dependents, shall be required to transfer to a Medicare extension plan offered by the governmental unit under section 11C or section 16, provided, that the benefits under the plan and Medicare Part A and Part B together shall be of comparable actuarial value to those under the retiree's existing coverage; provided, however, that a retiree or spouse who has a dependent who is not enrolled or eligible to be enrolled in Medicare Part A at no cost shall not be required to transfer to a Medicare extension plan if a transfer requires the retiree or spouse to continue the existing family coverage for the dependent in a plan other than a Medicare extension plan offered by the governmental unit. Each retiree shall provide the governmental unit, in such form as the governmental unit shall prescribe, such information as is necessary to transfer to a Medicare extension plan. If a retiree does not submit the information required, he shall no longer be eligible for his existing health coverage. The governmental unit may from time to time request from a retiree, a retiree's spouse or a retiree's dependent, proof, certified by the federal government, of eligibility or ineligibility for Medicare Part A and Part B coverage. The governmental unit shall pay any Medicare Part B premium penalty assessed by the federal government on the retiree, spouse or dependent as a result of enrollment in Medicare Part B at the time of transfer. For the purpose of this paragraph, "retiree" shall mean a person who retires after the acceptance of this section by a governmental unit.

A retiree who retires prior to the acceptance of this section by a governmental unit, his spouse and dependent shall continue to be eligible for benefits provided under this chapter, but may opt to transfer to a Medicare extension plan offered by the governmental unit under section 11C or section 16, thereby becoming ineligible to participate in any other group health insurance benefits available to active employees under this chapter.

This section shall take effect in a county, except Worcester county, city, town or district upon its acceptance in the following manner: In a county, by vote of the county commissioners; in a city having a Plan D or Plan E charter, by a majority vote of its city council; in any other city, by vote of its city council and approval by the mayor; in a district, except as hereinafter provided, by vote of the registered voters of the district at a district meeting; in a regional school district, by vote of the regional district school committee; and in a town, either by vote of the town at a town meeting or, by a majority of affirmative votes cast in answer to the following question which shall be printed upon the official ballot to be used at an election of said town - "Shall the town require that all retirees, who retire after the acceptance of this section, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to a retiree, his spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the town?"

SECTION 2. Section 18 of chapter 32B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "coverage", in line 10, the following words:- ; provided, further, that retirees or spouse, who has a dependent who is not enrolled or eligible to be enrolled in Medicare part A at no cost shall not be required

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to transfer to a Medicare extension plan if a transfer requires the retiree or spouse to continue the existing family coverage for the dependent in a plan other than a Medicare extension plan offered by the governmental unit.

Approved November 7, 2008.

Chapter 375. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CLAIRE SMALLCOMB, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule, or regulation to the contrary, the trial court shall establish a sick leave bank for Claire Smallcomb, an employee of the Suffolk superior court. An employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Claire Smallcomb. Whenever Claire Smallcomb terminates employment with the trial court or requests to dissolve the sick leave bank, the balance of the sick leave time shall be transferred to the trial court paid leave bank. 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 November 7, 2008.

Chapter 376. AN ACT RELATIVE TO CONSUMER PROTECTION IN LIFE INSURANCE CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 186, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 186. (a) No oral or written misrepresentation or warranty made in the negotiation of a policy of insurance by the insured or in his behalf shall be deemed material or defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty is made with actual intent to deceive, or unless the matter misrepresented or made a warranty increased the risk of loss.

(b) No oral or written misrepresentation or warranty as to the physical condition or health risks to the physical condition of the insured made in the negotiation of any policy of life or endowment insurance or annuity contract by the insured or on his behalf shall defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty is material and is made with actual intent to deceive or increased the risk of loss. For the purposes of this paragraph, a misrepresentation or warranty shall be deemed material if knowledge or ignorance of it would otherwise have influenced the insurer in making the contract at all, or in estimating the degree and character of the risk, or in fixing the rate of the premium.

SECTION 2. Section 186A of said chapter 175, as so appearing, is hereby amended by adding the following sentence:- In any court action based on a life insurance policy in which the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption that the insured was in good health if the insurer delivered the policy.

Approved November 7, 2008.

Chapter 377. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2009 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 2009 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. Section 22C of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, 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 words:- on June 30, 2025.

SECTION 2. The second sentence of subsection (e) of section 19 of chapter 32B of the General Laws, as appearing in section 4 of chapter 67 of the acts of 2007, is hereby amended by striking out the word “October” and inserting in place thereof the following word:- December.

SECTION 2A. Said second sentence of said subsection (e) of said section 19 of said chapter 32B is hereby further amended by striking out the word “December”, inserted by section 2, and inserting in place thereof the following word:- October.

SECTION 3. Item 0411-1002 of section 2 of chapter 182 of the acts of 2008 is hereby amended by striking out the figure “\$3,000,000” and inserting in place thereof the following figure:- \$500,000.

SECTION 4. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may authorize the transfer of funds from any item of appropriation for fiscal year 2009 for any executive branch agency to any other item of appropriation for that agency or within its executive office. No transfer authorized by this section shall exceed 5 per cent of the amount appropriated for an item. The transfer may be made only with the written approval of the heads of the sending and receiving agencies and of the secretary of the executive office of each agency involved in the transfer; provided, however, that the secretary of administration and finance shall notify the house and senate committees on ways and means 15 days prior to a transfer pursuant to this section.

SECTION 5. Notwithstanding any general or special law to the contrary, the department of highways and the department of conservation and recreation may, for the purposes of accommodating timing discrepancies between the available appropriation in items 6030-7201, 6010-0002 and 2820-2000 of section 2 of chapter 182 of the acts of 2008 and expenditures associated with snow and ice control, including the purchase of materials and equipment and the payment of third party vendors, incur liabilities and expenses and the state comptroller may certify for payment invoices in excess of the appropriation in an amount not to exceed \$50,000,000, but any such payment that would result in a deficiency shall be pre-approved by the secretary of administration and finance, in consultation with the secretary of transportation and public works and the state comptroller.

SECTION 6. (a) Notwithstanding any general or special law to the contrary, the comptroller may, on or before June 30, 2009, transfer up to \$200,000,000 to the General Fund from the Commonwealth Stabilization Fund.

(b) The comptroller, in consultation with the secretary of administration and finance, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

SECTION 7. (a) Notwithstanding any general or special law to the contrary, the appropriations for fiscal year 2009 in section 2 of chapter 182 of the acts of 2008 shall be reduced as follows: (1) the judiciary shall be reduced by \$22,104,009; (2) the office of the governor shall be reduced by \$1,173,129; (3) the office of the secretary of state shall be reduced by \$2,000,000; (4) the office of the treasurer and receiver-general shall be reduced by \$388,000; (5) the office of the state auditor shall be reduced by \$1,050,493; and (6) the office of the attorney general shall be reduced by \$500,000.

(b) Notwithstanding any general or special law to the contrary, the appropriations for fiscal year 2009 in section 2 of chapter 182 of the acts of 2008 shall be reduced as follows: (1) the Suffolk district attorney's office shall be reduced by \$424,441; (2) the northern district attorney's office shall be reduced by \$370,160; (3) the eastern district attorney's of-

fice shall be reduced by \$232,478; (4) the middlesex district attorney's office shall be reduced by \$242,480; (5) the Hampden district attorney's office shall be reduced by \$217,217; (6) the northwestern district attorney's office shall be reduced by \$137,632; (7) the Norfolk district attorney's office shall be reduced by \$224,825; (8) the Plymouth district attorney's office shall be reduced by \$196,661; (9) the Bristol district attorney's office shall be reduced by \$201,385; (10) the Cape and Islands district attorney's office shall be reduced by \$101,642; (11) the Berkshire district attorney's office shall be reduced by \$97,477; and (12) the district attorneys' association shall be reduced by \$584,436.

(c) Notwithstanding any general or special law to the contrary, each department or office with an appropriation that has been reduced under this section shall provide a detailed listing of each reduction by line item to the state comptroller not later than December 1, 2008. The comptroller shall reduce the allotment for the line item amounts identified by each department or office and shall transfer the proceeds of those reductions to the planned savings category in the Massachusetts management accounting and reporting system.

SECTION 8. Notwithstanding any general or special law to the contrary, the comptroller shall transfer the following amounts to the General Fund after notice from the secretary of administration and finance that sufficient funds are available: (a) \$10,000,000 from the e-Health Institute Fund, established by section 6E of chapter 40J of the General Laws; (b) \$10,000,000 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established in section 35FF of chapter 10 of the General Laws; and (c) \$10,000,000 from the Massachusetts Life Sciences Investment Fund, established in section 6 of chapter 23I of the General Laws. Transfers under this section shall be made not later than June 30, 2009.

SECTION 9. Notwithstanding any general or special law to the contrary, the commissioner of revenue may establish a tax amnesty program during which all penalties that could be assessed by the commissioner for the failure of the taxpayer to: (i) timely file any proper return for any tax types and for any tax periods; (ii) file proper returns which report the full amount of the taxpayer's liability for any tax types and for any tax periods; (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect, if the taxpayer, prior to the expiration of the amnesty period, voluntarily files proper returns for all tax types for all periods for which the taxpayer has or had a filing obligation and pays, or at the commissioner's discretion provides security for, the full amount of tax shown on the taxpayer's returns or upon the commissioner's assessments, together with all interest due thereon. The amnesty program shall be established for a period of 2 consecutive months within fiscal year 2009 to be determined by the commissioner, such period to expire not later than June 30, 2009.

The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, is or has been the subject of a tax related criminal investigation or prosecution.

The amnesty program shall not apply to a tax liability of any tax type for a period commencing on or after January 1, 2007 and shall not authorize the waiver of any interest or amount treated as interest. The commissioner may offer amnesty to those taxpayers who have either any unpaid self-assessed liability or who have been assessed a tax liability, whether before or after their filing of a return, which assessed liability remains unpaid.

To the extent that a taxpayer wishing to participate in the amnesty program has postponed the payment of an assessment of tax, interest and penalty under the authority of subsection (e) of section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said subsection (e) to further delay the payment of the tax and interest portions of the assessment. The tax and interest portions of the assessment shall be payable in full from the date of the commissioner's notice of assessment. Upon payment by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all penalties associated with that assessment. Thereafter, the taxpayer and the commissioner shall proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect to the assessment.

Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

The commissioner shall maintain records of the amnesty provided under this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability for which such amnesty was provided and, for each such type of liability: (a) the amount of tax liability collected by the commissioner; and (b) the amount of penalties foregone by virtue of such amnesty; and (iii) the total outstanding tax liability due to the commonwealth, for the period through December 31, 2006, after the collection of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the house of representatives and the senate, the joint committee on revenue, the house and senate committees on ways and means, the minority leader of the house and the minority leader of the senate not later than September 1, 2009; provided, however, that such report shall not contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

SECTION 10. Section 2A shall take effect on January 1, 2012.

SECTION 11. Section 4 shall expire on June 30, 2009.

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 Section 3.

The remainder of the bill was approved by the Governor on November 7, 2008 at five o'clock and fifteen minutes, P.M.

Chapter 378. AN ACT VALIDATING THE ACTION TAKEN AT THE SPECIAL TOWN ELECTION HELD IN THE TOWN OF OAK BLUFFS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 9, 9A and 10 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, the votes taken by the town of Oak Bluffs at its May 28, 2008 special town election and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission with regard to the warrant for the election.

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

Approved December 16, 2008.

Chapter 379. AN ACT AUTHORIZING THE TOWN OF ORANGE TO ESTABLISH A FIREARMS LICENSING FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Orange 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, firearms licenses and firearms identification card fees received by the town. The town treasurer may invest the funds 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 may expend the principal and income from these funds for fees to the commonwealth for firearms licenses, firearms identification cards and costs associated with firearms processing.

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

Approved December 16, 2008.

Chapter 380. AN ACT AUTHORIZING THE TOWN OF DANVERS TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Danvers may grant 1 additional license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138

to Sawasdee Restaurant, Inc. dba Sawasdee Danvers, located at 49A Maple street in said town. The license shall be subject to all of said chapter 138 except section 17.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority of the town of Danvers shall not approve the transfer of the license to any other location. The license may be reissued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter 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 act.

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

Approved December 16, 2008.

Chapter 381. AN ACT AUTHORIZING THE TOWN OF ORLEANS TO OPERATE A SEWER SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 1 and 3 of chapter 83 of the General Laws to the contrary, the town of Orleans may lay out, construct, maintain and operate a system of common sewers and main drains in public or private ways for that part of its territory as it adjudges necessary for the public convenience or the public health with such connections and other works as may be required for a system of sewerage and drainage, and sewage treatment and disposal in accordance with the town's Comprehensive Wastewater Management Plan, as approved by the department of environmental protection.

SECTION 2. At the commencement of operation of the town's sewer system, the owner of land abutting a private or public way in which a common sewer has been laid shall be required by the board or officer having charge of the maintenance and repair of sewers to connect such land with a common sewer only if the land is included among those properties identified in the town's Comprehensive Wastewater Management Plan, hereinafter referred to as CWMP as requiring connection to the town's sewer system. The owners of land not included among those properties to be connected to the town's sewer system under the CWMP shall not be permitted to connect to the town's sewer system at the commencement of its operation. Notwithstanding any provision of this section to the contrary, the board or officer having charge of the maintenance and repair of sewers may permit extensions, new connections or increases in flow to the sewer system, subject to capacity, to serve municipal buildings, public restrooms or other public service uses as defined by the municipality; provided however, that such uses may include, but shall not be limited to, affordable housing

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constructed pursuant to chapters 40B and 40R of the General Laws. The CWMP may be amended from time to time by the board or officer having charge of sewers, after a public hearing conducted to consider the amendment and upon approval of the department of environmental protection. The board or officer having charge of sewers shall adopt regulations no later than 120 days after the effective date of this act, establishing publication and notification procedures to carry out the purposes of this section.

SECTION 3. Notwithstanding chapters 80 and 83 of the General Laws to the contrary, the town of Orleans may make betterment or sewer assessments upon owners of land abutting a private or public way in which a common sewer has been laid only at the time of actual connection to the common sewer. Nothing in this act shall preclude the town from making estimated sewer assessments under section 15B of said chapter 83. The town may make equitable adjustments to the annual charges established under section 16 of said chapter 83 for the use of common sewers for the purpose of ensuring an equitable distribution of the total sewer system costs, including special assessments and sewer use charges.

SECTION 4. Every decision by the board or officer having charge of sewers permitting or denying a connection to the town's sewer system shall be made in writing.

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

Approved December 16, 2008.

Chapter 382. AN ACT RELATIVE TO THE APPOINTMENT OF THE BOARD OF ASSESSORS, TOWN COLLECTOR AND TOWN TREASURER IN THE TOWN OF ORANGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, the offices of the board of assessors, the office of collector and the office of treasurer in the town of Orange shall be appointed by the board of selectmen for terms not to exceed 3 years. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding section 1, an incumbent in the offices of board of assessors, office of collector and office of treasurer on the effective date of this act shall continue to hold his office and to perform the duties of the office until the appointment of a board of assessors, town collector or town treasurer, as the case may be, to perform the duties pursuant to this act.

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

Approved December 16, 2008.

Chapter 383. AN ACT VALIDATING THE ACTIONS TAKEN AT AN ANNUAL TOWN ELECTION IN THE TOWN OF DUDLEY.

Be it enacted, etc., as follows:

Notwithstanding section 10 of chapter 41 of the General Laws or any other general or special law to the contrary, the actions of the town of Dudley with regard to the placement of the office of planning board on the ballot to fill 2 vacancies at the May 7, 2007 annual town election, and all actions taken by the town pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding the failure to notify the town clerk to place the office on the ballot within the time period provided by law.

Approved December 16, 2008.

Chapter 384. AN ACT AUTHORIZING THE TOWN OF NORTHBOROUGH TO GRANT 2 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 town of Northborough may grant 1 additional license for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138. The license shall be restricted to the property to be used for a commercial center as shown on Northborough Assessors' Maps:

Map Parcel

108	3
109	15
107	1
106	5
106	6
106	3
106	7
98	2

The license shall be subject to all of said chapter 138, except said section 17; provided, however, that the licensing authority shall not approve the transfer of the license to any other location.

SECTION 2. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Northborough may grant 1 additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to the Korean-BBQ Kitchen at 290 West Main street in the town of Northborough, shown

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on Assessor's Map 82 as parcel 10. The license shall be subject to all of said chapter 138, except said section 17.

SECTION 3. Notwithstanding any general or special law to the contrary, the licensing authority of the town of Northborough shall not approve the transfer of the licenses authorized in this act to any other location, but a license may be reissued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter 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 a license granted pursuant to 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.

Approved December 16, 2008.

Chapter 385. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WESTBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. 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 articles 3 to 5, exclusive, and inserting in place thereof the following 3 articles:-

ARTICLE 3

Section 3-1 General Provisions.

(a) **Elected Offices** - The offices to be filled by ballot of the whole town shall be a board of selectmen, a moderator, a school committee, a housing authority, a planning board, the town clerk, the trustees of the public library and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise.

(b) **Eligibility** - Any voter shall be eligible to hold an elective town office, but no person shall at the same time serve in more than 1 elected office, as defined in subsection (a).

(c) **Election** - The regular elections for town offices shall be held annually on such date as may from time to time be fixed in the bylaws of the town.

Section 3-2 Selectmen: Composition, Term of Office, Compensation, Powers and Duties, etc.

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

(b) **Compensation** - The selectmen shall receive for their services such compensation as may annually be provided for that purpose by appropriation.

(c) Powers and Duties in General - The executive powers of the town shall be vested in the board of selectmen and may be exercised by them jointly or through the town agencies and offices under their general supervision and control. As chief executive officers of the town, the board of selectmen shall be responsible for all aspects of the town's government that is not otherwise granted to another elected officer, board, commission or committee. The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept and, for that purpose and to aid it in its official duties, there shall be a town manager.

(d) Appointments - The board of selectmen shall appoint the following: key personnel pursuant to subsection (a) of section 5-2; other personnel of the town, as defined in section 5-2; members of the town boards, commissions or committees for which the boards has explicitly designated as the appointing authority in said section 5-2; and any other members of any other town boards, commissions, or committees, special or standing, permanent or ad hoc as may from time to time be established by the board or by town meeting unless another appointing authority is designated in the town meeting or this charter.

(e) Investigations - The board of selectmen may investigate or may authorize the town manager to investigate the affairs of the town and the conduct of any town department, office or agency, including any doubtful claims against the town. A report of the results of any such investigation shall be placed on file in the office of the board of selectmen and a report summarizing the results of such investigation shall be printed in the next annual town report.

(f) Eligibility - Notwithstanding any general or special law to the contrary, a person employed by the town of Westborough shall not be eligible to hold the office of selectman in the town of Westborough while so employed.

An employee holding the office of selectman in the town of Westborough on the effective date of this act may serve the remaining period of his term, but shall be ineligible for re-election while so employed.

Section 3-3 Moderator: Term of Office, Compensation Powers and Duties, etc.

(a) Term of Office - At each town election at which the term of office expires, a moderator shall be chosen by the voters for a term of 3 years.

(b) Compensation - The moderator shall receive for his services such compensation as may annually be provided for that purpose by appropriation.

(c) Powers and Duties - The moderator shall have all the powers and duties provided for that office by statute, charter by by-law and town meeting.

(d) Appointments - The moderator shall appoint for fixed overlapping terms: all members of the advisory finance committee, all members of the personnel board, two members of the capital expenditure planning committee and such all members of any other special or standing committees as may from time to time be established by town meeting and designating the moderator as the appointing authority. These appointments shall be made

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such that the terms of office of as nearly an equal number of members shall expire each year.

Section 3-4 School Committee: Composition, Term of Office, Powers and Duties, etc.

(a) Composition, Term of Office - There shall be a school committee consisting of 5 members elected by the voters for 3-year terms so arranged that the terms of office of as nearly an equal number of members expire each year.

(b) Compensation - School committee members shall serve without salary.

(c) Powers and Duties - The school committee shall have all of the powers and duties school committees may have under the General Laws and it shall have such additional powers and duties as may be authorized by charter or by-law.

Section 3-5 Housing Authority: Composition, Term of Office, Powers and Duties, etc.

(a) Composition, Term of Office - There shall be a housing authority consisting of 5 members, 4 of whom shall be elected by the voters and 1 of whom shall be appointed by the director of housing and community development or his designee for 5 year overlapping terms such that the term of office of 1 member shall expire each year.

(b) Powers and Duties - The housing authority shall have all of the powers and duties which such authorities may have under the General Laws.

Section 3-6 Planning Board: Composition, Term of Office, Powers and Duties, etc.

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

(b) Powers and Duties - The planning board shall have all of the powers and duties planning boards may have under the General Laws. The board may also exercise such additional powers and duties as may from time to time be assigned to them by the charter, by by-law or vote of the town meeting.

(c) Appointments - The planning board shall appoint the following: planning board personnel, as defined in section 5-2 of this charter and town boards, commissions, or committees for which section 5-2 of this charter has explicitly designated the planning board as the appointing authority.

Section 3-7 Town Clerk: Term of Office. Powers and Duties. etc.

(a) Term of Office - There shall be a town clerk elected by the voters for a term of 3 years.

(b) Powers and Duties - The town clerk shall have all the powers and duties town clerks may have under the General Laws. The clerk may also exercise such additional powers and duties as may from time to time be assigned to the clerk by the charter, by by-law or by vote of the town meeting.

Section 3-9 Board of Library Trustees: Composition, Term of Office, Powers and Duties, etc.

(a) Composition, Term of Office - There shall be a board of library trustees to consist of 9 members elected by the voters for 3 year terms so arranged that the terms of 3 members shall expire each year.

(b) Powers and Duties - The board of library trustees shall have custody and management of the public library and all property of the town relating thereto.

(c) Appointments - The board of library trustees shall appoint library personnel, as provided in subsection (b) of section 5-2.

ARTICLE 4

Town Manager

Section 4-1 Appointment, Qualifications, Term.

The board of selectmen shall appoint a town manager for a term not to exceed 3 years and shall fix his compensation within the amount appropriated by the town. The town manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be especially fitted by education, training and experience to perform the duties of the office.

The town manager need not be a resident of the town or the commonwealth at the time of his appointment but shall establish residence in the town of Westborough or in a town contiguous to the town of Westborough within 1 year following the date of appointment. Failure to establish such residence shall be deemed to be a resignation from the office of the town manager.

The town manager shall not have served as a member of the board of selectmen for the 18 months prior to his appointment. He shall be bonded by a surety company and the cost of the bond shall be borne by the town. He shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his term, unless such action is approved in advance in writing by the board of selectmen. The town may from time to time establish by by-law such additional qualifications as it deems necessary and appropriate.

Section 4-2 Powers and Duties.

The town manager shall be the chief administrative officer of the town and shall be responsible to the board of selectmen for the administration of all town affairs placed in his charge pursuant to the charter.

(a) The town manager shall appoint the following:-

(i) town boards, commissions and committees and other town personnel for which section 5-2 of this charter has explicitly designated the town manager as the appointing authority;

(ii) members of other town boards, commissions and committees and other personnel for which the board of selectmen, by-laws and town meeting have the town manager to act as appointing authority as long as that appointing authority does not conflict with this charter; and

(iii) members of any advisory committee formed by the town manager as allowed in the town's organization plan, as described in section 5-2.

These appointments shall take effect 15 days after the day that notice of the appointment was filed with the board of selectmen unless the board of selectmen shall, within that period by a majority of all of its members, vote to reject the appointment.

The town manager:

(1) shall participate fully in the duties and obligations of the town manager as described in the town's organization plan described in section 5-2 of this charter;

(2) shall direct and supervise the administration of all functions under his control;

(3) shall administer the compensation and benefits of all town officers and employees appointed by him, within the limits established by appropriation and by by-laws as set by the salary administration plan;

(4) shall attend all regular and special meetings of the board of selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions;

(5) shall attend all sessions of the open town meeting and answer all questions directed to him by the voters of the town which relate to his office;

(6) shall see that all provisions of the General Laws, the charter vote of the town meeting and vote of the board of selectmen which require enforcement by him or officers subject to his direction and supervision, are faithfully carried out;

(7) shall prepare and submit both the annual budget and the capital improvement program as provided in article 6;

(8) shall be responsible for the keeping complete records of the finances 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;

(9) shall keep the board of selectmen informed as to the financial condition and needs of the town and shall make such recommendations to the board of selectmen as he deems necessary or expedient;

(10) shall have full jurisdiction over the rental and use of all town facilities, except schools and libraries and lands held for conservation purposes and shall be responsible for the maintenance and repair of all town property, excluding school and library buildings, placed under his control by this charter or by-laws or statutes;

(11) shall be responsible for the appointment, subject to the approval of the board of selectmen, of any necessary building and facilities committees relative to the preparation of plans and supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the town, except schools and libraries;

(12) may inquire at any time into the conduct of office of any officer, employee, department, board or commission under his control;

(13) shall keep a complete inventory of all property of the town, both real and personal, within his jurisdiction;

(14) shall negotiate, purchase and service contracts involving any subject within his jurisdiction, but the proposed contracts shall be subject to final approval and execution by

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the board of selectmen;

(15) shall purchase or acquire all equipment, supplies and services required by town agencies under his control and may make such purchases for agencies not under his control upon receipt of a proper requisition; and

(16) shall perform any other duties required by the by-laws, votes of the town meeting or votes of the board of selectmen.

Section 4-3 Acting Town Manager (Temporary Absence).

By letter filed with the town clerk, the town manager shall designate a qualified town administrative officer or employee to perform the routine duties of the town manager during his temporary absence who shall have no appointive powers. During the town manager's absence, the board of selectmen shall not revoke such designation until at least 15 days have elapsed, whereupon the board may appoint another qualified town administrative officer or employee to serve until the town manager return. If a letter has not been filed with the town clerk, the board of selectmen, by a majority vote, may appoint an acting town manager to serve in the absence of the town manager for a period of 60 days with not more than 1 extension.

Section 4-4 Removal.

The board of selectmen may remove the town manager from office in accordance with the procedures described in this section.

The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all of its members, which shall state the reasons for removal. This 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 forthwith.

Within 5 days following delivery of the preliminary resolution, the town manager may request a public hearing by filing a written request therefor with the board of selectmen. The 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 manager may file a written statement in justification of his time in office with the board of selectmen, provided that the statement is received in the selectmen's office more than 48 hours in advance of the public hearing.

The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the town manager if he has not requested a public hearing, or any time after the public hearing if he has requested one. Within 10 days following the board's vote to make its resolution final but not later than 45 days after the date of adoption of the first resolution, the board shall, by majority vote of the full membership, either affirm or dismiss the final resolution of removal. Failure to affirm a final resolution of removal shall nullify the vote to dismiss the town manager. The town manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the board of selectmen in suspending or removing the town manager shall be final.

ARTICLE 5

Administration Organization

Section 5-1 Creation of Departments, Divisions, Agencies and Offices.

The organization or reorganization of the town into operating departments, divisions, offices and agencies shall be accomplished in the following manner subject to the express prohibitions in the General Laws or this charter.

(a) By-laws - The town meeting may, by by-law, reorganize, consolidate or abolish any town agency, in whole or in part, establish new town agencies as it deems necessary or advisable and prescribe the functions of all such agencies.

(b) Organization Plan - The board of selectmen, after consultations with the town manager, may from time to time prepare and submit to the town meeting, plans of organization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.

(c) Whenever the board of selectmen prepares such a plan, it shall hold 1 or more public hearings on the proposal giving notice by publication in a newspaper of general circulation in the town at least 7 days prior to the hearing. This notice shall describe the scope of the proposal and the time and place at which the hearing will be held. Following such public hearing, the board of selectmen shall submit to the town meeting by a warrant article, its proposal which may have been amended subsequent to the public hearing. To the extent any such plan contains features that conflict with this charter, the warrant articles shall include proposed charter amendments to accurately reflect and allow the proposed changes.

(d) An organization or reorganization plan shall take effect 30 days after the action of the town meeting.

Section 5-2 Organization Plan: Appointing Authorities.

Elected officials shall be responsible for determining and evaluating the policies, priorities and programs of their respective departments and for the effective administration, management and operation of their respective departments; provided, however, that such elected officials may rely on the work of other commissions, committees, groups and employees to carry out their responsibilities.

Section 5-2 (a) Elected Officials: Appointing Boards, Commissions and Committees.

An elected official or board, as designated in article 3 may appoint committees to gather, provide or otherwise report on information of interest to the official or board unless a different appointing authority is specified in this charter or in the town by-laws.

As chief executive officers of the town, the board of selectmen shall be the appointing authority for and shall appoint, for fixed overlapping terms, the members of the following boards, commissions and committees:-

- zoning board of appeals;
- conservation commission;
- recreation commission;
- country club operating committee;

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representative to the capital expenditure planning committee;
council on aging;
chapter 61A study committee;
emergency planning committee;
historical commission;
housing partnership committee;
Massachusetts Bay Transportation Authority advisory board;
open space preservation committee;
central Massachusetts regional planning commission - Westborough members;
Westborough members of the Westborough/Shrewsbury wastewater treatment plant

board;

water resources management committee;
trustees of soldiers' memorials;
veterans advisory board;
walkup-robinson fund committee;
Sandra pond/conservation area wardens;
youth commission, known as Westborough youth and family service;
Westborough cultural council;
industrial development commission; and
Westborough TV, Inc, independent nonprofit town representatives.

Those members of the insurance advisory committee to be appointed by the town shall be appointed by the board of selectmen, in accordance with section 3 of chapter 32B of the General Laws.

In accordance with its planning functions, the planning board shall be the appointing authority for the design review board.

Section 5-2 (b) Elected Officials: Appointing Town Employees.

The elected officials and boards shall appoint employees to manage and perform duties for their respective departments in the following manner:

Board of Selectmen. The board of selectmen shall appoint the following department heads, known as "key personnel" for terms not to exceed 3 years, except for the fire chief who shall be appointed for an indefinite term:-

town manager, as defined in section 4-1;
town counsel;
police chief;
fire chief; and
department of public works, to be known as the DPW manager.

For the purposes of this section, the term key personnel shall be used to determine the appointing authority and the appointment process and shall have no effect on compensation, benefits, privileges, term, renewals of term, job description, responsibilities, authority, duties or performance.

The board of selectmen shall also appoint the following:

police officers upon nomination by the police chief;
police dispatchers upon nomination by the police chief;
election officials for fixed terms, upon nomination by the town clerk; and
registrars of voters for fixed overlapping terms, upon nomination by the town clerk.

The board of selectmen, in consultation with the town manager, shall appoint the animal control officer for a fixed term and shall nominate for appointment, in accordance with section 151 of chapter 140 of the General Laws, the animal inspector.

Housing Authority. The housing authority shall appoint its department head who shall be the director of the housing authority. The housing authority may appoint other employees of the housing authority or may, in writing, delegate such appointments to the director of the housing authority.

Planning Board. The planning board shall appoint its department head who shall be the town planner. The planning board may, in writing, appoint other employees of the planning department or, with express written consent, may delegate such appointments to the town planner.

Town Clerk. The town clerk shall act as a department head and shall appoint all employees in the town clerk's department. The town clerk shall nominate candidates for election officials and registrars of voters to the board of selectmen.

Board of Library Trustees. The board of library trustees shall appoint its department head who shall be the library director. The board of library trustees may appoint other employees of the town's library department or may, in writing, delegate such appointments to the library director.

Section 5-2 (c) Boards, Commissions or Committees Appointed by the Board of Selectmen: Appointing Town Employees.

Any board, commission, or committee appointed by the board of selectmen that has a department head shall appoint the department head and any assistants to the department head with the concurrence of the town manager.

Other employees of such departments shall be appointed by the respective department heads.

Section 5-2 (d) Appointed Key Personnel: Appointing Town Employees.

The town's key personnel shall be responsible for the management and operation of their respective departments. The key personnel shall appoint the employees in their respective departments in a manner consistent with this section.

The town manager, with the concurrence of the board of selectmen, shall appoint, for fixed terms, the following positions:-

- (1) assistant town managers;
- (2) chief assessor;
- (3) town accountant;
- (4) treasurer collector;
- (5) commissioners of trust funds; and
- (6) veterans' agent, director of veterans' services, burial agent and graves officer.

The town manager shall appoint, for fixed terms, the following positions:

- (1) building commissioner;
- (2) zoning enforcement officer;
- (3) building inspectors;
- (4) MIS/GIS director;
- (5) wiring inspectors;
- (6) plumbing and gas inspectors;
- (7) affirmative action officer;
- (8) sexual harassment officer;
- (9) constables;
- (10) fence viewer;
- (11) insect and pest control officer;
- (12) measurer of wood;
- (13) municipal hearings officer;
- (14) sealer of weights and measures; and
- (15) weight masters at Tate & Lyle.

The police chief shall nominate candidates for the positions of police officers and police dispatchers to the board of selectmen. The police chief shall appoint all other employees of the police department.

The fire chief shall appoint all employees of the fire department.

The department of public works manager shall appoint all employees of the department of public works.

The town counsel shall appoint the employees of the town's legal department.

Section 5-2 (e) Town Manager: Appointing Administrative Boards, Commissions and Committees.

As the chief administrative officer of the town, the town manager shall appoint, for fixed overlapping terms, the members of the following boards, commissions and committees:-

- (1) board of assessors;
- (2) board of health;
- (3) municipal building committee; and
- (4) disability affairs committee.

The determination of whether a particular board, commission or committee not specifically listed in this subsection is primarily related to the administration of the town shall be determined by the board of selectmen.

Section 5-3 Organization Plan: Processes.

The processes described in this section shall be used to implement the town's organization plan.

Section 5-3 (a) Determination of Key Personnel.

The addition or deletion of positions from the list of key personnel specified in subsection (b) of section 5-2 may be enacted by the town meeting adoption of a warrant article

that modifies said subsection (b).

Section 5-3 (b) Use of Search Committees.

The process of appointing key personnel shall incorporate the use of a search committee except in the case of a reappointment.

The town manager shall be a member of any search committee established to fill the position of town counsel, police chief, fire chief, or department of public works manager. Appointing authorities may specify the use of a search committee for other town employees in their respective departments. Where no specific search committee process is prescribed by the general or special laws, this charter, the town's by-laws or action of the town meeting, the search committee process shall be determined by the appointing authority.

Section 5-3 (c) Town-Wide Management Team.

As chief administrative officer of the town, the town manager shall lead the town-wide management team consisting of the town's key personnel and the head of each town department.

Notwithstanding the manner of their appointment, the head of each town department shall be considered a member of the town manager's management team for the purpose of assuring common town personnel, financial, administrative and technology use practices, and for the purpose of fostering effective communications among town departments.

The town manager shall participate in the performance review process of the town's key personnel and shall provide evaluative comments to the chairman of the board of selectmen during this process. The town manager shall provide evaluative comments to the appointing authority of each department head for use in the respective performance review process.

Section 5-3 (d) Town Appointment Processes.

Precedence of Appointing Authority. Notwithstanding any appointment process provided for in this charter, if a state statute prescribes an appointing authority or appointing process or if the town has accepted a statute covering any appointments or positions mentioned in this charter and that statute prescribes an appointment process for that appointment or position, the state appointing process shall control.

Filling vacancies: Key Personnel and Department Heads. A vacancy in a key personnel or department head position shall be filled in the manner prescribed for its initial appointment, but the appointing authority may appoint an acting key personnel or department head for not more than 4 three-month periods for a maximum of 1 year. In the event the appointment of the permanent position requires the concurrence of another body or officer, that body or officer shall concur with the appointment of any acting key personnel or department head. Any such temporary appointment by the appointing authority shall cease upon the filling of the vacancy by the prescribed method.

Section 5-3 (e) Processes Related to Boards, Commissions and Committees.

Appointing Authority for new Boards, Commissions and Committees. Boards, commissions and committees created by the board of selectmen shall be appointed in one of

two ways, depending on the primary nature of the board, commission, or committee. Members of bodies that are primarily of a policymaking nature shall be appointed by the board of selectmen. Members of bodies that are primarily of an administrative nature shall be appointed by the town manager.

With regard to a board, commission or committee newly created by the board of selectmen, the determination of the appointing authority shall be made by the board of selectmen unless town meeting action indicates a specific appointing authority.

Appointing Authority for Administrative Advisory Boards. The town manager may create and appoint ad hoc committees that are solely advisory to the town manager.

Filling Vacancies on Boards, Commissions or Committees. Notwithstanding any contrary special or general or special law to the contrary, a vacancy, on a board, commission or committee for a permanent temporary position shall be filled in the same manner as prescribed for the initial appointment.

Section 5-4 Staffing Plan.

The town manager shall cause to be prepared a plan establishing staffing requirements within the town agencies created by administrative reorganization or by by-law, and it shall become effective within 30 days after the date of town meeting action. To the extent any such staffing plan conflicts with this charter, the warrant articles shall include proposed charter amendments so that plan will conform to the charter as so amended.

Section 5-5 Publication of Administrative Organization and Staffing Plan.

For the convenience of the public, the administrative organization and any amendment thereto shall be printed as an appendix to, but not an integral part of, the salary administration plan of the town of Westborough.

Section 5-6 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 competence and suitability including, but not limited to, past performance or seniority.

SECTION 2. Section 6-2 of said charter is hereby amended by striking out the word "Coordinator" and inserting in place thereof the following word:- Manager.

SECTION 3. Section 6-3 of said charter is hereby amended by striking out the word "Coordinator", each time it appears, and inserting in place thereof the following word:- Manager.

SECTION 4. Section 6-4 of said charter is hereby amended by striking out the word "Coordinator", each time it appears, and inserting in place thereof the following word:- Manager.

SECTION 5. Section 6-6 of said charter is hereby amended by striking out the word "Coordinator" and inserting in place thereof the following word:- Manager.

SECTION 6. Section 6-7 of said charter is hereby amended by striking out the word "Coordinator" and inserting in place thereof the following word:- Manager.

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SECTION 7. The second paragraph of subsection (a) of section 7-7 of said charter is hereby amended by striking out the word "Coordinator" and inserting in place thereof the following word:- Manager.

SECTION 8. The first paragraph of section 7-8 of said charter is hereby amended by striking out the word "Coordination" and inserting in place thereof the following word:- Manager.

Approved December 16, 2008.

Chapter 386. AN ACT TO IMPROVE SCHOOL CAMPUS AIR QUALITY.

Be it enacted, etc., as follows:

SECTION 1. Section 37H of chapter 71 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the second sentence the following sentence:- Said policies shall further restrict operators of school buses and personal motor vehicles, including students, faculty, staff and visitors, from idling such vehicles on school grounds, consistent with section 16B of chapter 90 and regulations adopted pursuant thereto and by the department.

SECTION 2. Chapter 90 of the General Laws is hereby amended by inserting after section 16A the following section:-

Section 16B. (a) For the purposes of this section, the term "school grounds" shall mean in, on or within 100 feet of the real property comprising a public or private accredited preschool, accredited Head Start facility, elementary, vocational or secondary school whether or not in session, and shall include any athletic field or facility and any playground used for school purposes or functions which are owned by a municipality or school district, regardless of proximity to a school building, as well as any parking lot appurtenant to such school, athletic field, facility or playground.

(b) No person shall cause, suffer, allow or permit the prolonged idling of a motor vehicle engine on school property in violation of registry of motor vehicles regulations relative thereto, adopted pursuant to subsection (c). An operator or owner of a motor vehicle who violates this section shall be subject to a civil assessment of \$100 for the first violation and \$500 for a second or subsequent violation. This subsection shall be enforced by law enforcement agencies.

(c) The registrar of motor vehicles, in consultation with the department of education, the department of environmental protection, the executive office of public safety and the executive office of health and human services, shall adopt regulations to implement this section. Such regulations shall include, but not be limited to, establishing the length of time an operator on school grounds may idle an engine before such idling becomes prolonged, and the limited circumstances under which the prolonged idling of an engine shall be permitted, including periods necessary to operate defrosting, heating or cooling equipment to ensure the

health or safety of a driver or passengers or to operate auxiliary equipment and to undergo inspection or during maintenance. Such regulations shall prohibit an operator of a school bus from idling a school bus engine while waiting for children to board or exit a bus on school grounds and from starting a school bus engine for any unnecessary period of time in advance of leaving the school grounds, unless the registrar determines that a school bus engine must be fully engaged in order to operate safety devices or that such idling prohibition would otherwise compromise the safety of children boarding or exiting a bus. Such regulations shall further prescribe templates for "no idling" signage to be posted by schools.

(d) The registry of motor vehicles shall notify all individuals certified and endorsed to be school bus drivers of the provisions of this section and regulations adopted pursuant thereto during the annual certification process required by this chapter.

SECTION 3. Consistent with regulations promulgated pursuant to this act and not later than August 1, 2009, every public or private elementary, vocational and secondary school shall post "no idling" signs conspicuously in the school's passenger loading and unloading areas such that the signs are clearly visible to all motorists entering those areas.

Approved December 16, 2008.

Chapter 387. AN ACT ESTABLISHING A SENSIBLE STATE MARIHUANA POLICY.

Be it enacted, etc., as follows:

SECTION 1. This Act consists of five sections which together shall be known as "An Act Establishing A Sensible State Marihuana Policy."

SECTION 2. Chapter 94C of the General Laws is hereby amended by inserting therein a new Section 32L, making the possession of one ounce or less of marihuana punishable only by civil penalties and forfeiture. That new section shall read as follows:

Section 32L. Notwithstanding any general or special law to the contrary, possession of one ounce or less of marihuana shall only be a civil offense, subjecting an offender who is eighteen years of age or older to a civil penalty of one hundred dollars and forfeiture of the marihuana, but not to any other form of criminal or civil punishment or disqualification. An offender under the age of eighteen shall be subject to the same forfeiture and civil penalty provisions, provided he or she completes a drug awareness program which meets the criteria set forth in Section 32M of this Chapter. The parents or legal guardian of any offender under the age of eighteen shall be notified in accordance with Section 32N of this Chapter of the offense and the availability of a drug awareness program and community service option. If an offender under the age of eighteen fails within one year of the offense to complete both a drug awareness program and the required community service, the civil penalty may be increased pursuant to Section 32N of this Chapter to one thousand dollars and the offender

and his or her parents shall be jointly and severally liable to pay that amount.

Except as specifically provided in "An Act Establishing A Sensible State Marihuana Policy," neither the Commonwealth nor any of its political subdivisions or their respective agencies, authorities or instrumentalities may impose any form of penalty, sanction or disqualification on an offender for possessing an ounce or less of marihuana. By way of illustration rather than limitation, possession of one ounce or less of marihuana shall not provide a basis to deny an offender student financial aid, public housing or any form of public financial assistance including unemployment benefits, to deny the right to operate a motor vehicle or to disqualify an offender from serving as a foster parent or adoptive parent. Information concerning the offense of possession of one ounce or less of marihuana shall not be deemed "criminal offender record information," "evaluative information," or "intelligence information" as those terms are defined in Section 167 of Chapter 6 of the General Laws and shall not be recorded in the Criminal Offender Record Information system.

As used herein, "possession of one ounce or less of marihuana" includes possession of one ounce or less of marihuana or tetrahydrocannabinol and having cannabinoids or cannabinoid metabolites in the urine, blood, saliva, sweat, hair, fingernails, toe nails or other tissue or fluid of the human body. Nothing contained herein shall be construed to repeal or modify existing laws, ordinances or bylaws, regulations, personnel practices or policies concerning the operation of motor vehicles or other actions taken while under the influence of marihuana or tetrahydrocannabinol, laws concerning the unlawful possession of prescription forms of marihuana or tetrahydrocannabinol such as Marinol, possession of more than one ounce of marihuana or tetrahydrocannabinol, or selling, manufacturing or trafficking in marihuana or tetrahydrocannabinol. Nothing contained herein shall prohibit a political subdivision of the Commonwealth from enacting ordinances or bylaws regulating or prohibiting the consumption of marihuana or tetrahydrocannabinol in public places and providing for additional penalties for the public use of marihuana or tetrahydrocannabinol.

SECTION 3. Chapter 94C of the General Laws is further amended by inserting a new Section 32M emphasizing education concerning the effects of drug usage for youthful offenders. That new section shall read as follows:

Section 32M. An offender under the age of eighteen is required to complete a drug awareness program within one year of the offense for possession of one ounce or less of marihuana. In addition to the civil penalties authorized by Section 32L and 32N of this Chapter, the failure of such an offender to complete such a program may be a basis for delinquency proceedings for persons under the age of seventeen at the time of their offense. The drug awareness program must provide at least four hours of classroom instruction or group discussion and ten hours of community service. In addition to the programs and curricula it must establish and maintain pursuant to Section 7 of Chapter 18A of the General Laws, the bureau of educational services within the department of youth services or any successor to said bureau shall develop the drug awareness programs. The subject matter of such drug awareness programs shall be specific to the use and abuse of marihuana and other controlled substances with particular emphasis on early detection and prevention of abuse

of substances.

SECTION 4. Chapter 94C is further amended by inserting a new Section 32N providing for enforcement of the sensible marihuana policy at the local level, utilizing the non-criminal disposition procedures specified in Section 21D of Chapter 40 of the General Laws, so far as apt. That new section shall read as follows:

Section 32N. The police department serving each political subdivision of the Commonwealth shall enforce Section 32L in a manner consistent with the non-criminal disposition provisions of Section 21D of Chapter 40 of the General Laws, as modified in this Section.

The person in charge of each such department shall direct the department's public safety officer or another appropriate member of the department to function as a liaison between the department and persons providing drug awareness programs pursuant to Section 32M of this Chapter and the Clerk-Magistrate's office of the District Court serving the political subdivision. The person in charge shall also issue books of non-criminal citation forms to the department's officers which conform with the provisions of this Section and Section 21D of Chapter 40 of the General Laws.

In addition to the notice requirements set forth in Section 21D of Chapter 40 of the General Laws, a second copy of the notice delivered to an offender under the age of eighteen shall be mailed or delivered to at least one of that offender's parents having custody of the offender, or, where there is no such person, to that offender's legal guardian at said parent or legal guardian's last known address. If an offender under the age of eighteen, a parent or legal guardian fails to file with the Clerk of the appropriate Court a certificate that the offender has completed a drug awareness program in accordance with Section 32M within one year of the relevant offense, the Clerk shall notify the offender, parent or guardian and the enforcing person who issued the original notice to the offender of a hearing to show cause why the civil penalty should not be increased to one thousand dollars. Factors to be considered in weighing cause shall be limited to financial capacity to pay any increase, the offender's ability to participate in a compliant drug awareness program and the availability of a suitable drug awareness program. Any civil penalties imposed under the provisions of "An Act Establishing A Sensible State Marihuana Policy" shall inure to the city or town where the offense occurred.

SECTION 5. Chapter 94C is further amended by amending its pre-existing penalty provision to conform to the sensible marihuana policy established by this Act. Section 34 of Chapter 94C as appearing in the 2006 official edition is amended by inserting after the word "Except" appearing in line 5 the words "as provided in Section 32L of this Chapter or" and by inserting the words "more than one ounce of" before the word "marihuana" appearing in line 16.

Adopted by the People at the November 4, 2008 state election.

Chapter 388. AN ACT TO PROTECT GREYHOUNDS.

SECTION 1. Declaration of purpose. The citizens of Massachusetts find that commercial dog racing is cruel and inhumane, and as recommended by the Humane Society of the United States, the Animal Rescue League of Boston, GREY2K USA, and the Massachusetts Society for the Prevention of Cruelty to Animals, declare that it should be prohibited in the commonwealth.

SECTION 2. Chapter 128A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after Section 14D the following section:-

Section 14E. Notwithstanding the provisions of this chapter or any general or special law to the contrary, no dog racing or racing meeting where any form of betting or wagering on the speed or ability of dogs occurs shall be conducted or permitted in this commonwealth and the commission is hereby prohibited from accepting or approving any application or request for racing dates for dog racing.

Any person violating any provision of this section relative to dog racing shall be subject to a civil penalty of not less than twenty thousand dollars which shall be payable to the commission and used for administrative purposes of the commission subject to appropriation.

All other provisions of this Chapter shall be construed as if they contain no references to dogs, dog racing or dog races.

Notwithstanding any general or special law to the contrary, the effective date of this section shall be January 1, 2010.

SECTION 3. The several provisions of this Act are independent and severable and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the Act invalid or inoperative.

Adopted by the People at the November 4, 2008 state election.

Chapter 389. AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES OF A FOOD STORE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Westwood may grant a license for the sale of wines and malt beverages at a food store, not to be drunk on the premises, under section 15 of said chapter 138. Except as otherwise provided in this act, the license shall be subject to all of said chapter 138 except said section 17.

For the purposes of this act, "food store" shall mean a grocery store or supermarket with a gross floor area of more than 100,000 square feet which sells at retail, food for consumption on or off the 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 the 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 specifically exclude a convenience store or specialty store; and provided further, that the board of selectmen shall determine whether an applicant is a food store under this act. In making the 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 the license under this act may sell wines and malt beverages alone or in combination with any other items offered for sale and the licensed premises shall be located in the mixed use overlay zoning district. The amount of any initial or renewal fee for such license shall be determined by the licensing authority granting or renewing that license.

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, but the license may be granted to a new applicant at the same location if the applicant has followed all rules prescribed by the board of selectmen, and has submitted a letter 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 of the town of Westwood, 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. This act shall take effect upon its passage.

Approved December 17, 2008.

Chapter 390. AN ACT AUTHORIZING CERTAIN APPROPRIATIONS FROM THE TOWN OF BRIDGEWATER'S CAPITAL PROJECTS FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 22 of the acts of 1997, the town of Bridgewater may appropriate monies from the Capital Projects Fund not to exceed \$159,180 for the purpose of paying the town's share of the rentals of modular classrooms at the Bridgewater-Raynham regional high school and the M.G. Williams middle school; provided, however, any such appropriation from either principal or accumulated interest shall require a two-thirds vote.

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

Approved December 17, 2008.

Chapter 391. AN ACT ESTABLISHING THE OFFICE OF TOWN MANAGER IN THE TOWN OF UPTON.

Be it enacted, etc., as follows:

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

“Board”, the board of selectmen.

“Employees”, persons who act on behalf of the town, whether appointed or hired, who receive compensation from the town and are under the jurisdiction of the board. For specific positions refer to the personnel by-laws of the town.

“Hiring authority”, persons, boards and committees specifically empowered to employ individuals on behalf of the town.

“Manager”, the town manager.

“Town”, the town of Upton.

SECTION 2. There shall be an administrative officer in the town of Upton known as the manager. The manager, reporting directly to and supervised by the board, shall be the chief administrative officer of the town. The manager shall not set town policy but shall ensure that there is appropriate coordination in the implementation of town policy, working with the board and all elected and appointed boards and commissions.

The following responsibilities and authority shall devolve from the board to the manager:

(a) hiring, firing and disciplining employees under the jurisdiction of the board, pursuant to subsection (k) of section 4;

(b) compiling and recommending to the board a balanced budget, for approval in its entirety, for the departments under the jurisdiction of the board;

(c) fixing the compensation, within the appropriated amounts, of all town officers and employees under the jurisdiction of the board;

(d) reorganizing town departments under the jurisdiction of the board for more efficient operation;

(e) acting as the town's chief procurement officer; and

(f) signing the warrants for payment of town obligations.

The manager shall supervise, manage and coordinate the day-to-day activities of all town departments and employees under the jurisdiction of the board and coordinate all activities of said departments with the activities of other departments under the jurisdiction of other elected officials, boards and commissions.

With the exception of the board, all other elected boards, officials, commissions, trustees and committees are exempt from the provisions of this act. This exemption includes the departments, employees and appointments of other elected boards, commissions and committees of the town.

SECTION 3. The manager shall be appointed by the board on the basis of executive and administrative qualifications and other hiring requirements set forth by the board. The

manager shall be a person especially suited by a combination of education, training and professional experience to perform the duties of the office. The manager shall not serve in elected office in the town's government for at least 12 months before his appointment. The manager shall devote his full-time to the office and shall not hold any other public office, elected or appointed, nor engage in any other business or occupation during the term unless that service is approved in advance by the vote of the board. The manager shall be subject to the personnel by-laws of the town unless the board exempts specific provisions of those by-laws as defined in a signed contract between the town and the applicant. The board may enter into a contract with the manager, not to exceed 3 years in length, setting forth the terms and conditions of the manager's employment.

SECTION 4. The manager shall be responsible and accountable to the board for the efficient and orderly conduct of the departments and functions placed in his charge as manager and for the proper execution of the following powers and duties. The manager shall:

(a) be the hiring authority for all employees under the jurisdiction of the board. The manager shall act in conformance with the personnel by-laws of the town. The manager shall oversee the efficient operation and administration of all officers, divisions and departments appointed by him. No appointment, disciplinary action or termination by the manager of a town officer or employee shall take effect within 15 days of notice being provided to the board. The board may approve or disapprove the manager's proposed appointment within said 15 days or the board may waive the 15 day right of refusal by a vote at an open meeting. The board may vote, in open session, to disapprove an appointment and shall state the reason or reasons, which shall be provided in the meeting minutes. The board shall conduct any meeting to consider a proposed disciplinary action or termination of a town officer or employee in accordance with applicable law;

(b) in conjunction with the chair of the board, prepare and distribute agendas for the board's meetings. The manager or his designee shall be the recording and corresponding secretary for the board;

(c) ensure that all of the meetings of the board are properly posted and are in accordance with local, state and federal laws. The manager shall attend aforesaid meetings unless requested by the board not to be in attendance or upon approval by the chairman of the board of a request by the manager to be excused from attendance. The manager shall have the right to speak at the aforesaid meetings but shall not have a vote;

(d) prepare warrants for special and annual town meetings for consideration and signature by the board in compliance with town by-laws. Attend all sessions of annual and special town meetings, unless excused by the board, and be prepared to answer all questions concerning warrant articles;

(e) work in conjunction with the chair of the board and town counsel regarding any litigation or other legal matters in which the town has an interest, act as liaison between the town counsel and the board and affected town departments and officials, review and approve new requests, other than those of the chairman of the board, for use of town counsel on new

matters and provide the board with monthly status reports on legal issues and concerns;

(f) have the authority to execute contracts on behalf of the town up to \$25,000.00;

(g) serve as chief procurement officer of the town responsible for purchasing all supplies, materials and equipment for the departments under the jurisdiction of the board. Purchases by other boards shall be reviewed by the manager to ensure that they conform to all state and local laws and regulations. The manager shall keep a full and complete inventory of all town property, both real and personal;

(h) manage the town's insurance programs and serve as the contact with the insurance providers;

(i) be responsible for the administration of personnel and personnel matters, including the personnel by-laws, files and all personnel policies that the board and the town may adopt. Such responsibilities shall include the enforcement of personnel policies, rules and regulations and managing personnel costs such as salaries, benefits, overtime and use of town-owned vehicles for employees under the jurisdiction of the board;

(j) evaluate all of the town officers and employees under the board in accordance with the personnel by-laws;

(k) serve as the town's Americans With Disabilities Act director and affirmative action officer and administer the town's affirmative action program;

(l) fix the compensation of all town officers and employees within the limits established by the personnel board, the relevant body and the appropriation;

(m) administer all applicable general and special laws, and all applicable by-laws and regulations and implement all lawful goals and policies established by the board and provide reports to the board when appropriate;

(n) be responsible for keeping full and complete records of the administrative activities of the town and render a full report of the prior fiscal year to the board within 3 months of the end of that year. The manager shall have access to all town books and records for the performance of his duties;

(o) keep the board informed as to the financial condition and needs of the town and recommend to the board any actions that should be taken;

(p) serve as arbitrator of grievances and chief union negotiator for all collective bargaining agreements under the jurisdiction of the board. The board, from time to time, may provide advice and guidelines to the manager. The board shall retain the authority to execute the union contract agreements;

(q) respond to and coordinate local response to emergency situations;

(r) establish and maintain positive community relations with local organizations, groups and residents;

(s) receive and act on questions and complaints filed with the board or the manager and inform the board of the status of the resolution;

(t) serve as the board's liaison to news outlets, including the preparation of news releases and acting as spokesperson to the press when authorized by the board;

(u) prepare written reports as directed by the board; and

(v) perform other duties required by the by-laws or votes of the town meeting or by the board.

SECTION 5. The manager shall have budgetary powers and responsibilities, the manager shall:

(a) prepare and present annually to the board for its review, approval and recommendations to the finance committee detailed budgetary estimates of amounts necessary for the administration of all town boards, officers, committees, divisions and departments under the jurisdiction of the board or the manager for the ensuing fiscal year, including both capital and operating items. The manager shall present a requested balanced budget to the finance committee.

(b) review the warrants for all town meetings and ballot questions to ensure that they are proper and legal and that there are sufficient funds available for implementation.

(c) approve the warrants for the payment of town obligations after reviewing the expenditures and ensuring that they are proper and within the appropriation. The signature of the manager is sufficient for payment by the treasurer.

(d) have the authority to reorganize departments under the jurisdiction of the board for more efficient use of town resources in order to ensure that departmental activities are conducted within the budget as authorized by town meeting.

(e) ensure that the complete and full records of the financial activity of the town are maintained in accordance with state, federal laws and the town by-laws and render quarterly reports to the board. The board may require interim or condensed reports from time to time.

(f) seek out, prepare, coordinate and file applications for state, federal and private grants.

SECTION 6. During a temporary absence of 30 days or less, the manager shall designate by a letter filed with the board, a qualified administrative employee to exercise the powers and perform the duties of the manager not admitting to delay. If the manager fails to do so, or the designated person fails to serve to the satisfaction of the board, the board may appoint a qualified administrative employee or officer to serve. During an absence of greater than 30 days or a vacancy in the office, the board shall designate an interim manager with the full powers and authority of the manager.

SECTION 7. During the transition period from an active administrative board to the manager form of administration as defined by this act, the position of administrative assistant to the board may exist for a period of time not to exceed 90 days to assist the manager once hired. The length of the 90 day transition period may be shortened at the discretion of the board.

SECTION 8. The board, by an affirmative vote of its members, may initiate the removal or suspension of the manager by adopting a resolution to that effect. The resolution shall state the reason thereof; provided, however that no such resolution shall be adopted within 90 days of the annual town election. Any such resolution shall be adopted by action of the board only at a regularly scheduled meeting of the board and in open session. The board may suspend the manager for not more than 45 days. A copy of the resolution of sus-

pension and removal shall be delivered in hand to the manager. The manager may request a public hearing within 7 business days after the copy of the resolution has been received by filing a written request with the board. If a request for a public hearing is properly filed, the board shall conduct a public hearing within 14 days from the receipt of the written request and, within 7 days after the hearing, may discharge the manager by a majority vote of the board. If the manager does not request a public hearing in writing within 7 business days of the receipt of the resolution, the board, by affirmative vote, may vote to remove or take any other action relative thereto.

SECTION 9. This act shall take effect upon its passage.

Approved December 17, 2008.

Chapter 392. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF MERRIMAC.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the town of Merrimac a department of public works under the jurisdiction of the board of selectmen. The department shall have charge of and responsibility for the management of public works operations of the town not assigned to other departments of the town including, but not limited to, the following: highway department; parks and recreation department; solid waste and recycling; wastewater department; water department; and all other related construction and operations as may be assigned from time to time by the board of selectmen when deemed necessary and desirable.

The board of selectmen may make all policy decisions relating to the department of public works except as may be reserved to the parks and recreation commissioners.

SECTION 2. The board of selectmen shall appoint a director of public works, who shall recommend to the board of selectmen all employees of the department of public works. The compensation of such employees shall be set in the same manner as is set for other employees of the town, except as provided in section 5.

SECTION 3. The director of public works shall supervise and direct the operations and employees of the department of public works in accordance with the town's personnel by-law and any applicable collective bargaining agreements. The director of public works shall be especially qualified by education, training and experience to perform the duties of the office and shall have such other qualifications as the town may require from time to time. While employed by the town, the director of public works shall not hold an elective office nor shall the director engage in a business or occupation relating to public works unless approved in advance by the board of selectmen. Nothing in this section shall prevent the director of public works from serving on special ad hoc committees in order to represent the department of public works.

SECTION 4. On the effective date of this act, the wastewater commissioners and the water commissioners and the appointed position of water manager shall be abolished and their powers, duties, responsibilities and compensation shall be transferred to the director of public works.

SECTION 5. No person in the regular, permanent full-time or part-time service or employment of the town shall forfeit the rate of compensation, grade, step or time of service on account of the establishment of the department of public works. Each such person shall be retained in a capacity as similar to the person's former capacity as practical. No collective bargaining agreement, contract or liability in force on the effective date of this act shall be affected by this act.

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

Approved December 17, 2008.

**Chapter 393. AN ACT AUTHORIZING THE TOWN OF NATICK TO GRANT 8
ADDITIONAL LICENSES FOR THE SALE OF ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding sections 12 and 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Natick may grant 8 additional licenses for the sale of alcoholic beverages to be drunk on the premises within a category of license that it has authority to grant, subject to the conditions set forth in this act.

(b) The licensing authority shall restrict the granting of licenses authorized by this act to the area within the Downtown Mixed Use (DM) Use District or the Housing Overlay Option Plan – 1 (HOOP – 1) Use District in the town of Natick for the purpose of downtown development and to promote economic vitality.

(c) Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority shall not approve the transfer of a license issued pursuant to this act to any location outside of the Downtown Mixed Use (DM) Use District or the Housing Overlay Option Plan – 1 (HOOP – 1) Use District in the town of Natick. The license may be reissued by the licensing authority at the same location if the applicant files with the licensing authority a statement in writing from the department of revenue that the license is in good standing with that department and that all applicable taxes have been paid.

(d) Notwithstanding said section 12 of said chapter 138, the additional licenses authorized in this act may be subject to an original license fee of \$2,500 in addition to the annual fee for the existing all alcoholic beverages licenses or wines and malt beverages licenses, as applicable, in the town of Natick. If the town imposes the aforementioned fee,

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the fee shall be due and payable upon the original issuance of the license and also upon the reissuance of the license pursuant to this act, and the additional fee shall be deposited in an economic development account of the town of Natick and expended by and under the direction of the board of selectmen of the town of Natick, consistent with the purposes of that account.

(e) If a license issued under this act 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 which may then grant that license to a new applicant who meets the criteria set forth in this act and whose business is located within the area described in subsection (b). The reissuance of any such license may be subject to the payment of a reissuance fee of \$2,500 under the same conditions as specified in this act and shall be deposited in an economic development account of the town of Natick and expended by and under the direction of the board of selectmen of the town of Natick, consistent with the purposes of that account.

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

Approved December 17, 2008.

Chapter 394. AN ACT RELATIVE TO ESTABLISHMENT OF A CAPITAL IMPROVEMENT TRUST FUND IN THE TOWN OF STONEHAM.

Be it enacted, etc., as follows:

(a) Notwithstanding any general or special law to the contrary, the town of Stoneham may establish and maintain a special account known as the Capital Improvement Trust Fund.

(b) The town may appropriate to the fund by vote at an annual or special town meeting in any year an amount not to exceed 10 per cent of the amount raised in the preceding year by taxation of real estate and tangible personal property. Appropriations under this section shall not increase the aggregate amount of the fund to an amount exceeding 10 per cent of the equalized valuation of the town as defined in section 1 of chapter 44 of the General Laws.

(c) Monies in the fund may be appropriated by a two-thirds vote of the town at an annual or special town meeting for a capital purchase only.

(d) For purposes of this act, "capital purchase" shall mean the purchase of an item with a cost of at least \$10,000 and a life expectancy of 3 or more years.

(e) Interest earned on the fund shall be added to and become part of the fund.

Approved December 17, 2008.

Chapter 395. AN ACT RELATIVE TO THE COMMUNITY DEVELOPMENT AUTHORITY IN THE CITY OF MARLBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 327 of the acts of 1979 is hereby amended by striking out section 4, as amended by section 1 of chapter 380 of the acts of 2004, and inserting in place thereof the following section:-

Section 4. There is hereby established a Community Development Authority of the city, herein referred to as the authority, which shall be an operating agency and an urban renewal agency within the meaning of chapter 121B of the General Laws, an economic development and industrial corporation within the meaning of chapter 121C of the General Laws, and a housing authority within the meaning of said chapter 121B. The powers of the authority under said chapters 121B and 121C shall be exercised in conformity with the restrictions contained in this act.

The authority shall be managed, controlled and governed by a board consisting of the following members: the mayor who shall serve as chairman; 1 member who shall be appointed by the secretary of the executive office of housing and economic development; 5 members who shall be appointed by the mayor with the approval of the city council; and the auditor and treasurer of the city shall serve as non-voting members of the authority. One member appointed by the mayor shall be experienced in the field of finance and the second shall be experienced in the field of real estate. Both shall be appointed for the initial term of 2 and 3 years, respectively, and thereafter as the term of a member expires, his successor shall be appointed for a term of 3 years. The member appointed by the secretary of communities and development shall serve for a term of 5 years.

After the qualification of such members, the city clerk shall forthwith file a certificate of their appointments with the department of community affairs and a duplicate thereof in the office of the state secretary. Thereupon the state secretary shall issue to the authority a certificate of organization as provided in said chapter 121B.

The chairman of the authority shall not receive additional compensation and the authority shall make use of the services of the department for staff and administrative functions and the department may charge the authority for such services an amount agreed to by the department and the authority with the approval of the mayor.

SECTION 2. Section 1 shall not affect the terms of the current members of the Community Development Authority of the city of Marlborough as of the effective date of this act.

Approved December 17, 2008.

**Chapter 396. AN ACT AUTHORIZING THE ESTABLISHMENT OF THE
NANTUCKET SEWER COMMISSION AND SEWER DISTRICTS IN
THE TOWN OF NANTUCKET.**

Be it enacted, etc., as follows:

SECTION 1. The town of Nantucket, acting by and through the Nantucket sewer commission described in section 3, may lay out, plan, construct, maintain and operate a system or systems of common sewers for a part or whole of its territory, as may be from time to time defined and established by adoption by town meeting of one or more by-laws as a designated sewer district under the jurisdiction and control of the sewer commission, with such capacity limitations, connections, pumping stations, treatment plants and other works, as may be allocated in such by-law to such sewer district as required for a system or systems of sewage treatment and disposal, and may construct such sewers and related works in said sewer districts defined and established by by-law as may be necessary. No other sewers shall be constructed in any public roads or ways of the town which are not within the limits of such designated sewer districts and which are not under the control of the sewer commission.

SECTION 2. The town may make and maintain, within sewer districts defined and established as set forth in section 1 in any way therein where common sewers are constructed, such connecting sewers within the limits of such way as may be necessary to connect any estate which abuts upon the way within such district.

SECTION 3. Notwithstanding the provisions of chapter 169 of the acts of 1965, the town may, at any town meeting, by a two-thirds vote, vote that the board of selectmen shall act as a Nantucket sewer commission, or that there shall be a separate Nantucket sewer commission, the members of which shall be appointed by the board of selectmen or elected by popular vote for 3 year terms. The number, constitution and the choice of elected or appointed commissioners of a separate sewer commission shall also be determined by a two-thirds vote of town meeting. If a separate Nantucket sewer commission is established by town meeting, any selectman shall be eligible to serve as a member thereof. Town meeting shall be authorized to change the method of establishment of the Nantucket sewer commission described herein without any limitation on the number of times such commission may be established or re-established as the case may be, by a two-thirds vote. Whenever the phrase "Nantucket sewer commissioners" appears in this act, such phrase shall include within its meaning either the board of selectmen acting as Nantucket sewer commissioners, or the separate appointed or elected Nantucket sewer commission.

SECTION 4. The Nantucket sewer commission, acting for and on behalf of the town of Nantucket, shall have charge of and shall be responsible for the policies, finances, and overall goals of the sewer system, but shall be subject to the charter of the town of Nantucket as to the administration and management of the systems operation and maintenance, and shall be responsible for the good order of all sewers, pipes, pumping stations, treatment and disposal works, and the like. The operations of the Nantucket sewer commission shall be governed by, and any staff or employees shall be considered part of town administration

within the meaning of, the charter of the town of Nantucket unless changed or modified pursuant to said charter.

SECTION 5. The board of selectmen acting for and on behalf of the town of Nantucket, after being duly authorized to do so by town meeting, may take by eminent domain pursuant to chapter 79 of the General Laws or otherwise may, utilizing the procedures described in the charter of the town of Nantucket acquire by purchase or gift any lands, rights of way, or easements, public or private, in the town necessary for accomplishing any purpose mentioned in this act and may construct such sewers under or over any state road, any bridge, pier, tidelands, boulevards or other public way, or within the location of any state land, without the necessity for any formal filings in the registry of deeds, and may enter upon and dig up any private land or any public land or public way, for the purpose of laying such sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this act.

SECTION 6. The financial operations of the sewer system shall be an Enterprise Fund within the meaning of section 53F½ of chapter 44 of the General Laws, except as modified herein, and any expenditure from such fund shall be only upon authorization of the Nantucket sewer commission. The town shall, by vote at town meeting, determine whether it shall pay the whole or a portion of the cost of said system or systems of sewerage and sewage disposal, and if a portion, what proportion. If the town votes to pay less than the whole cost, in providing for the payment of the remaining portion of the cost of said system or systems, the town, acting through the Nantucket sewer commission, may avail itself of any or all of the methods permitted by the General Laws; and the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments or the additional methods set forth in section 8, and as to liens therefor and to interest thereon, shall apply to assessments made pursuant to this act by the Nantucket sewer commission, except that interest shall be at the rate as may be established by the Nantucket sewer commission from time to time.

At the same meeting at which town meeting determines that any portion of the cost is to be borne by the town, it may by vote determine by which of such methods the remaining portion of said cost shall be provided for.

The collector of taxes of said town shall certify the payment or payments of any such assessment or apportionments thereof to the sewer commission or to the selectmen acting as such, who shall preserve a record thereof.

SECTION 7. The revenues received by the fund described in section 6 of this act from sewer assessments, fees, charges, contributions from the town towards the costs of such sewer system as described in section 6, and the like as receipts or revenues, shall be applied to the payment of charges and expenses incident to the design, construction, maintenance, and operation of said system or systems of sewerage and sewage disposal or to the extensions thereof, to the payment of principal or interest upon bonds or notes issued for sewer purposes, or to the payment or redemption of such bonds or notes.

SECTION 8. The Nantucket sewer commission may, in its discretion, prescribe for the users of said sewer systems and disposal works such annual charges, connection fees, assessments, privilege fees, and the like, based on the benefits derived therefrom as such sewer commission may deem proper, subject however, to such by-laws as may be adopted by vote of the town, or as may be provided for in the General Laws. Notwithstanding any law to the contrary, the commission is authorized to impose and collect such charges, fees, or assessments prior to connection or operation of such system of sewers, and may enter into agreements for the payment thereof over such time as the sewer commission shall determine. In fixing the charges to be imposed for said system, the Nantucket sewer commission is authorized to make use of any fee, charge, assessment or betterment provided for by the General Laws and further may take into consideration all costs for ongoing removal of infiltration and inflow of non-wastewater into the system as part of the normal operating costs of the system; may include, in setting privilege fees, capital costs and interest charges applicable thereto; may impose late fees for unpaid billings; may assess a capacity utilization fee to new estates and properties added to a sewer district authorized by this act from outside a designated needs area in addition to any privilege fee; may charge betterments, special assessments, or any other charge to the estates and properties being served by collection system improvements and extensions to pay for all costs for sewer line extensions to serve new connections, both within the sewer districts authorized by the act and in any areas added to such sewer district; and may impose such charges on properties within a sewer district authorized by the act whether or not such estates and properties are then connected to the sewer system.

SECTION 9. The Nantucket sewer commission may, from time to time, adopt and prescribe rules and regulations for the means of connection of estates and buildings with sewers and for inspection of the materials, the construction, alteration, and use of all connections entering to such sewers, but not including the expansion of districts except as provided in sections 1 and 10, and may prescribe penalties, not exceeding \$300 for the violation of any such rule or regulation. Such rules and regulations shall be available for public review at the sewer commission's designated office during regular office hours. Any changes, deletions, additions or revisions to said rules and regulations deemed necessary by the Nantucket sewer commission from time to time, shall take full effect after a notice of change has been published at least once a week for 2 successive weeks in a newspaper of general circulation in the town of Nantucket, which notice shall detail where and when such revised rules and regulations may be viewed by the general public.

SECTION 10. Notwithstanding any provision of law to the contrary, owners of land not within the sewer districts defined and established pursuant to section 1 of this act shall not be permitted to connect to the town's sewer system except as is set forth in this act. The territory covered by said sewer districts may be amended from time to time by the board having charge of sewers, after a public hearing conducted to consider such amendment, upon approval of the department of environmental protection if otherwise required by law and upon enactment by town meeting of a by-law defining or establishing a new or expanded sewer

district. In the event that the board having charge of sewers votes not to amend the territory of any sewer district in accordance with the foregoing sentence, the amendment may nevertheless be enacted in a form of a by-law upon a two-thirds vote of town meeting.

Any by-law adopted pursuant to the authority granted to the town of Nantucket by this act may include authorization to the Nantucket sewer commission without a town meeting vote to add to the sewer districts created pursuant to this act properties located within "needs areas" as defined by Nantucket's Comprehensive Wastewater Management Plan prepared by Earth Tech dated March 2004, approved by the secretary of environmental affairs on May 14, 2004, with such conditions and limitations with respect to such authorization as such by-law may provide.

SECTION 11. Notwithstanding anything to the contrary contained herein, the board having charge of the maintenance and repair of sewers may at any time permit extensions, new connections or increases in flow to the sewer system, subject to capacity, to serve municipal buildings or public restrooms or other public service uses as defined by the municipality; provided, however, that such uses may include, but shall not be limited to, affordable housing constructed pursuant to chapters 40B and 40R of the General Laws, without thereby creating any entitlement on the part of any person to connect to such sewer system, and subject to capacity, in order of application, may permit or if in the public interest, may require, extensions, new connections or new flow to the sewer system within such districts.

SECTION 12. This act shall take effect as of July 1, 2008.

Approved December 17, 2008.

Chapter 397. AN ACT RELATIVE TO THE LICENSING OF SCHOOL BUS DRIVERS.

Be it enacted, etc., as follows:

SECTION 1. Section 8A of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 23 and 24, the words "has been convicted of the crime of rape, unnatural act, sodomy, or" and inserting in place thereof the following words:- is a sex offender, as defined in section 178C of chapter 6, or who has been convicted of.

SECTION 2. Said section 8A of said chapter 90, as so appearing, is hereby further amended by inserting after the word "energy", in line 41, the following words:- and a basic course in first aid which shall include training relative to the administration of an epinephrine auto injector, as approved by the registrar. Upon successful completion of the first aid course, section 55A of chapter 71 shall apply to such applicants.

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SECTION 3. Section 8A½ of said chapter 90, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words “has been convicted of the crime of rape, unnatural act, sodomy, or” and inserting in place thereof the following words:- is a sex offender, as defined in section 178C of chapter 6, or who had been convicted of.

Approved December 17, 2008.

Chapter 398. AN ACT AUTHORIZING THE TRANSPORTATION BOARD OF THE TOWN OF BROOKLINE TO REGULATE VALET PARKING IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

Section 4 of chapter 317 of the acts of 1974, as amended by chapter 85 of the acts of 2006, is hereby further amended by inserting after the second paragraph the following paragraph:-

Notwithstanding any general or special law to the contrary, the board shall have authority to adopt, alter or repeal rules and regulations relative to the operation, licensing or permitting of any valet parking service that utilizes any part of a town-controlled public way, public off-street parking area, or public property for the movement, transport, parking, standing, storage, pick-up, drop-off, or delivery of a motor vehicle, if it determines, by a vote of at least 4 members that such actions serve the public safety, welfare, environment or convenience. For the purposes of this section, a “valet parking service” shall mean a parking service offered, with or without a fee, to an operator or owner of a motor vehicle who is a patron, customer, visitor, employee, guest, invitee or licensee of any restaurant, store, hotel, club, business, institution or commercial establishment wherein the operator or owner delivers possession or control of the motor vehicle to an attendant commonly known as a valet who then transports, parks, stores, retrieves or delivers the motor vehicle.

Approved December 17, 2008.

Chapter 399. AN ACT PROTECTING CERTAIN MILITARY PERSONNEL FROM DECEPTIVE PRACTICES.

Be it enacted, etc., as follows:

Section 11 of chapter 176D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the forgoing, the commissioner may, in accordance with said chapter 30A, promulgate rules and regulations to protect service members of the Armed Forces of the United States from dishonest or predatory insurance acts or practices by identi-

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ifying certain insurance acts or practices as false, misleading, deceptive or unfair.

Approved December 17, 2008.

Chapter 400. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND IN THE CITY OF NORTH ADAMS.

Be it enacted, etc., as follows:

Section 1 of chapter 290 of the acts of 2002 is hereby amended by adding the following paragraph:-

In addition to the parcel described above the conveyance shall include a certain parcel of land located in the city of North Adams which is identified as Lot No. 19 of the city of North Adams Assessors' Map 171.

Approved December 17, 2008.

Chapter 401. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF WESTBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Section 2-2 of article 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, nominate a deputy moderator to serve in the event of his absence or disability; provided, however, that the town meeting shall ratify the nomination.

SECTION 2. Said charter is hereby further amended by striking out article 8.

Approved December 17, 2008.

Chapter 402. AN ACT RELATIVE TO THE VOTING PRACTICES OF THE FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS.

Be it enacted, etc., as follows:

Paragraph (w) of section 567 of chapter 151 of the acts of 1996, as most recently amended by section 4 of chapter 344 of the acts of 1998, is hereby further amended by striking

out the ninth sentence and inserting in place thereof the following sentence:- The nomination papers of candidates for any generally elected positions created by the charter proposal, to be filled at a state election, shall be signed by 150 voters.

Approved December 17, 2008.

Chapter 403. AN ACT DESIGNATING CERTAIN LANDS IN THE TOWN OF MONSON FOR AGRICULTURAL, CONSERVATION AND PUBLIC RECREATION PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The parcels of land identified in section 2 and under the care, custody and control of the department of developmental services shall be dedicated to the public for the purposes and uses of forest, agriculture and open space protection, management and conservation, environmental education and public access for passive recreation and enjoyment and shall be held solely for these purposes and uses, subject to the limitations of and to protect the rights of the public under Article XCVII of the Amendment to the Constitution. The department of developmental services may develop reasonable rules or adopt regulations for the appropriate conduct and manner of public access consistent with the purposes of this act.

SECTION 2. The parcels are hereby identified as follows:

(a) parcel 1: "All of the land owned by the Monson development center in Monson west of Upper Palmer road and State avenue; excepting the area starting at the parcel's northeast corner on the west side of State avenue, extending in a southerly direction to the parcel's southeast corner on the west side of Upper Palmer road, then running westerly along the southern boundary for 200 feet, then turning northerly running parallel to Upper Palmer road and continuing in an arc 200 feet back from the westerly side of the driveway leading to the site of the former children's colony, and continuing 200 feet west of said Upper Palmer road, then continuing northerly 200 feet west of Upper Palmer road to a point 200 feet south of Bald Peak road (a discontinued way), then turning northwesterly and following a straight line 200 feet south of Bald Peak road to a point that intersects with the road as the road turns and intersects with the straight line, then turning and running true north to the parcel's northern boundary, and then running easterly along the property boundary to the starting point."; and

(b) parcel 2: "A parcel of land owned by the Monson development center east of State avenue starting at the confluence of an unnamed stream and the Quaboag river and running southeasterly by the south of said river to the railroad tracks, then continuing southeasterly along said railroad tracks to the junction of a rail spur leading to the center's power plant, then continuing westerly along the northern side of said rail spur to the road/parking area surrounding the power plant, then continuing westerly on the northern side of said road to

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the unnamed stream, then turning northerly along the eastern bank of said stream to the starting point.”

Exact boundaries of the parcels shall be determined by a survey reviewed and approved by the commissioner of developmental services in consultation with the secretary of energy and environmental affairs and the commissioner of capital asset management and maintenance.

Approved December 17, 2008.

Chapter 404. AN ACT RELATIVE TO THE POWERS OF THE TOWN MANAGER IN THE TOWN OF NORTH ANDOVER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town manager of the town of North Andover shall be the appointing authority, as defined in section 1 of chapter 31 of the General Laws, relative to all police officers below the rank of chief in said town of North Andover, subject to the approval of the board of selectmen.

SECTION 2. Section 1 shall not impair the civil service status of any person holding the position of police officer below the rank of chief on the effective date of this act.

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

Approved December 18, 2008.

Chapter 405. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ASHLAND.

Be it enacted, etc., as follows:

SECTION 1. Chapter 53 of the acts of 2002 is hereby repealed.

SECTION 2. The following shall be the charter of the town of Ashland:-

Part I. Incorporation and Authority

Section 1-1. Incorporation Continued.

The inhabitants of the town of Ashland, Massachusetts, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the “Town of Ashland”.

Section 1-2. Short Title.

This instrument shall be known and may be cited as the “Ashland Home Rule Charter”.

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Section 1-3. Division of Powers.

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 comprised of the board of selectmen and elected independent boards pursuant to their enabling legislation.

Section 1-4. Powers of the Town.

The intent and purpose of the charter is to secure for the voters of the town of Ashland, through the adoption of the charter, all the powers possible to secure for their government under article LXXXIX of the amendments to the constitution and laws of the commonwealth, as fully as though each such power was specifically and individually enumerated herein.

Section 1-5. Interpretation of Powers.

The powers of the town under the charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power shall not limit the general powers of the town as stated in section 1-4.

Section 1-6. Intergovernmental Relations.

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

Part II. Legislative Branch

Section 2-1. Open Town Meeting.

The legislative powers of the town shall be vested in a town meeting open to all voters.

Section 2-2. Presiding Officer.

All sessions of the town meeting shall be presided over by a town moderator, elected as provided in part III. The town moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The town moderator shall have all of the powers and duties given to moderators under the constitution and the laws of the commonwealth and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote.

Section 2-3. Annual Town Meeting.

The annual town meeting shall be held on such date or dates as may from time to time be fixed by by-law.

Section 2-4. Special Town Meetings.

Special town meetings shall be held at the call of the board of selectmen at such times as it may deem appropriate and whenever a special meeting is requested by the voters in accordance with procedures made available by the laws of the commonwealth.

Section 2-5. Clerk of the Meeting.

The town clerk shall serve as the clerk to the town meeting. In the event of unavoidable absence, the town clerk shall designate a substitute; otherwise, the town moderator shall appoint a clerk pro tempore. The town clerk shall keep a journal of the proceedings and perform such other functions as may be provided by the laws of the commonwealth, by the

charter, by bylaw or by other town meeting vote.

Part III. Elected Town Officers

Section 3-1. Elected Town Officers, in General.

(a) The offices to be filled by the voters shall be a board of selectmen, a school committee, a town moderator, a board of assessors, a board of health, a planning board, a board of trustees of the public library and a housing authority. Regional authorities, districts, committees or such other entities as may be established by law or intergovernmental agreement may also be filled by the voters.

(b) The elected bodies referred to in subsection (a) of section 3-1 may, by law, the charter, by-law or vote of the town appoint any temporary or ad hoc committees as in their judgment shall from time to time be necessary or desirable specifically for the purpose of assisting said elected boards in the exercise and fulfillment of their powers and duties referred to in the charter.

Section 3-2. Board of Selectmen.

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

(b) The executive powers of the town shall be vested in the board of selectmen which shall serve as the chief policymaking body of the town. The board of selectmen shall have and exercise all the powers and duties vested in boards of selectmen by the laws of the commonwealth and such additional powers and duties authorized by the charter, by bylaw or by vote of the town. The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of all its official acts to be kept. To administer its policies and aid the board in its official duties, the board of selectmen shall appoint a town manager, as provided in part V.

(c) The board of selectmen shall appoint a town manager, town counsel, an external auditor to perform the town's annual financial audit and registrars of voters as well as all other such town officers, boards, commissions and committees except as otherwise provided by the charter. The board of selectmen shall also appoint such officers, boards, commissions and committees that the board of selectmen may hereafter be directed to appoint by law, by-law or vote of the town.

(d) The board of selectmen may investigate or may authorize the town manager to investigate the affairs of the town and the conduct of any town agency.

(e) The board of selectmen, unless otherwise provided by law or the charter, shall be the licensing board of the town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach such conditions and restrictions thereto as it deems to be in the public interest. The board of selectmen shall enforce the laws relating to all businesses for which it issues any licenses.

Section 3-3. School Committee.

(a) There shall be a school committee composed of 5 members elected for terms of

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3 years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.

(b) The school committee shall have all the powers, duties and responsibilities given to school committees by the laws of the commonwealth, the charter, by-laws or town meeting vote. Nothing in the charter shall be construed to affect the powers and duties of the school committee as provided by law.

Section 3-4. Town Moderator.

(a) At each town election, a town moderator shall be nominated and elected by the voters for a term of 1 year. In the event of absence of the town moderator, the town meeting shall elect a temporary town moderator for the purpose of presiding during the town moderator's absence.

(b) The town moderator shall appoint the finance committee and have other powers and duties provided that office by the constitution and the laws of the commonwealth, by-laws or by town meeting vote.

Section 3-5. Board of Health.

(a) There shall be a board of health composed of 5 members elected for terms of 3 years each, so arranged that the terms of as nearly an equal number of members as is possible expire each year.

(b) The board of health shall be responsible for the formulation and enforcement of rules and regulations concerning public health. The board shall have all the powers and duties given to boards of health by the laws of the commonwealth, the charter, by-laws or town meeting vote.

Section 3-6. Board of Assessors.

(a) There shall be a board of assessors composed of 3 members elected for terms of 3 years each, so arranged that the term of 1 member expires each year.

(b) The board of assessors shall have all the powers and duties given to boards of assessors by the laws of the commonwealth, the charter, by-laws or town meeting vote.

Section 3-7. Planning Board.

(a) There shall be a planning board composed of 5 members elected for terms of 5 years each, so arranged that the term of 1 member expires each year.

(b) The planning board shall have all the powers and duties given to planning boards by the laws of the commonwealth, the charter, by-laws or town meeting vote.

Section 3-8. Board of Library Trustees.

(a) There shall be a board of library trustees composed of 5 members elected for terms of 3 years, so arranged that the terms of as nearly an equal number of members as is possible expire each year.

(b) The board of library trustees shall have all the powers and duties given to boards of library trustees by the laws of the commonwealth, the charter, by-laws or town meeting vote. The board shall have control over the selection of library materials and have custody and management of such. All money and property that the town may receive for library pur-

poses by gift or bequest shall be administered by the board in accordance with the provisions of the gift or bequest.

Section 3-9. Housing Authority.

(a) There shall be a housing authority composed of 5 members serving terms of 5 years each, so arranged that the term of 1 member expires each year. Four members shall be elected by the voters, and the fifth member shall be appointed as the laws of the commonwealth provide.

(b) The housing authority shall have all the powers and duties given to housing authorities under the laws of the commonwealth, the charter, by-laws or town meeting vote. The authority shall also make studies of the housing needs of the town and shall provide programs for housing.

Part IV. Recall of Elected Officers

Section 4-1. Application.

Any holder of an elected office in the town may be recalled therefrom by the voters of the town as herein provided, except the maximum number of members of a multiple-member body that may be recalled is a majority.

Section 4-2. Recall Affidavit and Petition.

A recall petition may be initiated by filing with the town clerk an affidavit containing at least 500 signatures of persons representing to be voters, the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall, within 1 business day of receipt, submit the affidavit to the registrars of voters of the town and the registrars shall, within 5 business days, certify thereon the number of signatures which are names of voters. If the registrars certify that the affidavit contains the signatures of at least 500 voters, the town clerk shall, within 1 business day, deliver to any one or more of the voters making the affidavit copies of petition blanks demanding such recall. Said blanks shall be issued by the town clerk, with his signature and the official town seal affixed thereto. The blanks shall be dated, addressed to the board of selectmen, contain the name of the person whose recall is sought, the office from which removal is sought, the grounds of recall as stated in the affidavit and a demand for the election of a successor in said office.

A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk during regular business hours no later than the close of 20 days after the certification of the affidavit. Before being returned and filed with the town clerk, said petition shall have been signed by no less than 25 per cent of the voters as of the date such affidavit was filed with the town clerk.

The town clerk shall, within 1 business day of receipt, submit the petition to the registrars of voters of the town and the registrars shall, within 15 business days, certify thereon the number of signatures which are names of voters.

Section 4-3. Recall Election.

If the petition shall be found by the registrars of voters to contain signatures of at least 25 per cent of the voters, it shall be certified by the town clerk to be sufficient and the town clerk shall submit the same with such certificate to the board of selectmen within 5 business

days. The board of selectmen shall, within 5 business days, give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within 5 business days thereafter, order an election to be held on a date fixed by them not 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 the certificate, the board of selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if the term of office of such person expires within 180 days of the filing of an affidavit with the town clerk. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

Section 4-4. Nomination of Candidates.

Any officer sought to be removed may be a candidate to succeed to the same office and, unless the officer requests otherwise in writing, the town clerk shall place the name of the officer on the ballot as a candidate. The nomination of other candidates, the publication of the warrant for the removal election and the conduct of the same shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

Section 4-5. Office Holder.

The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not removed, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If not reelected in the recall election, the officer shall be deemed removed upon the qualification of the successor who shall hold office during the unexpired term. If the successor fails to qualify within 5 business days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

Section 4-6. Ballot Proposition.

Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer).

Under the propositions shall appear the word "Candidates," the directions to the voters required by section 42 of chapter 54 of the General Laws and, beneath this, the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds of the votes cast upon the question of recall are in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If more than one-third of the votes on the question are in the negative, the ballots for candidates need not be counted.

Section 4-7. Repeat of Recall.

No recall affidavit shall be filed against an officer within 180 days after taking office nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 180 days after the election at which the officer's recall was submitted to the voters.

Section 4-8. Office Holder Recalled.

No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person shall subsequently become an employee of the town within 1 year after such recall election or such resignation.

Part V. Town Manager

Section 5-1. Appointment; Qualifications; Term of Office.

The board of selectmen shall appoint, for a term of up to 3 years, a town manager and shall, at least annually, evaluate the performance of the town manager. The town manager shall be a person of proven administrative ability, especially qualified by education and training with at least 3 years previous experience in public administration as a city or town manager, a city or town administrator, an assistant city or town manager or a position with substantially similar functions. The town manager shall devote full time to the duties of the office and shall not hold any other elective or appointive office, nor shall the town manager engage in any other business unless such action is approved in advance, in writing, by the board of selectmen.

Section 5-2. Vacancy in Office.

Any permanent vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen. Pending appointment of the town manager, the board of selectmen shall, within a reasonable period of time, appoint some other qualified person to perform the duties of the town manager.

Section 5-3. Temporary Absence.

The town manager may designate by letter filed with the board of selectmen and town clerk a qualified officer of the town to perform the duties of the town manager during a temporary absence or disability. If such temporary absence or disability shall exceed 14 days, any designation made by the town manager shall be subject to the approval of the board of selectmen. If the town manager fails to make such designation or if the person so designated is for any reason unable to serve or is deemed not qualified by the board of selectmen, the board of selectmen may designate some other qualified person to perform the duties of the town manager until the town manager shall return.

Section 5-4. Compensation.

The town manager shall receive such compensation for services as the board of selectmen shall determine, but such compensation shall be within the limits of available appropriations.

Section 5-5. Powers of Appointment.

(a) The town manager shall appoint, based upon merit and qualifications, a police chief, a fire chief, a treasurer collector, a town accountant, a town clerk and all other department heads, officers, subordinates and employees for whom no other method of selection is provided in the charter, except employees of the school department and employees identified in subsection (c) of section 5-5.

(b) Appointments proposed by the town manager, except as noted in subsection (e) of section 5-5, shall become effective on the fifteenth day following the day on which notice

of the proposed appointment is filed at a board of selectmen meeting, unless the board of selectmen shall within such period, by a majority vote of the board of selectmen, vote to reject such proposed appointment.

(c) The town manager shall appoint, based upon merit and qualifications:

- i. a health agent with the consent of the board of health;
- ii. an assistant assessor with the consent of the board of assessors;
- iii. a planner with the consent of the planning board; and
- iv. a library director and all other library employees with the consent of the board of library trustees.

For the purpose of this section, consent shall mean that each multiple-member body cited herein shall interview job candidates and make an appointment recommendations to the town manager. The town manager shall not make an appointment under this section without the consent of the multiple-member body cited herein. In the case of employees appointed under this section, the town manager shall inform the chair of the appropriate multiple-member body prior to the commencement of any disciplinary action or termination process, except in cases of an emergency, and provide an opportunity to the chair to confidentially comment on the proposed action directly to the town manager.

(d) Relative to appointments made by the town manager under subsection (c) of section 5-5, the policies established by each multiple-member body derived directly from statutory authority shall be the non-administrative policy adhered to by the town manager and his/her staff.

(e) Appointments made by the town manager under subsection (c) of section 5-5 shall be effective immediately and shall not be subject to rejection by vote of the board of selectmen.

Section 5-6. Administrative Powers and Duties.

The town manager shall be the administrative officer of the town and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town manager is given responsibility under the charter. The powers, duties and responsibilities of the town manager shall include, but not be limited to, the following:

(a) to supervise, direct and be responsible for the efficient administration of all employees appointed by the town manager and their respective departments and of all functions for which the town manager is given responsibility, authority or control by the charter, by by-law, by town meeting vote or by the board of selectmen;

(b) to administer, either directly or through persons supervised by the town manager, general and special laws applicable to the town, all by-laws and all regulations established by the board of selectmen;

(c) to coordinate all activities of town departments under the direction of the board of selectmen and the town manager with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town;

(d) to keep the board of selectmen fully informed as to the needs of the town and to recommend to the selectmen for adoption, such measures requiring action by them or by the

town as the town manager deems necessary or expedient;

(e) to ensure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the board of selectmen as may be required;

(f) to administer personnel policies, practices or rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements entered into by the town, except for school department agreements;

(g) to fix the compensation of all town employees appointed by the town manager within the limits established by appropriation and any applicable compensation plan;

(h) to negotiate all contracts with town employees over wages and other terms and conditions of employment, except employees of the school department; provided, however, that the town manager may employ, subject to the approval of the board of selectmen, special counsel to assist in the performance of these duties; and provided further, that all collective bargaining agreements negotiated under this section shall be subject to the approval of the board of selectmen;

(i) to prepare and submit an annual operating budget and capital improvement program as provided in sections 7-1 and 7-3;

(j) to keep the board of selectmen and the finance committee fully informed as to the financial condition of the town and to make recommendations to the board of selectmen and to other elected and appointed officials as the town manager deems necessary or expedient;

(k) to investigate or inquire into the affairs of any town department or office under the supervision of the town manager or the job related conduct of any officer or employee thereof; and

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

Section 5-7. Removal of Town Manager.

The board of selectmen may, by the affirmative vote of 3 members, vote to terminate, remove or suspend the town manager from office in accordance with this section.

Prior to removal or termination, the board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of 3 members. The preliminary resolution may suspend the town manager for a period not to exceed 30 days. A copy of the resolution shall be delivered to the town manager forthwith.

If so requested by the town manager, the board of selectmen shall provide a written statement setting forth the reasons for the proposed removal or termination.

Within 5 days after the receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for such hearing with the board of selectmen. If a hearing is requested, the hearing shall be held at a meeting of the board of selectmen not later than 20 days after the date of request.

If a public hearing has not been requested by the town manager, the board of selectmen may adopt a final resolution of removal, which may be effective immediately, by

the affirmative vote of 3 of its members at any time after 10 days following the date of delivery of a copy of the preliminary resolution to the town manager. If the town manager requests a public hearing, the board of selectmen may, at the conclusion of the hearing or within 5 days of the conclusion of the hearing, adopt a final resolution of removal by an affirmative vote after 3 members.

The board of selectmen may suspend, by an affirmative vote of 3 members, the town manager pending and during any public hearing as requested by the town manager. The town manager shall continue to receive a salary until the final date of removal unless otherwise provided. The action of the board of selectmen in terminating, removing or suspending the town manager shall be final.

Part VI. Administrative Organization

Section 6-1. Organization of Town Departments.

The town manager may, from time to time, prepare and submit to the board of selectmen for its consent plans for the organization or reorganization of town departments, boards, commissions and offices for which the town manager is the appointing authority. In the case of departments, boards, commissions and offices which have responsibilities to independently elected boards or committees, the town manager shall consult with the appropriate independently elected board or committee prior to submitting any plans of organization or reorganization to the board of selectmen. Whenever the town manager prepares such a plan, the board of selectmen shall hold at least 1 public hearing on the plan, after posting of the time, date, location and subject matter of the hearing not less than 7 days prior to the date of the public hearing. A plan prepared by the town manager shall become effective after a majority vote in favor of the plan by the board of selectmen.

Except as otherwise provided in the charter, the town meeting may, by by-law, reorganize, create, consolidate or abolish departments, boards, commissions and offices, in whole or in part may establish new departments, boards and commissions or offices as deemed necessary and may transfer powers, duties and responsibilities of 1 department, board, commission or office to another.

Section 6-2. Human Resource Management System.

Subject to the approval of the board of selectmen, the town manager shall adopt rules and regulations establishing a human resource management system. The human resource management system shall make use of modern concepts of personnel management and shall include, but not be limited to, the following elements: a method of administration; personnel policies indicating the rights, obligations and benefits of employees; a classification plan; a compensation plan; setting probationary periods; a method of recruiting and selecting employees based on merit and adherence to the principles of equal employment opportunity; a centralized recordkeeping system; disciplinary and grievance procedures; a professional development and training program and any other elements that may, from time to time, be deemed necessary. All town employees shall be subject to the rules and regulations adopted under this section except employees of the school department. If there is a conflict between the rules and regulations adopted under this section and an existing collective bargaining or

employment agreement, the collective bargaining or employment agreement shall prevail over the rules and regulations adopted under this section.

Part VII. Financial Provisions

Section 7-1. Budget Process.

(a) Annually, not later than October 1, the town manager, with the approval of the board of selectmen and after consultation with the finance committee, shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year. The budget schedule shall include:

- i. a date for the finance committee to receive the budget which shall be at least 105 days in advance of the annual town meeting; and
- ii. a date by which the board of selectmen shall adopt a budget for capital and a balanced budget for operations which shall be, as far as practicable, 55 days in advance of the annual town meeting.

The town manager shall notify the finance committee of material changes to the budget then under consideration by the finance committee as soon as reasonably possible after the identification of any such change.

(b) Annually, not later than November 1, the finance committee, after consultation with the board of selectmen, the school committee and the town manager, shall issue a policy statement that shall establish the general guidelines for developing the next town budget.

(c) All department heads, boards and committees, including the school committee, that have expense budgets shall submit detailed budgets to the town manager in accordance with the budget schedule established in subsection (a).

(d) Upon receipt of the budgets referenced in subsection (c), the town manager shall prepare a budget in accordance with the schedule established in subsection (a). This budget shall provide a complete financial plan for all town funds and activities and shall be in such form as the town manager, in consultation with the finance committee and board of selectmen, may establish. The town manager's budget shall indicate proposed expenditures for current operations and for capital projects and expenditures during the ensuing fiscal year, detailed by each town department and by specific purposes and projects.

(e) Annually, in accordance with the budget schedule established in subsection (a), the town manager shall also issue a budget report. This budget report shall explain the town manager's budget both in fiscal terms and in terms of what specific projects are contemplated for addition or deletion in the ensuing fiscal year. It shall also include:

- i. a description of the important features of the budget;
- ii. an indication of any major changes from the current fiscal year in financial policy, expenditures and revenues, together with the reasons for such changes;
- iii. a summary of the town's debt position;
- iv. a report showing an estimate of revenues from all significant sources for the ensuing fiscal year, along with the probable amount required to be levied and raised by taxation;

v. a budget, including revenue, expenses and general subsidies for each enterprise fund; and

vi. such other material as the town manager may deem appropriate.

(f) In addition to any notice required by the laws of the commonwealth, the board of selectmen shall cause the report and recommendations of the finance committee to be made available to the voters at least 7 days prior to the annual town meeting.

Section 7-2. Finance Committee Action.

The finance committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for town departments proposed by the town manager. The finance committee may confer with representatives from any town department in connection with its deliberations. The finance committee may request the town manager or any town department to provide additional information. The finance committee shall file a proposed budget and report of its recommendations for action 14 days prior to the scheduled date of the annual town meeting. The budget to be acted upon by town meeting shall be the budget proposed by the town manager with the accompanying recommendations of the finance committee.

Section 7-3. Capital Improvements Program.

The town manager shall submit a capital improvements program to the board of selectmen and finance committee in accordance with the budget schedule established in subsection (a) of section 7-1. Such program shall include a list of any improvements proposed to be undertaken during the next 5 fiscal years and their estimated costs, including: non-routine repairs and major maintenance; renovations or additions to existing facilities; construction of new facilities; land acquisition; equipment and vehicle purchases; and public works projects. The list shall include items relating to all town departments, including the school department, and the enterprise funds and shall include items in excess of a dollar limit to be set annually by the board of selectmen. The town manager shall also submit to the board of selectmen a status report of any capital improvements that were approved as part of the budget process for the current year's budget, but which have not yet been substantially completed. Both the capital improvements program and the status report shall be included in the presentation to the town meeting.

Section 7-4. Approval of Warrants.

Warrants for payments of town funds prepared by the town accountant shall be submitted to the town manager for approval. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town. The town manager shall have the authority to designate in writing and filed with the town clerk and the board of selectmen, an individual who, in the town manager's absence, shall have the authority to approve the warrants which shall be sufficient to authorize payment by the town.

Part VIII. General Provisions

Section 8-1. Charter Revision or Amendment.

The charter may be replaced, revised or amended in accordance with any procedure

made available by article LXXXIX of the amendments to the constitution of the commonwealth and any laws of the commonwealth enacted to implement said article LXXXIX.

Section 8-2. Periodic Charter Review.

Commencing in the year 2010 and at least every 5 years thereafter, a charter review committee shall be appointed by the board of selectmen for the purpose of reviewing the provisions of the charter and to make reports concerning any proposed amendments or revisions which such committee deems necessary and such report shall be presented to the board of selectmen within 9 months after the charter review committee's first meeting. The board of selectmen shall hold a public hearing on the report's recommendations within 60 days after the report is presented to the board.

Section 8-3. Notification of Resignation of Office.

Any person holding an appointive or elected office may resign that office by filing a notice of resignation with the town clerk.

Section 8-4. Notification of Appointed Vacancy to Appointing Authority.

In the event of a vacancy on an appointed board, commission or committee, the town clerk, upon notification of such vacancy shall, within 10 business days of notification of such vacancy, notify in writing the designated appointing authority of the vacancy.

Section 8-5. Failure to Fill Appointed Vacancies - Town Boards, Commissions or Committees.

(a) Should an appointing authority other than the board of selectmen fail to fill a vacancy on a board, commission or committee within 45 days of having been notified in writing by the town clerk of said vacancy, the town clerk shall immediately notify in writing the board of selectmen, who shall then become the appointing authority and shall make such appointment within 30 days thereafter.

(b) Upon the failure of the board of selectmen to appoint within 30 days as set forth in subsection (a), the majority of remaining members of the board, commission or committee shall then become the appointing authority and shall make such appointments within 30 days thereafter.

Section 8-6. Loss of Office, Excessive Absenteeism.

If any person appointed as a member of a board, commission or committee shall fail to attend 4 consecutive meetings, or one-half of all the meetings of such body held over a 12 consecutive month period, the remaining members of the board, commission or committee may, by majority vote, declare the office vacant; provided, however, that not less than 10 business days prior to the date said vote is scheduled to be taken, the body shall deliver in hand or by registered or certified mail, return receipt requested, to the last known address of such person notice of such proposed or pending vote. Upon the occurrence of a vacancy pursuant to this section, the board, commission or committee shall notify the town clerk in writing of said vacancy in accordance with section 8-4.

Section 8-7. Severability.

The provisions of the charter are severable. If any of the provisions of the charter shall be held to be unconstitutional or invalid, the remaining provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held to be invalid, the application of said charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 8-8. Rules of Interpretation.

The following rules shall apply when interpreting the charter:

(a) To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

(b) Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; and words imparting the masculine gender shall include the feminine gender.

(c) All references to the general laws or the laws of the commonwealth shall refer to the General Laws and shall include any amendments or revisions thereto or to the corresponding chapters and sections of any rearrangement of the General Laws enacted subsequent to the adoption of the charter.

(d) In computing time under the charter, if 7 days or less, only business days shall be counted; if more than 7 days, every day shall be counted except that if the last day counted in a computation does not fall on a business day, the last day of computation shall be extended to the next business day thereafter.

Section 8-9. Definitions.

The following words as used in the charter shall have the following meanings unless another meaning is clearly apparent from the manner in which the word is used:

“Business day”, any day on which the town hall is open to the public to conduct business.

“Charter”, the charter and any amendments made through any methods provided under article LXXXIX of the amendments to the constitution.

“Commonwealth”, the commonwealth of Massachusetts.

“Majority vote”, a majority of those present and voting, provided that a quorum is present when a vote is taken, unless a higher number is required by law or the charter.

“Town”, the town of Ashland.

“Town agency”, any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

“Voters”, the registered voters of the town.

Part IX. Miscellaneous Provisions

Section 9-1. Continuation of Existing Laws.

All by-laws, resolutions, rules, regulations and votes of town meeting which are in force at the time the charter is amended and that are not inconsistent with the provisions of the charter, shall continue in force until further amended or repealed.

Section 9-2. Precedence of Charter.

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Where provisions of the charter conflict with provisions of town by-laws, rules, regulations, orders, town meeting votes and acceptances of General Laws, the charter provisions shall govern.

Part X. Transitional Provisions

Section 10-1. Completion of Term.

The incumbent members of the recreation commission, if any, on the effective date of this charter shall continue to serve for the balance of the terms for which they were elected. Upon the expiration of the term of office of a member of the recreation commission, or a sooner vacating of office by a member, that member shall be appointed by the board of selectmen as provided in subsection (c) of section 3-2.

Section 10-2. Time of Taking Effect.

At the first annual town election held more than 120 days following the date on which this charter revision becomes effective, the board of health shall be increased in size from 3 members to 5 members as provided in section 3-5. At that election, 1 new member shall be elected for a 3-year term and 1 new member shall be elected for a 2-year term. Subsequently, all members shall be elected for 3-year terms.

Approved December 18, 2008.

Chapter 406. AN ACT PROVIDING FOR THE REGISTRATION OF ARCHITECTS EMERITUS.

Be it enacted, etc., as follows:

SECTION 1. Section 60A of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of "Architect", the following definition:-

Architect emeritus", an honorary title issued to an architect who has retired from the active practice of architecture in the commonwealth.

SECTION 2. Section 60D of said chapter 112, as so appearing, is hereby amended by inserting after the word "architect", in line 2, the following words:- or architect emeritus.

SECTION 3. Said chapter 112 is hereby further amended by striking out sections 60N to 60O, inclusive, and inserting in place thereof the following 3 sections:-

Section 60N. (a) Upon receipt of a written application, the board may grant a certificate of registration as an architect emeritus to an architect who has retired from the active practice of architecture in the commonwealth. To be eligible for a certificate of registration as an architect emeritus, the applicant shall: (i) submit an application together with a fee prescribed by the board; (ii) have been an architect in good standing in the commonwealth at the time of his retirement; (iii) be at least 65 years of age; (iv) have been a registered architect in the commonwealth for at least 10 years; (v) have relinquished his license to practice architecture; and (vi) satisfy any other requirements as may be prescribed

by the board.

(b) An architect emeritus shall not engage in nor hold himself out as engaging in the practice of architecture. An architect emeritus shall be exempt from the continuing education requirements established in this chapter.

(c) An architect emeritus seeking reinstatement as an architect shall: (i) file an application for reinstatement with the board; (ii) pay an administrative fee which shall be determined by the board; and (iii) comply with education or other requirements established by the board.

Section 60 O. The board shall be charged with the enforcement of sections 60A to 60N, inclusive. If any person refuses to obey any decision of the board, the attorney general shall, upon request of the board, file a petition for the enforcement of such decision in equity in the superior court for Suffolk county or for the county in which the defendant resides or has a place of business. After due hearing, the court shall order the enforcement of such decision or any part thereof, if legally and properly made by the board.

Section 60P. Whoever violates sections 60A to 60N, inclusive, shall be punished by a fine of not more than \$500 or by imprisonment in a jail or house of correction for not more than 3 months, or both.

Approved December 18, 2008.

Chapter 407. AN ACT RELATIVE TO GOLD STAR REGISTRATION PLATES.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "children", in line 425, the following words:- siblings, grandchildren.

SECTION 2. Said section 2 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "persons", in line 429, the following words:- or a distinctive "Gold Star Family" emblem to be affixed to a registration plate for a motorcycle privately owned and principally used by such persons.

SECTION 3. Said section 2 of said chapter 90, as so appearing, is hereby further amended by adding the following 3 paragraphs:-

The registrar shall develop guidelines for and shall implement a license plate retention program for members of the United States military and the United States Department of Defense employees who are deployed to, or present in, a theater of combat operations. Under the program, a resident of the commonwealth who is serving in the United States military, the United States military reserves, the Massachusetts National Guard or working as a civilian employee of the United States Department of Defense or any of its agencies, and is deployed to, or present in, a theater of combat operations, may retain 1 or

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more of his motor vehicle license plates, at no charge, for the duration of his deployment. The registrar shall develop and make available appropriate forms which may be used by a qualifying individual to cancel his automobile insurance and suspend his vehicle's registration, taking effect prior to deployment and upon the sale or storage of his motor vehicle. Upon returning from his deployment, the vehicle's owner shall furnish the registrar with proof that his automobile insurance policy has been reinstated, and the registrar may then allow him to register and affix his plates to a new vehicle or to re-register the plates and affix them to an existing vehicle held in storage.

Nothing in this section shall prevent the surviving spouse of a veteran, whose veteran spouse was not in possession of a "VETERAN" registration plate at the time of death, from applying for and receiving a "VETERAN" registration plate if the surviving spouse has not remarried.

Nothing in this section shall prevent the surviving spouse of a veteran, whose veteran spouse's "VETERAN" registration plate was returned to the registry at the time of death, from applying for and receiving a "VETERAN" registration plate if the surviving spouse has not remarried.

Approved December 18, 2008.

Chapter 408. AN ACT EXEMPTING CERTAIN POSITIONS IN THE CITY OF NORTHAMPTON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The following positions in the city of Northampton shall be exempt from chapter 31 of the General Laws: all clerical positions within the American Federation of State, County and Municipal Employees bargaining unit in accordance with the election conducted by the division of labor relations in the city of Northampton; all professional and department head positions contained within the Northampton Administrators and Professional Employees bargaining unit; all professional positions within the Northampton public school district; and all nonprofessional positions within the Northampton public school district.

SECTION 2. (a) The director of human resources of the city of Northampton shall be the appointing authority for all city clerical positions included within the American Federation of State, County and Municipal Employees bargaining unit. The mayor of the city of Northampton shall be the appointing authority for all professional and department head positions contained within the administrative bargaining unit represented by the Northampton Administrators and Professional Employees Association.

(b) Pursuant to the Memoranda of Understanding between the city of Northampton and the American Federation of State, County and Municipal Employees, all employees certi-

fied as part of the American Federation of State, County and Municipal Employees bargaining unit in accordance with the election conducted by the division of labor relations and as amended by mutual contractual agreement shall be subject to this act and the code of ordinances of the city of Northampton.

(c) Pursuant to the Memorandum of Understanding between the city of Northampton and the Northampton Administrators and Professional Employees Association, all employees comprising the administrative and professional employee class, exclusive of elected officials shall be subject to this act and the code of ordinances of the city of Northampton.

SECTION 3. The superintendent of the Northampton public school district shall be the appointing authority for all professional and nonprofessional positions removed from civil service.

SECTION 4. Notwithstanding any general or special law, chapter 250 of the acts of 1883 or any ordinance of the city of Northampton to the contrary, appointments, promotions, disciplinary actions and terminations of employees in the American Federation of State, County and Municipal Employees bargaining unit in the city of Northampton shall be conducted in accordance with the collective bargaining agreement and the personnel policies of the city of Northampton.

SECTION 5. Notwithstanding any general or special law, chapter 250 of the acts of 1883 or any ordinance of the city of Northampton to the contrary, appointments, promotions, disciplinary actions and terminations of employees contained in the Northampton Administrators and Professional Employees Association bargaining unit in the city of Northampton shall be conducted in accordance with the collective bargaining agreement and the personnel policies of the city of Northampton.

SECTION 6. Notwithstanding any general or special law, chapter 250 of the acts of 1883 or any ordinance of the city of Northampton to the contrary, appointments, promotions, disciplinary actions and terminations of professional and nonprofessional school district employees shall be conducted in accordance with the collective bargaining agreement and the personnel policies of the school committee of Northampton.

SECTION 7. Nothing in this act shall impair the civil service status of an incumbent holding any position described in sections 1 to 6, inclusive, on the effective date of this act.

Approved December 18, 2008.

Chapter 409. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF WORCESTER AS THE STATE TROOPER PAUL F. BARRY MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

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The bridge on Ararat street spanning interstate highway route 190 in the city of Worcester, and the ramps appurtenant thereto, shall be designated and known as the State Trooper Paul F. Barry memorial bridge. The department of highways shall erect and maintain suitable markers bearing this designation in compliance with the standards of the department.

Approved December 18, 2008.

Chapter 410. AN ACT DESIGNATING A CERTAIN PORTION OF LAND IN THE TOWN OF BARRE AS TRIFILO SQUARE.

Be it enacted, etc., as follows:

A certain portion of land at the intersection of state highway routes 122 and 32 in the town of Barre shall be designated and known as Trifilo Square, in recognition of the distinguished military service of Diamond R. Trifilo, Tindaro S. Trifilo, Raymond J. Trifilo, Matthew Trifilo and Vito E. Trifilo in World War II, and in recognition of the distinguished military service of Arnold M. Trifilo and Cleveland J. Trifilo in the Korean War. The department of highways shall erect suitable markers bearing that designation in compliance with the standards of the department.

Approved December 18, 2008.

Chapter 411. AN ACT DESIGNATING CERTAIN BRIDGES IN THE TOWN OF MILLVILLE AS THE JOHN DEAN BRIDGES.

Be it enacted, etc., as follows:

The bridges numbered M-24-001, M-24-002, M-24-006 and M-24-007 spanning the Blackstone River in the town of Millville shall be designated and known as the John Dean Bridges, in honor of Millville's longtime highway surveyor and dedicated public servant. The department of highways shall erect suitable markers bearing this designation in compliance with the standards of the department and any existing historic preservation guidelines and laws.

Approved December 18, 2008.

Chapter 412. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 140 IN THE TOWN OF UPTON AS THE DONALD R. "DOUG" KENISTON ROADWAY.

Be it enacted, etc., as follows:

The portion of state highway route 140 from the intersection of Main street at Fiske avenue in the town of Upton, southward through Upton center and continuing onto Milford street to the intersection of Brooks and Elm streets shall be designated and known as the Donald R. "Doug" Keniston Roadway, in honor of Donald R. Keniston of the town of Upton who served honorably and faithfully in the Army Air Forces in World War II, and has been serving at the George L. Wood Veterans of Foreign Wars Post #5594 since its chartering in February 1946 to the present day. The department of highways shall erect suitable markers bearing said designation in compliance with the standards of the department.

Approved December 18, 2008.

Chapter 413. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BRENDA DE LOS SANTOS, AN EMPLOYEE OF THE DEPARTMENT OF TRANSITIONAL ASSISTANCE.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of transitional assistance shall establish a sick leave bank for Brenda De Los Santos, 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 Brenda De Los Santos. Whenever Brenda De Los Santos terminates employment with the department or requests to dissolve the sick leave bank, the remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall 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 December 22, 2008.

Chapter 414. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARYAN LABAIRE, AN EMPLOYEE OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

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 children and families, 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 children and families shall establish a sick leave bank for Maryan Labaire, 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 Maryan Labaire. Whenever Maryan Labaire 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 December 22, 2008.

Chapter 415. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TRACY KELLY, 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 Tracy Kelly, an employee of the Cambridge division of the district court department of the trial court. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Tracy Kelly. Whenever Tracy Kelly 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 December 22, 2008.

Chapter 416. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ALAN ANTONUCCI, AN EMPLOYEE OF THE MIDDLESEX SHERIFF'S OFFICE.

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 Middlesex Sheriff's Office, 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 Middlesex sheriff's office shall establish a sick leave bank for Alan Antonucci, an employee of the Middlesex sheriff's office. Any employee of said sheriff's office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Alan Antonucci. Whenever Alan Antonucci terminates employment with said sheriff's office or requests to dissolve the sick leave bank, the remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the Middlesex sheriff's office.

Approved December 22, 2008.

Chapter 417. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JUDY M. ROMANO, 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 Judy M. Romano, 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 Judy M. Romano. Whenever Judy M. Romano 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 shall 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 December 22, 2008

**Chapter 418. AN ACT RELATIVE TO OPERATING A MOTOR VEHICLE WHEN
APPROACHING STATIONARY EMERGENCY VEHICLES.**

Be it enacted, etc., as follows:

Chapter 89 of the General Laws is hereby amended by inserting after section 7B the following section:-

Section 7C. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Emergency response vehicle”, a fire apparatus, police vehicle, ambulance, or disaster vehicle.

“Highway maintenance vehicle”, a vehicle used for the maintenance of highways and roadways: (1) that is owned or operated by the executive office of transportation and public works, a county, a municipality or any political subdivision thereof; or (2) that is owned or operated by a person under contract with the executive office of transportation and public works, a county, a municipality or any political subdivision thereof.

“Operator”, any person who operates a motor vehicle as defined in section 1 of chapter 90.

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

“Recovery vehicle”, a vehicle that is specifically designed to assist a disabled vehicle or to tow a disabled vehicle.

(b) Upon approaching a stationary emergency vehicle, highway maintenance vehicle or recovery vehicle with flashing lights an operator shall:

(1) proceed with due caution, reduce the speed of the vehicle to that of a reasonable and safe speed for road conditions, and, if practicable and on a highway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the operator’s vehicle, yield the right-of-way by making a lane change into a lane not adjacent to that of the emergency response vehicle, highway maintenance vehicle or recovery vehicle; or

(2) if changing lanes is impracticable, proceed with due caution and reduce the speed of the vehicle to that of a reasonable and safe speed for road conditions.

(c) Violation of this section shall be punished by a fine of not more than \$100.

Approved December 22, 2008.

Chapter 419. AN ACT AUTHORIZING THE DEVELOPMENT OF A REGIONAL EDUCATION, TRAINING AND SKILLS CENTER IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, subject to sections 40E to 40G, inclusive, and section 40J of chapter 7 of the General Laws, may sell and convey by deed a certain parcel of land located in the city of Taunton to the Taunton Development Corporation for the development of a regional education, training and skills alliance center, for the development of a life sciences center pursuant to item 7002-0015 of section 2B of chapter 130 of the acts of 2008 or for municipal industrial development purposes, in accordance with and subject to all terms, conditions, covenants, easements, reservations and restrictions established in this act or otherwise considered appropriate by the commissioner. The parcel is described in section 7.

The purchase price payable by the Taunton Development Corporation for the parcel shall be the full and fair market value of the property less any environmental clean up costs and demolition costs of existing uninhabitable buildings located upon the parcel as of the time of conveyance to the Taunton Development Corporation, as determined by the commissioner of capital asset management and maintenance based on an independent appraisal. The purchase price payable by the Taunton Development Corporation for the parcel shall not be less than \$1. The inspector general shall review and approve the appraisal and the review shall include a review of the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration in accordance with section 5. The Taunton Development Corporation shall pay the purchase price in full at the time of the conveyance and shall pay all costs associated with the transaction, including, without limitation the costs for the survey, the appraisals and the preparation of the deed.

SECTION 2. If the commissioner of capital asset management and maintenance determines to sell the property described in section 7 to the Taunton Development Corporation, the commissioner shall not be required to comply with section 40H of chapter 7 of the General Laws, but the purchase price and other terms and conditions of the sale shall comply with section 1 and all other requirements of this act applicable thereto.

SECTION 3. Before the sale of property described in section 1, the commissioner of capital asset management and maintenance shall work, in consultation with the commissioner of mental retardation, to determine what terms, conditions, covenants, easements, reservations or restrictions shall be prescribed as part of any disposition of the property. The provisions shall include, but not be limited to: proper control of the center's traffic and noise and environmental impact on the remaining residential group homes of the department of mental retardation; reservation of easements on the property for water, power,

sewer and other utilities and access for the residential group homes; implementation of proper protections for the residential group homes; present water, sewer and other utility systems; and the creation of an appropriate physical barrier between the Taunton industrial park and the residential group homes to ensure the privacy and safety of employees and residents thereof. In addition, the terms of the disposition shall include the requirement that the Taunton Development Corporation shall enter into a lease with the commissioner of capital asset management and maintenance, acting in consultation with the state 911 department, authorizing the state 911 department to continue to occupy the structures described as: (a) #32, Hillside Dorm, Cottage D; (b) #33, Westwood Dorm, Cottage C; and (c) #34, Meadowview Dorm Cottage B and the immediate surrounding land. The term of the lease, including any extensions, shall not exceed 5 years, and the rent shall be \$1 per year. The lease shall provide that the state 911 department may terminate the lease at any time with 1 year's notice. The lease shall further provide that the Taunton Development Corporation may, in its sole discretion with 1 year's notice to the state 911 department, take possession of these structures and land and permit the state 911 department the option to relocate to equivalent structures and land within the parcel described in section 7 of this act, at a rent of \$1 per year and for the same term and on the same terms and conditions; provided however, that if the Taunton Development Corporation elects to exercise its right to terminate the lease prior to expiration, it shall pay all costs associated with the state 911 department's relocation.

SECTION 4. The purchase price paid pursuant to section 1 shall be deposited in the General Fund of the commonwealth.

SECTION 5. The commissioner of capital asset management and maintenance shall, 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereto, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. The inspector general shall issue his review and comment within 15 days of receipt of an agreement or amendment. The commissioner shall submit the agreement and subsequent amendments thereto, the reports, and the comments of the inspector general, if any, to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration at least 15 days before execution.

SECTION 6. After a transfer of the property described in section 7 to the Taunton Development Corporation, its use shall be subject to covenants, easements, reservations and restrictions established in this act.

SECTION 7. The parcel referred to in section 1 shall be only so much of the remaining Dever State School core campus property as is not designated to be retained for use by the commissioner of mental retardation by documents on file with the department, which core campus is described in a Plan of Land dated July 18, 2000 prepared for the Taunton Development Corporation, project No. 10052.513, on file in the clerk's office of the city of Taunton as revised or amended and in effect at the time of the conveyance authorized in section 1. The commissioner of capital asset management and maintenance shall determine, subject to prior determination by the commissioner of mental retardation,

the exact boundaries of the parcel after completion of a survey prepared by, and at the expense of the Taunton Development Corporation.

SECTION 8. If the property described in section 7 is not used for a regional education, training and skills alliance center and for municipal industrial purposes within 5 years of the effective date of this act, if the use for those purposes is abandoned at any time for a continuous period of at least 6 months, or if any other use is undertaken on the property at any time, the property shall revert to the commonwealth upon notice by the commissioner of capital asset management and maintenance.

SECTION 9. (a) There shall be established an education and training collaborative to develop, in conjunction with the Taunton Development Corporation, the regional education, training and skills alliance center. The collaborative shall be managed by a board of directors which shall consist of 13 members as follows: the presidents of Bridgewater State College, the Massachusetts Maritime Academy, Massasoit Community College, Cape Cod Community College, Bristol Community College, Wheaton College, the Massachusetts Federation of Teachers, the Massachusetts Teachers Association, the Massachusetts AFL-CIO, the Taunton Area Chamber of Commerce, or their respective designees; the chancellor of the University of Massachusetts at Dartmouth; the commissioner of mental retardation, or his designee; and the director of the Southeastern Regional Planning and Economic Development District, or his designee. The board may, by majority vote, increase its membership to include the presidents of other institutions of higher education housing their main campuses in Southeastern Massachusetts, or their designees. Members of the board of directors may vote according to the terms of the education collaborative agreement but the land and property management of the center shall be the responsibility of the Taunton Development Corporation.

(b) The written agreement which shall form the basis of the education collaborative shall set forth the purposes of the program or service, the financial terms and conditions of membership of the education collaborative, the powers and duties of the board of directors to operate and manage the education collaborative and any other matter not incompatible with law which the members deem advisable. The agreement shall be subject to the approval of the members.

(c) The board of directors of the education collaborative may establish and manage trust funds which shall be designated by an appropriate name. All monies contributed by the members and all grants or gifts from the federal government, state government, charitable foundations, private corporations or any other source shall be paid to the board of directors of the education collaborative and deposited in the funds.

(d) The board of directors of the education collaborative shall appoint a treasurer. The treasurer may, subject to the direction of the board of directors of the education collaborative, receive and disburse all monies of the trust funds without further appropriation. The treasurer shall give bond annually for the faithful performance of his duties in a form approved by the department of revenue and in a sum, not less than the amount established by the department, as shall be fixed by the board of directors. The board

of directors may, in its discretion, compensate the treasurer for his services. No member of the board of directors shall be eligible to serve as treasurer of the collaborative.

(e) The treasurer of the collaborative may make appropriate investments of the monies of the trust funds consistent with section 54 of chapter 44 of the General Laws.

(f) The board of directors of the educational collaborative may borrow money, enter into long-term or short-term loan agreements or mortgages and apply for state, federal or corporate grants or contracts to obtain funds necessary to carry out the purposes for which the collaborative is established; but, the board of directors shall have first determined that the borrowing, loan or mortgage is cost-effective and in the best interests of the collaborative and its members. The borrowing, loans or mortgages shall be consistent with the written agreement and articles of incorporation, if any, of the educational collaborative and shall be consistent with standard lending practices.

(g) The board of directors of the education collaborative may employ an executive officer who shall serve under the general direction of the board and shall be responsible for the care and supervision of the education collaborative.

(h) The board of directors of the education collaborative shall be deemed to be a public employer and may employ personnel, including teachers, to carry out the purposes and functions of the education collaborative. Employees of the collaborative shall be considered employees of the commonwealth for purposes of chapter 32 of the General Laws. A person shall not be eligible for employment by the board of directors as an instructor of children with severe special needs, teacher of children with special needs, teacher, guidance counselor or school psychologist unless the person has been granted a certificate by the board of education under section 38G of chapter 71 of the General Laws or section 6 of chapter 71A of the General Laws, or an approval under the regulations promulgated by the board of education under chapter 71B or chapter 74 of the General Laws with respect to the type of position for which he seeks employment; but, nothing herein shall be construed to prevent the board of directors of the education collaborative from prescribing additional qualifications. The board of directors may, upon its request, be exempted by the board of education for any 1 school year from the requirements of this section to employ certified or approved personnel when compliance therewith would, in the opinion of the board, constitute a great hardship.

(i) The education collaborative shall be considered a public entity and may sue and be sued to the same extent as a city, town or regional school district. The education collaborative, acting through its board of directors, may enter into contracts for the purchase of supplies, materials and services, and for the purchase or leasing of land, buildings and equipment as considered necessary by the board of directors.

SECTION 10. The education and training collaborative shall file an annual report with the house and senate committees on ways and means, the joint committee on bonding, capital expenditures and state assets, the executive office for administration and finance and the executive office of health and human services by July 1 of each year concerning the progress of the Taunton Development Corporation in development of the property, relations

with residents and employees of the remaining residential group homes and programs of the regional education, training and skills alliance center.

SECTION 11. (a) The commissioner of capital asset management and maintenance shall transfer care and custody of a certain parcel of land of the commonwealth to the department of mental retardation which is a portion of a parcel previously transferred to the department of environmental management, now known as the department of conservation and recreation, under section 11 of chapter 395 of the acts of 2002. The parcel to be transferred contains department of mental retardation house number 42, a program house of the former Dever state school center, and certain immediate surrounding land that shall be used to create an appropriate buffer to the home from the surrounding department of conservation and recreation land. The exact boundaries of the parcel to be transferred shall be determined by the division of capital asset management and maintenance in consultation with the department of conservation and recreation and the department of mental retardation. Transfer of the parcel shall be without consideration and shall not be subject to chapter 7 of the General Laws. The conditions set forth in section 11 of chapter 395 of the acts of 2002 shall remain in effect, as applicable.

(b) If, at any time, the parcel to be transferred under this section ceases to be used as a department of mental retardation program house, care and custody of the parcel shall revert to the department of conservation and recreation.

SECTION 12. (a) The commissioner of capital asset management and maintenance, acting in consultation with the commissioner of the department of mental retardation, may, notwithstanding section 40E to section 40I, inclusive, of chapter 7 of the General Laws and any other general or special law or rule or regulation to the contrary, convey by deed to the Taunton housing authority a certain parcel of property of commonwealth land located in the city of Taunton containing approximately 9.5± acres and shown on a plan entitled "Relocated Client Residences, Taunton Housing Authority, Paul A. Dever State School, Taunton, Massachusetts, Preliminary Site Layout" prepared by Field Engineering Co., Inc., dated October 6, 2005, on file with the division of capital asset management and maintenance. The exact boundaries and acreage of said parcel shall be determined by the commissioner of the division of capital asset management and maintenance based upon a survey.

(b) The use of the parcel shall be restricted to the development of affordable housing for persons eligible for services of the department of mental retardation. The deed or other instrument conveying the parcel to the Taunton housing authority and any subsequent deed or deeds of all or a portion of the parcel shall, without limitation, provide that if the parcel ceases to be used for that purpose, title to the parcel or to the portions of the parcel that are used in violation shall, at the election of the commonwealth, revert to the commonwealth.

(c) The consideration for the conveyance of the parcel shall be the full and fair market value of the property, taking into consideration the intended use of the land for affordable housing for persons eligible for services of the department of mental retardation as determined by the commissioner of capital asset management and maintenance and subject

to other conditions and restrictions as the commissioner of the division of capital asset management and maintenance, in consultation with the commissioner of the department of mental retardation, shall establish, as determined by the commissioner of the division.

(d) The Taunton Development Corporation shall pay for all expenses associated with any land survey, appraisal, title examinations, recording fees and any other expenses relating to the conveyance of the parcel to the Taunton housing authority.

(e) The parcel shall be conveyed by release deed in its existing condition without warranties or representations by the commonwealth.

Approved December 22, 2008.

Chapter 420. AN ACT ESTABLISHING THE GERIATRIC AUTHORITY OF MALDEN.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established the Geriatric Authority in the city of Malden, a body politic to be known as the authority, which shall lease, own, maintain and operate the McFadden Memorial Manor Nursing Home and other facilities which may be established by the authority in accordance with the powers conferred by this act. The exercise by the authority of the powers conferred by this act shall be deemed and held to be the performance of essential governmental functions.

SECTION 2. The authority shall consist of 7 members, one of whom shall be the director of public health in the city of Malden, one of whom shall be the director of human services in the city of Malden and 5 members who shall be appointed by the city council and shall serve for terms of 3 years. The initial authority shall be appointed as follows: 2 members shall serve for a term of 1 year; 2 members shall serve for a term of 2 years; and 1 member shall serve for a term of 3 years. Members may be removed from office by vote of the city council for cause. The authority shall hold at least 10 meetings in every calendar year and a majority of the members shall constitute a quorum for each meeting.

SECTION 3. The authority shall have the general management and control of the McFadden Memorial Manor Nursing Home and any branches thereof which have been or which may hereafter be established and of the expenditure of the money appropriated for the operation thereof. The authority may appoint an administrator with such assistant and subordinate officers and other employees as it may deem necessary or expedient. The authority shall have jurisdiction of its affairs and of the property under its control. The authority shall establish and enforce all necessary rules and regulations for the administration, admission, government and removal of residents in the McFadden Memorial Manor Nursing Home and any other such facility which it may control. The authority shall reimburse the city annually the amount of principal and interest paid by the city on bonds and notes issued by the city pursuant to section 10 after the effective date of this act.

SECTION 4. The members of the authority shall elect a chairman, a vice-chairman, secretary and treasurer who shall serve for a term of 1 year or until their successors are elected. The election shall be held annually during the month of July.

SECTION 5. The following standing committees shall be appointed by the chairman with the approval of the members: budget and finance; medical; personnel; social; and volunteer service. The chairman shall be a member ex-officio of all committees.

SECTION 6. The chairman shall preside at all meetings of the authority. He shall appoint the chairman of all standing and special committees and shall maintain general supervision over all the affairs of the authority. He shall, together with the treasurer, execute and deliver for, on behalf of and in the name of the authority, all instruments which may be required for the proper prosecution of its business. In the absence or inability of the chairman to perform his duties, his duties shall be performed by the vice-chairman. The secretary shall attend all meetings of the authority.

The treasurer shall have custody of the funds of the authority and shall keep and maintain complete records of all financial transactions and shall maintain a complete record of all accounts. The treasurer shall cause books to be kept containing a detailed account of all funds received and expended and shall make quarterly reports to the city controller of funds received and expended.

SECTION 7. The authority shall have the following powers and duties:

(a) To adopt a seal provided that the engraved or printed facsimile of such seal appearing on a bond, note or other instrument of the authority shall have the same effect as though such seal were impressed thereon.

(b) To sue and be sued, but only to the same extent and upon the same conditions as a non-profit organized pursuant to the General Laws.

(c) With its funds or with the appropriation of necessary funds by the city of Malden, to acquire within the city, by purchase, gift or eminent domain under chapter 79, chapter 79A or chapter 80A of the General Laws, or by lease or otherwise, any land or buildings or interests in land, air or water for the purposes of the authority and to plan, design, acquire, construct, reconstruct, improve, extend, equip, repair, maintain and operate geriatric facilities, which may include, but not be limited to, hospital, nursing home and sheltered living facilities, as such terms are defined in section 1 of chapter 121B of the General Laws and community facilities designed to meet the needs of the elderly, to acquire personal property necessary in connection with the foregoing and to lease geriatric facilities, either as lessee or lessor; provided, however, that lease agreements shall be subject to approval by vote of the city council of the city; and provided, further, that any major construction, reconstruction or extension, totaling \$100,000 or more, not requiring the issuance of bonds or notes, shall be subject to approval by two-thirds vote of the city council; and provided, further, that any acquisition of real property shall be subject to approval of two-thirds vote of the city council.

(d) To dispose of any real or personal property of the authority which is no longer needed for its purposes by sale or otherwise provided that no real property shall be disposed

of by the authority without approval of two-thirds vote of the city council.

(e) To maintain an office at such place or places within the city as it may determine necessary.

(f) To receive and apply any grants or gifts for its purposes.

(g) To make and enforce such rules and regulations for accomplishing the purposes of this act, as may, in the judgment of the authority, be necessary or desirable for the efficient operation of a geriatric facility or geriatric system within its jurisdiction, control and supervision.

(h) To issue temporary notes in the name and upon the full faith and credit of the authority in anticipation of revenue to be received from any source in an amount not to exceed \$200,000 outstanding at any time and such greater amount as may be approved, from time to time, by a two-thirds vote of the city council; provided, however, that the aggregate amount of notes outstanding at any time under this section shall not exceed one-half of the authority's ordinary operating revenues of the previous fiscal year. The proceeds of such notes shall be used to pay current operating expenses only, but no purchaser of such notes shall be in any way responsible for the proper application of such proceeds. Each such loan shall be payable not later than 5 years from its date. Temporary notes issued under this clause for shorter periods than permitted hereby may be refunded by the issuance of other temporary notes maturing within the required period. Temporary notes may be issued pursuant to this clause by the chairman and the treasurer whenever they are so authorized by the authority, provided that the chairman and treasurer shall determine the form, interest rate and other details of such notes and shall sign such notes.

(i) To employ and fix the compensation of such consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other employees and agents as it may deem necessary or incidental to the performance of its duties and the execution of its powers under this act.

(j) When authorized by a vote of the city council, in its own name or in the name of the city, to enter into agreement with the federal government relative to the acceptance of grants or borrowing of funds for any project which the authority is authorized to undertake and containing such covenants, terms and conditions as the authority, with like approval, may deem desirable and pursuant to such agreement, to borrow funds from the federal government or from a qualified lender under a federally-funded, guaranteed or insured lending program, upon the security of its bonds, notes or other evidences of indebtedness and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenues.

(k) To call upon the various departments, authorities, boards and commissions of the city for the purposes of assistance in making investigations and in effecting design, construction and operation of geriatric facilities provided that the authority shall arrange for payment for such services and expenses of the agencies in connection therewith.

(l) To organize and control the activities of such nonprofit corporations as may be necessary and appropriate to receive loans and grants from the federal or state government

or from a nonprofit agency for the purposes of this act, provided that the trustees of such nonprofit corporations shall be the same people who hold office as members of the authority. The organization of any such nonprofit corporation shall require approval by two-thirds vote of the city council and any action of such nonprofit corporation, which if taken by the authority, would require approval under this act shall require like approval.

(m) To do all acts necessary or convenient to carry out the provisions of this act.

SECTION 8. Any bonds, notes or certificates of indebtedness of the authority, in the absence of an express recital to the contrary shall constitute negotiable instruments for all purposes. The instruments may be payable from the income of the authority or constitute a general obligation thereof, may be sold at not less than par at public or private sale, may mature at such time, may be secured in such manner, may provide for such rights and remedies upon their default, may contain such other covenants, terms and conditions not inconsistent with law, may be executed by such officers and may be issued with or without the corporate seal, all as may be authorized either by vote of the authority or by the officers to whom the power to determine any or all the matters has been expressly delegated by vote of the authority. The engraved or printed facsimile of the seal of the authority on its bonds, notes or certificates of indebtedness shall have the same validity and effect as if such seal were impressed thereon. Whenever a bond, note or certificate of indebtedness is required to bear the signatures; provided, that each officer whose facsimile signature appears on such instrument has, by a writing bearing his written signature and filed in the office of the secretary of the authority, authorized the officer whose written signature appears on such instrument to cause such facsimile to be placed thereon. The facsimile signature of any officer so engraved, printed or stamped thereon shall have the same validity and effect as his written signature. In case any officer whose signature or a facsimile thereof appears on any notes, bonds or coupons shall cease to be such officer before the delivery of such notes or bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he remained in office until such delivery.

The bonds, notes and certificates of indebtedness of the authority issued under this act including temporary notes issued under clause (i) of section 8, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the commonwealth. The bonds of the authority issued under this act shall be legal investments for the deposits and the income derived therefrom of savings banks, for the trust funds of trust companies, for the capital and other funds of insurance companies and for funds over which the commonwealth has exclusive control.

SECTION 9. The employment of an employee of the authority shall be included in the term "employment" as used in sections 1 to 11, inclusive, of chapter 151A of the General Laws and the authority is authorized to become liable for payments instead of contributions and otherwise to comply with the provisions of section 14 of said chapter 151A. Employees of the authority are hereby eligible to participate in the contributory retirement system under chapter 32 of the General Laws. Notwithstanding any general or special law or rule or regulation to the contrary, the authority shall be required to pay to the Malden retirement sys-

tem quarterly in of each fiscal year, an amount of money equal to the quarterly total amount paid by the retirement system to retired employees of the McFadden Memorial Manor Nursing Home. Such payment shall be in lieu of any other payment, charge or assessment required of the authority pursuant to chapter 32 of the General Laws. As required by law, employee contributions shall be withheld from the wages of eligible employees and paid to the Malden Retirement system.

SECTION 10. For the purposes of this act, the city may issue bonds or notes to an amount not exceeding, in the aggregate, \$10,000,000. Such bonds or notes shall bear on their face the words McFadden Memorial Manor Nursing Home Loan, Act of 2008. Each authorized issue shall constitute a separate loan, and such loans shall be paid in not more than 20 years from their dates of issuance. The limitation on indebtedness in section 10 of chapter 44 of the General Laws shall apply to any indebtedness incurred pursuant to this act. The proceeds of such bonds or notes shall be paid to the treasurer of the authority to be used for the purposes of this act, upon such terms and conditions as the city and the authority shall mutually agree.

SECTION 11. The city shall not assess any tax upon the geriatric facility, geriatric system or part thereof or upon the income therefrom. Nothing contained in this act shall exempt any lessee or person in possession of a geriatric facility or part thereof, or the property leased or possessed from taxes or assessments payable under the General Laws.

SECTION 12. This act shall be construed in all respects to meet constitutional requirements. If any provision is held invalid in any circumstances, such invalidity shall not affect any other provision or circumstance. In carrying out this act, all things shall be done which are necessary to meet constitutional requirements whether or not such things are otherwise required by statute.

SECTION 13. For the purpose of chapter 30B of the General Laws, the authority shall not be a municipal agency. For purposes of chapter 268A of the General Laws, the authority shall be a municipal agency and without limiting the power of the city council, to classify additional special municipal employees pursuant to said chapter 268A, each member of the authority and any person who performs professional services for the authority in a part-time, intermittent or consultant basis shall be considered a special municipal employee.

SECTION 14. Upon the passage of this act and the date transfer of licenses and possession of the premises from the city to the authority, the authority shall be absolved and released from any contractual obligations and claims as there may be against the McFadden Memorial Manor Nursing Home.

SECTION 15. This act shall take effect upon its passage.

Approved December 23, 2008.

Chapter 421. AN ACT RELATIVE TO THE RETIREMENT AND HEALTH BENEFITS OF CERTAIN ELECTED OFFICIALS OF THE TOWN OF HULL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapters 32 and 32B of the General Laws or any other general or special law to the contrary, an elected official of the town of Hull who receives regular annual compensation from the town that is less than \$10,000, adjusted annually according to changes in the United States Consumer Price Index as reported by the Bureau of Labor Statistics as of June 30, shall not be eligible for the benefits provided under said chapters 32 and 32B.

SECTION 2. Section 1 shall not impair the retirement or health benefits of a person serving as an elected official in the town of Hull as of January 1, 2008; provided, however, that if the elected official fails of nomination or re-election and is subsequently elected following such failure, the elected official shall be subject to this act.

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

Approved December 23, 2008.

Chapter 422. AN ACT RELATIVE TO HARBORMASTER TRAINING CERTIFICATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 116C the following section:-

Section 116D. There shall be a harbormaster training council within the executive office of public safety. The council shall consist of 11 members, 1 of whom shall be a member of the state police marine unit with knowledge of marine law enforcement and operations who shall be appointed by the colonel of state police; 1 of whom shall be a representative of the environmental police with knowledge of marine law enforcement and operations who shall be appointed by the secretary of energy and environmental affairs; 1 of whom shall be an employee of the executive office of public safety who shall be appointed by the secretary of public safety to serve ex officio; 1 of whom shall be an employee of United States First Coast Guard District to be appointed by the district commander who shall serve ex officio; and 7 of whom shall be harbormasters appointed by the governor, 2 of whom shall be from the coastal communities north of Boston, 2 of whom shall be from coastal communities south of Boston, 2 of whom shall be from coastal communities from Cape Cod and the Islands and 1 of whom shall be from the city of Boston. Members appointed by the governor shall serve for 2-year terms and their successors shall be appointed in like manner. Members of the council shall serve without compensation.

The council shall set policies and standards for training harbormasters and assistant harbormasters in accordance with applicable laws and regulations including sections 19 to 21, inclusive, of chapter 102.

The expenses of the council shall be funded solely from the Harbormaster Training Trust Fund established in section 35II of chapter 10.

SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after section 35JJ, inserted by section 13 of chapter 223 of the acts of 2008, the following section:-

Section 35KK. (a) There shall be established a Harbormaster Training Trust Fund, into which shall be deposited monies received by the commonwealth from all sources pertaining to harbormaster training from training fees paid by municipalities, training fees paid by individuals, sums received by the commonwealth from the federal government as grants and appropriations, state grants and appropriations and private contributions and gifts. The fund shall only be used as follows:

(1) for payment of general administrative expenses of the harbormaster training council established in section 116D of chapter 6, but such expenses shall not exceed 25 per cent of the total expenditures in a fiscal year which are spent on administrative expenditures; provided, however, that expenditures may be made for the compensation of a staff person as those services are deemed necessary by the council; and

(2) for the procurement and funding of harbormaster training by the council or its designees.

(b) The state treasurer shall receive and deposit all revenues transmitted to him under subsection (a) in a manner that will ensure the highest rate of interest available consistent with the safety of the Harbormaster Training Trust Fund and all interest accrued shall be deposited into the fund. Any unexpended balance in the fund at the end of a fiscal year shall not revert and shall be available for expenditures in the subsequent fiscal year. No expenditure from the fund shall cause the fund to be in a deficiency at the close of a fiscal year.

SECTION 3. Chapter 102 of the General Laws is hereby amended by inserting after section 19 the following section:-

Section 19A. (a) A person who receives an appointment as a harbormaster or as an assistant harbormaster on a full-time or permanent part-time basis in a city or town where a harbor is located shall satisfactorily complete an initial prescribed course of study for harbormasters which shall be approved by the harbormaster training council established pursuant to section 116D of chapter 6 and offered at a time to be determined by said harbormaster training council. A person so appointed shall attend, at such further intervals and for such periods as determined by the harbormaster training council, a prescribed course of study for harbormasters which shall be approved by the council, for in-service training. Upon petition to the council by the appointing authority, a person appointed as a harbormaster or as an assistant harbormaster, on a full-time or permanent part-time basis, in a city or town where a harbor is located, may be exempted by the council from the requirements of this section before exercising harbormaster powers while that person is awaiting training.

(b) Failure of a person to comply with this section within 2 years of being appointed as a harbormaster or as an assistant harbormaster on a full-time or permanent part-time basis in a city or town where a harbor is located shall result in removal by the appointing authority if the harbormaster or assistant harbormaster is not awaiting funding and scheduling of a harbormaster academy. Failure of an appointed person to satisfactorily complete the in-service prescribed course of study in a timely manner may result in removal by the appointing authority. This section shall not apply to seasonal employees appointed by the harbormaster from time to time.

SECTION 4. Notwithstanding any general or special law to the contrary, a person who holds a full-time or permanent part-time position as a harbormaster or assistant harbormaster before the effective date of this act shall be exempt from the initial training requirement of subsection (a) of section 19A of chapter 102 of the General Laws.

Approved December 23, 2008.

Chapter 423. AN ACT RELATIVE TO THE OPERATION OF CREDIT UNIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 34F of chapter 168 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 37, the words “two-thirds” and inserting in place thereof the following words:- a majority.

SECTION 2. Section 26F of chapter 170, as so appearing, is hereby amended by striking out, in line 35, the words “two-thirds” and inserting in place thereof the following words:- a majority.

SECTION 3. Section 10 of chapter 171, as so appearing, is hereby amended by striking out, in line 2, the words “three-fourths” and inserting in place thereof the following word:- majority.

SECTION 4. Section 13 of said chapter 171, as so appearing, is hereby amended by adding the following paragraph:-

Unless the by-laws otherwise provide, a member of the board of directors or any committee designated thereby may participate in a meeting of the board or committee by means of a conference telephone or similar electronic communications equipment by means of which persons participating in the meeting may simultaneously hear each other, and participation by those means shall constitute presence in person at a meeting. A member may transmit a written authorization that may be required during the meeting by electronic facsimile or other commercially acceptable transmission.

SECTION 5. Section 29 of said chapter 171, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The board of directors shall determine the rate of interest to be paid on deposits.

SECTION 6. Section 59A of said chapter 171, as so appearing, is hereby amended by striking out the first paragraph.

SECTION 7. The second paragraph of said section 59A of said chapter 171, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The credit cards, loans, advances and documents used in connection therewith shall be in a form and upon terms and conditions as the board of directors shall determine and set forth in a written plan including, but not limited to, terms and conditions as to revocation, rates of interest and other charges, maturity dates and security, if any.

SECTION 8. Section 75 of said chapter 171, as so appearing, is hereby amended by striking out the eleventh and twelfth paragraphs and inserting in place thereof the following 2 paragraphs:-

A credit union may collect payments on bills representing indebtedness to a utility company doing business in the commonwealth, at its main office or at a branch office, with the written approval of the utility company.

A credit union may establish and maintain safe deposit vaults and rent boxes or storage space therein under conditions prescribed by the commissioner.

SECTION 9. Section 75B of said chapter 171, as so appearing, is hereby amended by adding the following subsection:-

(g) In the event that any of the provisions of this section or of section 2A of chapter 167F, are preempted by the National Credit Union Administration, by the Comptroller of the Currency of the United States pursuant to section 114 of the federal Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994 (P.L.103-328), by section 104 of the federal Gramm-Leach-Bliley Act of 1999 (P.L. 106-102), by a court of competent jurisdiction or by any other applicable law, the commissioner of banks, with respect to this section, and the commissioner of insurance, with respect to sections 209 and 210 of chapter 175 may waive, in writing, the applicability of the preempted provisions to credit unions and to federal credit unions if it is determined the waiver is necessary in order to permit the entities to engage in the solicitation and sale of insurance under similar laws as banks chartered by the commonwealth pursuant to chapter 168, 170 or 172 or chartered by the laws of the United States. The waiver shall be filed with the state secretary and shall, unless otherwise provided by law, become effective on the sixtieth day following the date of the filing. A copy of the waiver shall be filed simultaneously with the committee on financial services of the general court.

SECTION 10. Section 78 of said chapter 171, as so appearing, is hereby amended by striking out, in line 6, the words "two-thirds" and inserting in place thereof the following words:- a majority.

SECTION 11. Section 81 of chapter 171, as so appearing, is hereby amended by striking out, in line 3, the words "two-thirds" and inserting in place thereof the following word:- majority.

Approved December 23, 2008.

Chapter 424. AN ACT EXEMPTING DWAYNE P. BURGO FROM MAXIMUM AGE REQUIREMENT FOR APPLYING FOR CIVIL SERVICE APPOINTMENT AS A POLICE OFFICER IN THE CITY OF TAUNTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary, Dwayne P. Burgo shall be eligible to have his name certified for original appointment to the position of police officer in the city of Taunton, notwithstanding his having reached the age of 32 before taking any civil service examination in connection with that appointment. Dwayne P. Burgo shall be eligible for appointment to the position of police officer in the city of Taunton provided that he meets all other requirements for certification and appointment to this position.

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

Approved December 23, 2008.

Chapter 425. AN ACT AUTHORIZING PROPERTY TAX EXEMPTIONS FOR RENTAL PROPERTIES IN THE TOWN OF TRURO RESTRICTED AS AFFORDABLE HOUSING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, upon approval of the town of Truro's affordable accessory dwelling by-law by the attorney general, any affordable accessory dwelling unit rented under the by-law that is subject to an affordable housing deed restriction shall be exempt from taxation under chapter 59 of the General Laws.

SECTION 2. An exemption under section 1 shall be equal to the real estate tax otherwise owed on the property, based on the assessed value of the entire property, including any accessory structures, multiplied by the square feet of the living space of all accessory structures on the property that are restricted to occupancy by low- or moderate-income households, divided by the total square feet of all structures on the property. For a property with a single affordable accessory dwelling unit, the exemption allowed shall not exceed 50 per cent of the tax otherwise owed. For purposes of determining the assessed value of the entire property, if by income approach to value, such assessment shall assume that all housing units are rented at fair market value.

SECTION 3. The date of determination as the qualifying factors required by this act shall be September 1 of each year.

SECTION 4. The following question shall be placed upon the official ballot and

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submitted to the voters of the town of Truro at the next annual or special town election: "Shall an act passed by the general court in the year 2008 entitled 'An act authorizing property tax exemptions for rental properties in the town of Truro restricted as affordable housing' be accepted?" If a majority of the votes cast in answer to the question is in the affirmative, this act shall take effect, but not otherwise.

Approved December 23, 2008.

Chapter 426. AN ACT PROHIBITING THE USE OF CHAIN LINK BASKETBALL NETS IN PUBLIC PARKS, PLAYGROUNDS AND RECREATION CENTERS.

Be it enacted, etc., as follows:

Chapter 45 of the General Laws is hereby amended by inserting after section 18 the following section:-

Section 18A. A chain link metal basketball net shall not be used in a public park, playground, or recreation center.

Approved December 23, 2008.

Chapter 427. AN ACT RELATIVE TO TEMPORARY LOANS AND ASSESSMENT OF BETTERMENTS BY THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Hingham may refund, by the issue of other notes, a temporary loan issued pursuant to the first sentence of said section 17 of said chapter 44; provided, however, that the period from the date of issue of the original loan to the date of maturity of the refunding loan shall not exceed 2 years unless the temporary loan is paid in part from revenue funds of the town of Hingham as hereinafter provided for, in which case the period from the date of issue of the original loan to the date of maturity of the refunding loan shall not exceed the maximum period during which the original notes refunded are required to be paid pursuant to law. Each payment from revenue funds shall be at least equal to the minimum annual payment which would have been required if the temporary loan had been converted to a serial loan prior to its first refunding that required a payment from revenue funds and the authorized amount of the serial loan shall be reduced by the aggregate amount of all such payments.

SECTION 2. Notwithstanding section 13 of chapter 80 of the General Laws or any

other general or special law to the contrary, assessments made by the town of Hingham pursuant to said section 13 of said chapter 80 shall bear interest at a rate of 5 per cent per annum or, at the election of the town of Hingham, at a rate not to exceed 2 per cent above the rate of interest chargeable to the town of Hingham for the betterment project to which the assessments relate from the thirtieth day after the assessments have been committed to the collector.

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

Approved December 23, 2008.

Chapter 428. AN ACT RESTRICTING THE AUTHORITY OF THE HOLYOKE POWER & ELECTRIC COMPANY AND THE HOLYOKE WATER POWER COMPANY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the acts of 1859 is hereby repealed.

SECTION 2. Section 11 of chapter 62 of the acts of 1872 is hereby repealed.

SECTION 3. Chapter 52 of the acts of 1873 is hereby repealed.

SECTION 4. Section 4 of chapter 368 of the acts of 1887 is hereby repealed.

SECTION 5. Chapter 225 of the acts of 1888 is hereby repealed.

SECTION 6. Chapter 390 of the acts of 1900 is hereby repealed.

SECTION 7. Chapter 350 of the acts of 1903 is hereby repealed.

SECTION 8. Chapter 152 of the acts of 1909 is hereby repealed.

SECTION 9. Chapter 147 of the acts of 1926 is hereby repealed.

SECTION 10. Chapter 183 of the acts of 1938 is hereby repealed.

SECTION 11. Notwithstanding any general or special law, rule or regulation to the contrary, Holyoke Power & Electric Company shall not directly or indirectly: (a) engage in distribution, as defined in section 1 of chapter 164 of the General Laws, in the city of Holyoke or the towns of South Hadley, Chicopee, Northampton, Easthampton, Southampton, Westfield or West Springfield; or (b) supply electricity to a retail customer, as defined in said section 1 of said chapter 164, in the city of Holyoke or in the towns of South Hadley, Chicopee or Westfield, unless and until as to each such municipality, any person, other than the municipal lighting plant serving such municipality, may provide generation service pursuant to section 47B of said chapter 164 to retail customers in any said municipality, provided that the foregoing shall not affect the right of Holyoke Power & Electric Company to engage in the wholesale sale of electricity.

SECTION 12. Within 1 year after the effective date of this act, Holyoke Power & Electric Company shall change its corporate name, through amendment to its certificate of

incorporation, filed with the state secretary, to a corporate name that shall not include the word "Holyoke". Nothing in this act shall prevent Holyoke Power & Electric Company from changing its corporate name at any time so long as the corporate name does not include the word "Holyoke".

SECTION 13. Nothing in this act shall affect the status of Holyoke Power & Electric Company as an electric company to which chapter 164 of the General Laws applies including, without limitation, its right to transmit electricity and electricity-related products.

SECTION 14. This act shall not affect in any manner any contract, agreement or credit facility that Holyoke Power & Electric Company is a party to, or by which any of its assets are bound.

SECTION 15. Notwithstanding any general or special law or rule or regulation to the contrary, nothing in this act shall prevent Holyoke Power & Electric Company from selling or otherwise disposing of all or a portion of its assets to the city of Holyoke gas and electric department or other purchaser or transferee.

SECTION 16. Holyoke Water Power Company shall not directly or indirectly engage in distribution, as defined in said section 1 of chapter 164 of the General Laws, or conduct retail sale of electricity in the city of Holyoke, or serve electricity, at retail, to any customer located in the towns of South Hadley, Chicopee, Northampton, Easthampton, Southampton, Westfield or West Springfield.

SECTION 17. On and after the effective date of this act, Holyoke Water Power Company shall be vested with all the powers and privileges, and shall be subject to all restrictions, conditions and limitations, set forth in the General Laws applicable to a company organized pursuant to chapter 156B of the General Laws, except that Holyoke Water Power Company and its successors shall have the authority to engage in the generation and transmission, as those terms are defined in said section 1 of chapter 164 of the General Laws, of electricity and electricity-related products.

SECTION 18. This act shall not affect any contract, agreement or credit facility that Holyoke Water Power Company is a party to, or by which any of its assets are bound.

SECTION 19. Notwithstanding any general or special act to the contrary, the Holyoke Water Power Company may change its corporate name at any time, and may sell or otherwise dispose of all or a portion of its assets to the city of Holyoke gas and electric department or other purchaser or transferee.

SECTION 20. Insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order, regulations or any limitation imposed on the corporate existence of the Holyoke Water Power Company, the provisions of this act shall be controlling.

Approved December 23, 2008.

Chapter 429. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE CITY OF NEWBURYPORT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the creation of a park and learning center, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. 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 may lease for a term of 99 years, for nominal consideration and subject to such other terms and conditions as the commissioner, in consultation with the military division, may prescribe, a certain parcel of land to the city of Newburyport for the establishment of a park and learning center and for the restoration of the historic 1822 Powder House. The parcel of land shall consist of 0.41 acres, more or less, in the city of Newburyport, with the buildings thereon, including said Powder House, which is currently under the care and control of the Massachusetts National Guard, being a portion of the land conveyed to the commonwealth by the city of Newburyport by deed dated September 18, 1980, and recorded in the southern Essex district registry of deeds book 2799, page 270. The lease shall contain the restriction required in section 2.

SECTION 2. Notwithstanding any general or special law to the contrary, a lease of the parcel described in section 1 shall be subject to a restriction limiting the use of the parcel for a learning center and public park purposes. If at any time the property ceases to be used for the purposes described in this section, the commissioner shall give written notice to the city of the unauthorized use. The city 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 lease of the parcel, upon the recording of a notice thereof by the commissioner in the appropriate registry of deeds, shall terminate and any further disposition of the property shall be subject to chapter 7 of the General Laws.

SECTION 3. Notwithstanding any general or special law to the contrary, the city of Newburyport 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 such costs may be determined by the commissioner of capital asset management and maintenance. Upon the lease of the parcel, the city of Newburyport 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 December 23, 2008.

Chapter 430. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHARON BRADY.

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 Sharon Brady, an employee of the office of community corrections. 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 Sharon Brady. Whenever Sharon Brady 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 December 30, 2008.

Chapter 431. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF MEDFORD AS THE SERGEANT ANTHONY P. ANNINO BRIDGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith a certain bridge in the city of Medford, 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 department of conservation and recreation bridge No. 54 located on state highway route 60 in the city of Medford spanning the Lower Mystic Lake shall be designated and known as the Sergeant Anthony P. Annino Bridge, in honor of Sergeant Anthony P. Annino who served his country with honor, courage and distinction during World War II. The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved December 30, 2008.

Chapter 432. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MICHAEL GERMAN, 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 Michael German, 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 Michael German. Whenever Michael German 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 shall 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 December 30, 2008.

Chapter 433. AN ACT ESTABLISHING A REVOLVING FUND IN THE TOWN OF WARE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Ware may establish in the town treasury a revolving fund into which all fees, fines, charges and penalties received from industrial and commercial users of its sewer system shall be deposited. The director of public works shall use monies in the fund for the administration of its regulations pertaining to limits on discharges of pollutants to the sewer system including, without limitation, inspection, monitoring and enforcement.

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

Approved December 30, 2008.

Chapter 434. AN ACT AUTHORIZING THE APPOINTMENT OF MICHAEL P. HICKEY AS A POLICE OFFICER IN THE TOWN OF HINGHAM NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

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, Michael P. Hickey shall be eligible to have his name certified for original appointment to the position of police officer in the town of Hingham, notwithstanding his having reached the maximum age for the position. Michael P. Hickey shall be eligible for certification and appointment to the position of police officer in the town of Hingham if he meets all other requirements for certification and appointment.

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

Approved December 30, 2008.

Chapter 435. AN ACT RELATIVE TO THE SEWER SYSTEM OF THE TOWN OF WARE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to further regulate the town of Ware's sewer system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 75 of the acts of 1963 to the contrary, the board of selectmen of the town of Ware shall have all of the powers pertaining to the construction, operation, expansion, maintenance and regulation of that town's sewer system, and the enforcement of its regulations pertaining thereto, which are conferred on cities and towns under the General Laws, including, without limitation, the power to set rates, charges, interest rates and civil penalties.

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

Approved December 30, 2008.

Chapter 436. AN ACT RELATIVE TO THE OTHER POSTEMPLOYMENT BENEFITS TRUST FUND OF THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 22D of chapter 32 of the General Laws or any

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other general or special law to the contrary, the retirement board of the town of Arlington and the town may extend from June 30, 2023 to June 30, 2028 the town's retirement system funding schedule calculated to reduce the unfunded actuarial liability of the pension system to zero. The difference between the funding liability that would have been necessary to reduce the pension system's liability to zero by 2023 rather than 2028 may be appropriated by the town meeting after recommendation of the board of selectmen, finance committee and treasurer to the Other Postemployment Benefit Trust Fund established by chapter 161 of the acts of 2005.

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

Approved December 30, 2008.

Chapter 437. AN ACT RELATIVE TO THE HISTORICAL COMMISSION OF THE TOWN OF LINCOLN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 8D of chapter 40 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Lincoln may annually appoint 2 or more alternate members to the historical commission who shall serve for a term of 1 year. Such alternate members may be designated by the chair of the historical commission to sit on the commission in the case of absence, inability to act or conflict of interest by a member or, in the event of a vacancy, until such time as the vacancy is filled in accordance with the General Laws. Any alternate member of the commission may be removed by the board of selectmen after a public hearing, if a hearing is requested.

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

Approved December 30, 2008.

Chapter 438. AN ACT ESTABLISHING THE NEEDHAM CENTER OFF-STREET PARKING FUND.

Be it enacted, etc., as follows:

SECTION 1. The town of Needham may establish a separate fund to be known as the Needham Center Off-Street Parking Fund for the purpose of providing off-street parking in Needham center, defined as the area presently zoned as Center Business District, Chestnut Street Business District and Business District in the zoning by-laws.

SECTION 2. All expenditures from the Needham Center Off-Street Parking Fund

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shall be used for off-street parking facilities serving Needham center. The following are eligible uses of the fund:

- (a) to acquire, through purchase, lease or other legal means, land to be used for off-street parking, including surface parking and structured parking;
- (b) to acquire, through purchase, lease or other legal means, existing off-street parking spaces;
- (c) to design and construct new or expanded off-street parking, including predevelopment costs directly related to such design and construction;
- (d) to commission plans and studies relative to off-street parking in Needham center, except that appropriations for planning shall not exceed 20 per cent of the uncommitted balance available in the fund at the time of the appropriation; and
- (e) to make capital repairs and improvements to public parking in Needham center in a manner consistent with the town of Needham capital improvement plan and any other plans, studies or programs authorized and approved by the planning board to address the economic development, land use or transportation needs of Needham center.

Appropriations from the fund shall be made by town meeting. The town manager shall be responsible for expending such funds.

SECTION 3. As a means of providing assets for the fund, all monies received by the town of Needham for the purpose of carrying out off-street parking improvements in Needham center through the following means shall be paid over to and become part of the fund for the purposes set forth in this act:

- (a) cash payments made to the town pursuant to the zoning by-law of the town of Needham;
- (b) gifts, grants, donations, contributions or other cash payments made to and accepted by the town; and
- (c) appropriations of public monies made by the town of Needham.

SECTION 4. The town treasurer shall be the custodian of the fund. The treasurer may invest the funds in such separate account in a manner authorized under section 55 of chapter 44 of the General Laws. Any interest earned thereon shall be credited to and become part of such separate account.

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

Approved December 30, 2008.

Chapter 439. AN ACT RELATIVE TO PROFESSIONAL ENGINEERS AND LAND SURVEYORS.

Be it enacted, etc., as follows:

SECTION 1. Section 45 of chapter 13 of the General Laws, as appearing in the 2006

Official Edition, is hereby amended by striking out, in line 4, the words "one registered land surveyor" and inserting in place thereof the following words:— 3 registered land surveyors.

SECTION 2. Said section 45 of said chapter 13, as so appearing, is hereby further amended by striking out, in line 14, the words "member who is a registered land surveyor" and inserting in place thereof the following words:- members who are registered land surveyors.

SECTION 3. Said section 45 of said chapter 13, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words "member of the board who is a registered land surveyor" and inserting in place thereof the following words:- members of the board who are registered land surveyors.

SECTION 4. Said section 45 of said chapter 13, as so appearing, is hereby further amended by adding the following paragraph:-

The board may: (i) establish the requirements for registration of professional engineers and professional land surveyors; (ii) establish standards of professional and ethical conduct for professional engineers and professional land surveyors; (iii) authorize and conduct appropriate examinations to determine the qualifications of applicants; (iv) grant certificates of registrations to qualified applicants; (v) establish standards for continuing education; and (vi) set and administer penalties as provided in sections 61 to 65E, inclusive, and section 81P of chapter 112 for fraudulent, deceptive or professionally-incompetent and unsafe practices and for violations of rules and regulations promulgated by the board.

Approved December 30, 2008.

Chapter 440. AN ACT RELATIVE TO CEMETERIES AND BURIALS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 114 of the General Laws is hereby amended by striking out sections 1 and 1A and inserting in place thereof the following 3 sections:-

Section 1. For purposes of this chapter the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Burial right", the right to burial in a grave or lot held by the licensee of the grave or lot; however, the license is not equivalent to title to the property. Burial right to the entire lot or individual grave or rights may be granted or transferred by the licensee and with approval of the governing body of the cemetery.

"Cemetery", an area of land set aside and dedicated for the final disposition of the remains of a deceased person.

"Columbarium", a structure, room or space in a mausoleum or other building containing niches used to contain the cremated remains of a deceased person.

"Cremation", the process of extreme dehydration and evaporation created with intense heat which reduces the composition of the body to inorganic bone fragments.

“Cremated remains”, the final processed substance remains of the reduced composition of the body to inorganic bone fragments.

“Crypt”, a chamber in a mausoleum of sufficient size, generally used to contain the casketed remains of a deceased person.

“Decorations”, the adornment, ornamentation, embellishment, memorialization, care or beautification of a grave in accordance with rules and regulations established by the governing body of the cemetery.

“Flag etiquette”, the requirement that a flag of the United States placed upon a grave to honor a veteran shall not touch the ground and shall not be allowed to remain if torn or faded or beyond a specified time period as determined by regulations of the United States Department of Defense, United States Department of Veterans Affairs and the governing body of the cemetery.

“Flag holders”, a device, known also as a commemorative marker, made to hold a flag of the United States which identifies the branch of service during observances honoring military veterans.

“Foot marker”, a flush to the ground memorial made of granite or bronze which is placed at the foot of the grave.

“Governing body”, the independent managing authority of a cemetery as applied to a national veterans cemetery, state veterans cemetery, municipal cemetery, religious cemetery or private non-profit cemetery.

“Grave”, a space in a cemetery that allows the burial right of either 1 or multiple in-ground burials of a deceased person.

“Grave liner”, an unsealed durable outer container of 2 or more pieces in which the casket is placed at time of burial in the earth.

“License of burial”, the right given for the use of a specific grave, lot, crypt, niche or other burial space.

“Lot”, a space set aside in a cemetery for several grave spaces.

“Memorial park”, a cemetery that permits the use only of flush-to-the-ground memorials.

“Mausoleum”, a building containing crypts for the entombment of a deceased casketed person.

“Monument or memorial”, a traditional upright monument usually made of granite, a flush-to-the-ground memorial usually made of bronze or granite, or a foot marker, as defined in this section, any of which is used for commemorating the life of a deceased person.

“Niche”, a recess in a columbarium used for the permanent placement of the cremated remains of a deceased person.

“Tomb”, a structure known as a receiving tomb or receiving vault designed for the temporary storage of a casketed body which is not to be interred immediately.

“Traditional cemetery”, a cemetery that allows upright traditional monuments.

“Urn”, a container to hold cremated remains which can be a durable and permanent urn placed in a niche or buried in the ground.

“Vault”, a 2-piece sealed durable outer container in which the casket is placed at the time of burial in the earth for additional protection; provided, however, that such container may have an inner liner to enhance appearance and sealing ability.

Section 1A. Five or more persons desirous of procuring, establishing and preparing a cemetery, or who are the majority in interest of the proprietors of an existing cemetery, may organize as a corporation, not for profit, in the manner provided in chapter 179; provided, however, that the corporation shall not sell or impair the right of a proprietor of an existing cemetery.

Section 1B. A person who serves as director, officer or trustee of a nonprofit cemetery qualified as a tax exempt organization under section 501(c) of the Internal Revenue Code and who is not compensated for those services shall not be liable for an act or omission resulting in damages or injury to another person if that person so serving was acting in good faith and within the scope of his official functions or duties, unless the damage was caused by an act or omission intentionally designed to harm, or by a gross negligent act or omission which results in harm to a person.

Nothing in this section shall be construed as affecting or modifying the liability of a person subject to this section for a cause of action arising out of the person’s operation of a motor vehicle.

Nothing in this section shall affect or modify the liability of a person subject to this section for financial misconduct or fraud in the use of the assets of the corporation.

SECTION 2. Section 8 of chapter 115 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:- The definitions contained in section 1 of chapter 114 shall be applicable to this section and section 9.

Approved December 30, 2008.

Chapter 441. AN ACT AUTHORIZING THE TOWN OF NORWOOD 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 Norwood may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to Byblos Restaurant, Inc. located at 678 Washington street in the town of Norwood under section 12 of said chapter 138. The license shall be subject to all of said chapter 138, except said section 17. The licensing authority shall not approve the transfer of the license to any other location.

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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 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 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, Byblos Restaurant, Inc. shall return to the town the license for the sale of wines and malt beverages to be drunk on the premises that it currently holds.

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

Approved December 30, 2008.

Chapter 442. AN ACT FURTHER REGULATING FEES FOR JUSTICES OF THE PEACE.

Be it enacted, etc., as follows:

SECTION 1. Section 35 of chapter 262 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the figure "\$75" and inserting in place thereof the following figure:- \$100.

SECTION 2. Said section 35 of said chapter 262, as so appearing, is hereby further amended by striking out, in line 3, the figure "\$125" and inserting in place thereof the following figure:- \$150.

Approved December 30, 2008.

Chapter 443. AN ACT RELATIVE TO UNIVERSITY OF MASSACHUSETTS POLICE OFFICERS.

Be it enacted, etc., as follows:

SECTION 1. Section 100A of chapter 32 of the General Laws is hereby amended by striking out subsections (c) and (d), as amended by chapter 245 of the acts of 2008, and inserting in place thereof the following 2 subsections:-

(c) The killed in the line of duty benefit shall be a 1-time payment of \$100,000 to the family of a deceased public safety employee who, while in the performance of his duties and

as a result of incident, accident or violence, was killed or sustained injuries which were the direct and proximate cause of his death. As used in this section, the words “deceased public safety employee” shall mean any firefighter, any call, volunteer, auxiliary, intermittent or reserve firefighter, any call, volunteer, auxiliary, intermittent or reserve emergency medical services provider who is a member of a police or fire department and who is not subject to chapter 152, any police officer, any auxiliary, intermittent, special, part-time or reserve police officer, any police officer in the employ of a public institution of higher education under section 5 of chapter 15A, any public prosecutor and a correction officer who was killed in the line of duty or who sustained injuries that were the direct and proximate cause of his death.

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

SECTION 2. Section 5 of chapter 467 of the acts of 2004 is hereby amended by inserting after the word “vehicles”, in line 4, the following words:- , a police officer at the University of Massachusetts.

Approved December 30, 2008.

Chapter 444. AN ACT PROHIBITING DISCRIMINATION AGAINST PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS IN SECURING MEDICAL MALPRACTICE INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 193U of chapter 175 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “science”, in line 27, the following words:- , physical therapists and physical therapist assistants licensed under chapter 112.

SECTION 2. Said section 193U of said chapter 175 is hereby further amended by inserting after the word “of”, in line 28, the following word:- said,.

Approved December 30, 2008.

**Chapter 445. AN ACT REGULATING PUBLIC ENTITIES LICENSED BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY.**

Be it enacted, etc., as follows:

SECTION 1. Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following subclause:-

(s) trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy; provided, however, that this subclause shall not exempt a public entity from disclosure required of a private entity so licensed.

SECTION 2. Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by inserting after the word contract, in lines 98 and 99, the following words:- ; provided, further, that for any such contract determined to contain confidential information under subclause (r) of section 7 of chapter 4, the governmental body shall instead maintain a record of the procurement processes and awards for 6 years after the date of the final payment. The governmental body shall make such records available to the inspector general upon request; provided, however, that the inspector general shall not disclose said information.

SECTION 3. The fourth paragraph of section 9G of chapter 34 of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(8) To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

SECTION 4. The fourth paragraph of section 23B of chapter 39 of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(10) To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to

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section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Approved December 30, 2008.

Chapter 446. AN ACT DESIGNATING A CERTAIN EDUCATION CENTER ON CHICKATAWBUT HILL IN MILTON AS THE NORMAN SMITH ENVIRONMENTAL EDUCATION CENTER AT CHICKATAWBUT HILL.

Be it enacted, etc., as follows:

The Chickatawbut hill education center on Chickatawbut road in the town of Milton shall be designated and known as the Norman Smith Environmental Education Center at Chickatawbut hill, in honor of the invaluable contributions of Norman Smith to the Blue Hills reservation and the Blue Hills trailside museum.

The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved December 30, 2008.

Chapter 447. AN ACT INCREASING THE MEMBERSHIP OF THE BOARD OF SELECTMEN IN THE TOWN OF NEWBURY.

Be it enacted, etc., as follows:

The number of members of the board of selectmen of the town of Newbury 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 next annual town election following at least 65 days after the effective date of this act, 1 additional member shall be elected to an initial 2-year term and 1 additional member shall 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 act.

Approved December 30, 2008.

Chapter 448. AN ACT CONVEYING CERTAIN PROPERTY IN THE CITY OF WORCESTER TO COMMUNITY HEALTHLINK, INC.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the commissioner of mental health, in furtherance of the purpose of chapter 300 of the acts of 1962 and notwithstanding section 40H of chapter 7 of the General Laws, may convey to Community Healthlink, Inc., a charitable corporation organized under the laws of the commonwealth, a parcel of land and the building thereon, known as the Worcester Youth Guidance Center, located on the grounds of Worcester state hospital, to be used by the corporation to provide mental health services to children and adults with serious mental illness residing in central Massachusetts. The conveyance shall include the access road known as Dorista Goldberry drive to the point where it connects to the hospital road, and sufficient land to provide for parking and appurtenant uses, is shown on a plan on file with the division of capital asset management and maintenance. The exact acreage and boundaries of the property to be conveyed as described above shall be determined by the commissioner, in consultation with the department of mental health, after completion of a survey.

SECTION 2. Ownership and control of the parcel of land authorized to be conveyed in section 1 shall, upon notification to Community Healthlink, Inc. and recording of such notice with the Worcester registry of deeds, revert to the commonwealth whenever the parcel of land ceases to be used for the purpose of providing mental health services, as provided in section 1.

SECTION 3. The price paid by Community Healthlink, Inc. for the conveyance pursuant to section 1 shall be the full and fair market value for such use of the parcel, taking into account the use restrictions and reverter provisions of this act, as determined by the commissioner of capital asset management and maintenance based on an independent appraisal. In accordance with chapter 300 of the acts of 1962, the price shall be adjusted to deduct therefrom the value of the building on the parcel, in recognition of the fact that the funds used for the construction of the building were not funds of the commonwealth, but were raised or obtained by Community Healthlink, Inc., or its predecessor. The inspector general shall review and approve the appraisal, and this review shall include a review of the methodology used for the appraisal. In no instance in which the commonwealth maintains responsibility for maintaining the disposition parcel or portion thereof shall the terms provide for payment of less than the annual maintenance costs. All monies paid to the commonwealth as a result of this act shall be deposited into the General Fund.

SECTION 4. Community Healthlink, Inc. shall be responsible, at its sole cost and expense, for all utility services to the Worcester Youth Guidance Center, provided that the commissioner shall determine, in cooperation with Community Healthlink, Inc. and in consultation with the commissioner of mental health, the most feasible manner in which existing service and connections shall be transferred or severed.

SECTION 5. Community Healthlink, Inc. shall be responsible, at its sole cost and expense, for snowplowing and other maintenance of so much of any access road, parking lot, landscaping and grounds as the commissioner of mental health may specify from time to time.

SECTION 6. Community Healthlink, Inc. shall pay for the cost of all utility severance studies, appraisals, surveys and deed preparation for the conveyance authorized by this act as considered necessary by the commissioner.

SECTION 7. The commissioner of capital asset management and maintenance may retain rights of way or easements across, on, under or above land conveyed pursuant to section 1 for access, egress, utilities, drainage and other purposes in such locations and on such terms and conditions as the commissioner deems reasonable or appropriate. The commissioner of capital asset management and maintenance may grant to Community Healthlink, Inc. such rights of way or easements across, on, under or above other commonwealth property for access, egress, utilities, drainage and other purposes in such locations and on such terms and conditions as the commissioner deems reasonable or appropriate.

SECTION 8. The division may grant easements to the city of Worcester for all purposes for which public ways may be used in the city of Worcester and to Community Healthlink, Inc. for vehicular and pedestrian access and utilities, all in order to effectuate the purposes of this act.

Approved December 30, 2008.

Chapter 449. AN ACT RELATIVE TO THE SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

Chapter 258 of the acts of 1980, as most recently amended by chapter 5 of the acts of 2000, is hereby further amended by striking out the first sentence and inserting in place thereof the following 8 sentences:- The number of licenses for the sale of all alcoholic beverages authorized to be issued under section 12 of chapter 138 of the General Laws shall be calculated pursuant to section 17 of said chapter 138; provided, however, that the licensing commission of the city of Somerville shall assign 10 of those licenses for the sale of all alcoholic beverages to be drunk on the premises to the area presently known and bounded as the Assembly Square Mixed Use District, established under the Somerville zoning ordinance, for the purpose of promoting revitalization and economic vitality. Those 10 licenses shall be allocated from among the licenses authorized to be granted under said section 17 of said chapter 138 and shall not increase the number of such licenses now or hereafter available in the city. The licenses assigned to the Assembly Square Mixed Use District shall not be sold or transferred by the licensee. If a licensee terminates or fails to renew

its license, the license shall revert to the licensing commission and shall only be reissued to qualified applicants doing business within the Assembly Square Mixed Use District. No other license granted pursuant to this act shall be sold or transferred by the licensee. If any such licensee terminates or fails to renew its license, that license shall revert to the licensing commission which may then reissue it according to the regulations of the licensing commission. The administrative fee charged by the city for such licenses shall be the same amount as the administrative fee charged by the city for existing licenses issued for the respective category for such licenses. Licenses granted under this act shall be subject to all applicable ordinances of the city.

Approved December 30, 2008.

Chapter 450. AN ACT RELATIVE TO VACANCIES ON THE BEACON HILL ARCHITECTURAL COMMISSION.

Be it enacted, etc., as follows:

The first paragraph of section 4 of chapter 616 of the acts of 1955, as appearing in section 4 of chapter 24 of the acts of 1982, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Whenever there is a vacancy in the office of a commissioner, or whenever a commissioner is absent or unable for any cause to perform his duties, an alternate appointed in the same manner as such commissioner shall exercise the powers and perform the duties of such commissioner, but if neither a commissioner nor the alternate appointed in the same manner as such commissioner is present or able to perform such duties, any other alternate present shall exercise the powers and perform the duties of such commissioner; but an alternate shall not otherwise be deemed to be, or act as, a member of the board.

The foregoing was laid before the Governor on the twenty second day of December, 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 that time.

Chapter 451. AN ACT MAKING CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to make corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by striking out all captions preceding sections.

SECTION 2. Chapter 2 of the General Laws is hereby amended by striking out section 55, inserted by chapter 364 of the acts of 2006, and inserting in place thereof the following section:-

Section 56. Benjamin Franklin shall be the official inventor of the commonwealth.

SECTION 3. Chapter 3 of the General Laws is hereby amended by striking out section 67, added by section 2 of chapter 258 of the acts of 2006, and inserting in place thereof the following section:-

Section 68. (a) There shall be a permanent commission on the status of citizens of Asian descent consisting of 18 persons as follows: 3 persons appointed by the governor; 3 persons appointed by the speaker of the house of representatives; 3 persons appointed by the president of the senate; 3 persons appointed by the state treasurer; 3 persons appointed by the state secretary; and 3 persons appointed by the attorney general. Members of the commission shall be drawn from citizens of the commonwealth who have demonstrated a commitment to the Asian-American community. Members shall be subject to chapter 268A as they apply to special state employees.

(b) Members shall serve for terms of 3 years and until their successors are appointed. Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term. All appointments shall be made in consultation with Asian-American organizations. Nominations for members shall be solicited by the appointing authorities between August 1 and September 16 of each year through an open application process using a uniform application that is widely distributed throughout the state.

(c) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it considers necessary. 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.

(d) The commission shall be a resource to the commonwealth on issues affecting Asian-American communities. In furtherance of that responsibility, the commission shall:

(1) promote research and be a clearinghouse and source of information on issues pertaining to Asian Americans in the commonwealth;

(2) inform the public and leaders of business, education, human services, health care, state and local governments and the communications media of the unique cultural, social, ethnic, economic and educational issues affecting Asian Americans in the commonwealth;

(3) foster unity among Asian-American communities and organizations in the commonwealth by promoting cooperation and sharing of information and encouraging collaboration and joint activities;

(4) serve as a liaison between government and private interest groups with regard to matters of unique interest and concern to Asian Americans in the commonwealth;

(5) identify opportunities to expand and improve commercial and cultural ties with Asian nations;

(6) identify and recommend qualified Asian Americans for appointive positions at all levels of government, including boards and commissions, as the commission considers necessary and appropriate;

(7) assess programs and practices in all state agencies as they affect Asian Americans, as the commission considers necessary and appropriate;

(8) advise executive and legislative bodies on the potential effect on Asian Americans of proposed legislation, as the commission considers necessary and appropriate; and

(9) generally undertake activities designed to enable the commonwealth to realize the full benefit of the skills, talents and cultural heritage of Asian Americans in the commonwealth.

(e) The commission shall annually, on or before June 2, report the results of its findings and activities of the preceding year and its recommendations to the governor and to the clerks of the senate and house of representatives.

(f) The powers of the commission shall include, but not be limited, to:

(1) to use the voluntary and uncompensated services of private individuals, agencies and organizations that may from time to time be offered and needed, including provision of meeting places and refreshments;

(2) to hold regular, public meetings and to hold fact-finding hearings and other public forums as it considers necessary;

(3) to direct a staff to perform its duties;

(4) to establish and maintain offices that it considers necessary, subject to appropriation;

(5) to enact by-laws for its own governance that are not inconsistent with any general or special law; and

(6) to recommend policies and make recommendations to agencies and officers of the state and local subdivisions of government to effectuate the purposes of subsection (d).

(g) The commission may request from all state agencies whatever information and assistance the commission requires.

(h) 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. These funds shall be deposited in a separate account with the state treasurer, be received by the treasurer on behalf of the commonwealth, and be expended by the commission in accordance with law.

(i) The commission staff shall consist of an executive director, employees, and volunteers who assist the commission in effecting its statutory duties. The commission shall appoint the executive director for a term of 3 years.

SECTION 4. Section 11 of chapter 5 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 40, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 5. Section 15LLLL of chapter 6 of the General Laws, inserted by chapter 459 of the acts of 2002, is hereby repealed.

SECTION 6. Section 15VVVV of said chapter 6, inserted by chapter 43 of the acts of 2004, is hereby repealed.

SECTION 7. Section 15EEEE of said chapter 6, inserted by chapter 26 of the acts of 2008 is hereby repealed.

SECTION 8. Said chapter 6 is hereby further amended by inserting after section 15GGGG the following 4 sections:-

Section 15HHHH. The governor shall annually issue a proclamation setting apart November 15 as Philanthropy Day and recommending that those public and private organizations and individuals strongly influencing and promoting philanthropic activities within the commonwealth be recognized and that the day be observed in an appropriate manner by the people.

Section 15IIII. The governor shall annually issue a proclamation setting apart March 12 as Jack Kerouac Day, in recognition of Jack Kerouac's contributions to American literature and the genre of spontaneous prose, for his contributions to his Franco-American heritage and for his love of his hometown of Lowell, and recommending that the day be observed in an appropriate manner by the people.

Section 15JJJJ. 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.

Section 15KKKK. The governor shall annually issue a proclamation setting apart the second Monday in June as Massachusetts Nonprofit Awareness Day, in recognition of the outstanding contributions of the Massachusetts nonprofit sector to the general welfare of the citizens of the commonwealth and recommending that the day be observed in an appropriate manner by the people.

SECTION 9. Section 81 of said chapter 6, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 10. Section 181 of said chapter 6 is hereby amended by striking out, in line 6, as so appearing, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 11. 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 “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 12. Section 16 of chapter 6A of the General Laws is hereby amended by striking out, in line 30, as appearing in the 2006 Official Edition, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 13. The last paragraph of section 16 of said chapter 6A, added by section 14 of chapter 176 of the acts of 2008, is hereby amended by striking out the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 14. Section 16F of said chapter 6A, as so appearing, is hereby amended by striking out, in line 7, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 15. Subsection (b) of section 16Q of said chapter 6A, inserted by section 1 of chapter 321 of the acts of 2008, is hereby amended by striking out the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 16. Section 16S of said chapter 6A, inserted by chapter 321 of the acts of 2008, is hereby amended by striking out the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 17. Section 18 1/2 of said chapter 6A, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “the”, in line 9, the following word:- statewide.

SECTION 18. Said section 18 1/2 of said chapter 6A, as so appearing, is hereby further amended by inserting after the word “the”, in line 22, the first time it appears, the following word:- Massachusetts.

SECTION 19. Section 3B of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after the word “administration”, in line 11, the following words:- and finance.

SECTION 20. Section 17 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 7, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 21. Chapter 13 of the General Laws is hereby amended by striking out sections 98 to 100, inclusive, added by section 2 of chapter 170 of the acts of 2006.

SECTION 22. Said chapter 13 is hereby further amended by adding the following 3 sections:-

Section 103. (a) There shall be a board of registration of genetic counselors, called the board in sections 103 to 105, inclusive, which shall consist of 5 members to be appointed by the governor, 4 of whom shall be genetic counselors licensed under this section, and 1 member of the general public. Members of the board shall be residents of the commonwealth.

(b) Each member of the board shall serve for a term of 3 years and until the governor appoints a successor. No member shall be appointed to more than 2 consecutive full terms. A member appointed for less than a full term may serve 2 full terms in addition to such part of a full term. A former member shall be eligible for appointment after a lapse of 1 year.

(c) A member may be removed by the governor for neglect of duty, misconduct or malfeasance or misfeasance in office after a written notice of the charges against him and an opportunity to be heard. Upon the death, resignation or removal for cause of any member of the board, the governor shall fill the vacancy for the remainder of that member's year.

Section 104. The board shall, at its first meeting and annually thereafter, organize by electing from its membership a chairman, a vice-chairman and a secretary. Those officers shall serve until their successors are elected and qualified.

The board shall meet at least 2 times annually and may hold additional meetings at the call of the chairman or at such times as may be determined by the board. Board members shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

Section 105. The board shall have the following powers and duties:

(a) to promulgate regulations and adopt such rules as are necessary to regulate genetic counselors;

(b) to recommend policy and budgetary matters to the division of professional licensure;

(c) to receive, review, approve or disapprove applications for licensing, renewal and reinstatement and to issue those licenses;

(d) to establish administrative procedures for processing applications for licenses and license renewals and to hire or appoint such agents as are appropriate for processing applications for licenses and license renewals;

(e) to retain records of its actions and proceedings in accordance with public records laws;

(f) to establish specifications for the licensing examination, which may be or may include the complete certification examination given by the American Board of Genetic Counseling or the American Board of Medical Genetics, or its successor, and to provide or procure appropriate examination questions and answers and to establish examination procedures;

(g) to define by regulation the appropriate standards for education and experience necessary to qualify for licensing, including, but not limited to, continuing professional education requirements for licensed genetic counselors and provisional licensed genetic counselors, which shall be no less stringent than those of the American Board of Genetic Counseling, or its successor, and for the conduct and ethics which shall govern the practice of genetic counseling;

(h) to establish standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents;

(i) to fine, censure, revoke, suspend or deny a license, place on probation, reprimand or otherwise discipline licensees for violations of the code of ethics or the rules of the board in accordance with section 242 of chapter 112, but the board shall not have the power of subpoena.

(j) to summarily suspend the license of a licensee who poses an imminent danger to the public but a hearing shall be afforded to the licensee within 7 days of an action by the board to determine whether such summary action is warranted; and

(k) to perform such other functions and duties as may be required to carry out this section.

SECTION 23. Section 1G of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in lines 41 and 42, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 24. Section 2A of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, and in lines 25 and 39, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 25. Section 4 of chapter 18C of the General Laws, inserted by section 46 of chapter 176 of the acts of 2008, is hereby amended by striking out the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 26. Section 21 of chapter 19 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 3, 5 and 6, 21 and 22, and in line 23, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 27. Said section 21 of said chapter 19, as so appearing, is hereby amended by striking out, in line 28, the words “mental retardation’s” and inserting in place thereof, the following words:- developmental services’.

SECTION 28. Chapter 19B of the General Laws is hereby amended by striking out the title, as so appearing, and inserting in place thereof the following title:-

DEPARTMENT OF DEVELOPMENTAL SERVICES.

SECTION 29. Section 3 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 30. Section 18 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 5 and 6, line 20, and in lines 23 and 24, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 31. Said section 18 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 28, the words “mental retardation’s” and inserting in place thereof the following words:- developmental services’.

SECTION 32. Section 3 of chapter 19D of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 33. Section 1 of chapter 21 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 1, the words “environmental management” and inserting in place thereof the following words:- conservation and recreation.

SECTION 34. Chapter 23H of the General Laws is hereby amended by striking out section 8, inserted by section 53 of chapter 149 of the acts of 2004, and inserting in place thereof the following section:-

Section 8A. The director of workforce development shall administer and enforce the unemployment insurance system and the Medical Security Trust Fund established in section 14G of chapter 151A. The director, with the approval of the secretary, may assign personnel, responsibilities and duties under federal law to any office or division within the department in order to maximize efficiency of resources and delivery of services.

SECTION 35. Section 59 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in lines 2, 4 and 26, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 36. Section 10 of chapter 28A of the General Laws, as so appearing, is hereby amended by striking out, in lines 30 and 31, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 37. Section 2RRR of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “Mental Retardation” and inserting in place thereof the following words:- Developmental Services.

SECTION 38. Said section 2RRR of said chapter 29, as so appearing, is hereby amended by striking out, in lines 7 and 14, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 39. Section 9B of chapter 30 of the General Laws, is hereby amended by striking out, in lines 2 and 19, as so appearing, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 40. Section 9C of said chapter 30, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 41. Section 9D of said chapter 30, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 42. Section 24A of said chapter 30, as so appearing, is hereby amended by striking out, in line 19, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 43. Section 91 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 46, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 44. Section 2A of chapter 38 of the General Laws, as appearing in section 54 of chapter 176 of the acts of 2008, is hereby amended by striking out the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 45. Section 5 of chapter 40A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 32, the words “cities and towns” and inserting in place thereof the following words:- city and town.

SECTION 46. Section 2 of chapter 40H of the General Laws, as so appearing, is hereby amended by striking out the definition of “Corporation” and inserting in place thereof the following definition:-

“CEDAC” or “Corporation”, the Community Economic Development Assistance Corporation.

SECTION 47. Section 13 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

NO SECTION 48.

NO SECTION 49.

SECTION 50. Section 37H of chapter 71 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 16, the word “other” and inserting in place thereof the following word:- a.

SECTION 51. Chapter 71A of the General Laws is hereby amended by striking out the title, as so appearing, and inserting in place thereof the following title:-

ENGLISH LANGUAGE EDUCATION IN PUBLIC SCHOOLS.

SECTION 52. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out, in line 54, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 53. Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 2 and 63, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 54. Section 3 of said chapter 71B is hereby amended by striking out, in lines 3, 61, 114 and 115, as so appearing, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 55. Section 9 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 56. Section 10 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 7, 37, 44 and 66, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 57. Section 12 of said chapter 71B, as so appearing, is hereby amended by striking out, in lines 3 and 27, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 58. Section 12B of said chapter 71B is hereby amended by striking out, in line 12, as amended by section 69 of chapter 176 of the acts of 2008, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 59. Section 2F of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “nurses”, in line 64, the following words:- ; the rider education program to promote driver and motorcycle safety.

SECTION 60. Section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out, in lines 65 and 66, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 61. Section 10A of chapter 91 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A reasonable fee for such mooring permit, proportionate to the city or town's cost of overseeing mooring permits, may be imposed by the city or town or whoever is so authorized by the city or town, but no mooring fee shall discriminate on the basis of residence. Any mooring fee collected shall be deposited into and used in accordance with the purposes of a municipal waterways improvement and maintenance fund established pursuant to section 5G of chapter 40.

SECTION 62. Subclause (vi) of clause (3) of subsection (a) of section 9 of chapter 110H of the General Laws, as appearing in section 2 of chapter 195 of the acts of 2006, is hereby amended by striking out the words “Patent Trademark” and inserting in place thereof the following words:- Patent and Trademark.

SECTION 63. Section 25J of said chapter 111, inserted by chapter 126 of the acts of 2008, is hereby repealed.

SECTION 64. Said chapter 111 is hereby further amended by inserting after section 25N the follow section:-

Section 25O. (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 the programs shall be designed to 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 as the department deems appropriate regarding the establishment of programs under the guidelines.

SECTION 65. Said chapter 111 is hereby further amended by striking out section 51H, inserted by section 9 of chapter 305 of the acts of 2008, and inserting in place thereof the following section:-

Section 51H. (a) As used in this section the following words shall have the following meanings unless the context clearly requires otherwise:

“Facility”, a hospital, institution for the care of unwed mothers or clinic providing ambulatory surgery as defined in section 25 B.

“Healthcare-associated infection”, a localized or systemic condition that results from an adverse reaction to the presence of an infectious agent or its toxins that: (i) occurs in a patient in a facility, (ii) was not present or incubating at the time of the admission during which the reaction occurs, and (iii) if occurring in a hospital, meets the criteria for a specific infection site as defined by the federal Centers for Disease Control and Prevention and its national health care safety network.

“Serious adverse drug event”, any preventable event that causes inappropriate medication use in a hospital or ambulatory surgical center that leads to harm to a patient, as further defined in regulations of the department.

“Serious reportable event”, an event that results in a serious adverse patient outcome that is clearly identifiable and measurable, reasonably preventable, and that meets any other criteria established by regulations of the department.

(b) A facility shall report data and information about healthcare-associated infections, serious reportable events and serious adverse drug events. A serious reportable event shall be reported by a facility not later than 15 working days after its discovery. Reports shall be made in the manner and form established by regulations of the department. The department may require facilities to register in and report to nationally-recognized quality and safety organizations.

(c) The department, through interagency service agreements, shall transmit data collected under this section to the Betsy Lehman center for patient safety and medical error reduction and to the health care quality and cost council for publication on its consumer health information website. Any facility failing to comply with this section may: (i) be fined up to \$1,000 per day per violation; (ii) have its license revoked or suspended by the department; or (iii) be fined up to \$1,000 per day per violation and have its license suspended or revoked by the department.

(d) The department shall promulgate regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a serious reportable event. A health care facility shall not charge or seek reimbursement for a serious reportable event that the facility has determined, through a documented review process, and under regulations promulgated by the department, was (i) preventable; (ii) within its control; and (iii) unambiguously the result of a system failure based on the health care provider’s policies and procedures.

SECTION 66. Section 67E of said chapter 111, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 39, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 67. Section 70E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 9 and 10, and in lines 190 and 191, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 68. Section 71 of said chapter 111, as so appearing, is hereby amended by striking out, in line 180, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 69. Section 3 of chapter 111G of the General Laws is hereby amended by striking out, in line 4, the words “mental retardation”, as so appearing, and inserting in place thereof the following words:- developmental services.

SECTION 70. Section 5 of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 220, the figure “11A” and inserting in place thereof the following figure:- 11.

SECTION 71. Said chapter 112 is hereby further amended by striking out section 39E, added by section 17 of chapter 305 of the acts of 2008, and inserting in place thereof the following section:-

Section 39D. Stores or pharmacies engaged in the drug business, as defined in section 37, shall inform the department of public health of any improper dispensing of prescription drugs that results in serious injury or death, as defined by the department in regulations, as soon as is reasonably and practically possible, but not later than 15 working days after discovery of the improper dispensing. The department of public health shall promulgate regulations for the administration and enforcement of this section.

SECTION 72. Sections 227 to 233, inclusive, of said chapter 112, added by section 3 of chapter 170 of the acts of 2006, is hereby repealed.

SECTION 73. Said chapter 112 is hereby further amended by inserting after section 251 the following 7 sections:-

Section 252. As used in sections 252 to 258, inclusive, the following words, shall unless the context requires otherwise, have the following meanings:-

“ABGC”, the American Board of Genetic Counseling, a national agency for certification and recertification of genetic counselors or its successor agency.

“ABMG”, American Board of Medical Genetics, a national agency for certification and recertification of genetic counselors, MD geneticists and PhD geneticists or its successor agency.

“Board”, the board of registration of genetic counselors.

“General supervision”, a supervisor, whether a licensed genetic counselor or MD, who has the overall responsibility to assess the work of the supervisee, whether a provisional or fully-licensed genetic counselor, including regular meetings and chart review; provided,

however, that an annual supervision contract signed by the supervisor and supervisee shall be on file with both parties.

“Licensed genetic counselor”, a person licensed under section 105 of chapter 13 to engage in the practice of genetic counseling.

“Practice of genetic counseling”, a communication process, conducted by 1 or more appropriately trained individuals, that may include:

(a) estimating the likelihood of occurrence or recurrence of a birth defect or of any potentially inherited or genetically influenced condition. This assessment may involve:

(1) obtaining and analyzing a complete health history of the person and family;

(2) reviewing pertinent medical records;

(3) evaluating the risks from exposure to possible mutagens or teratogens; and

(4) recommending genetic testing or other evaluations to diagnose a condition or determine the carrier status of 1 or more family members;

(b) helping the individual, family, health care provider or public to:

(1) appreciate the medical, psychological and social implications of a disorder, including its features, variability, usual course and management options;

(2) learn how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;

(3) understand available options for coping with, preventing or reducing the chance of occurrence or recurrence of a condition;

(4) select the most appropriate, accurate and cost-effective methods of diagnosis; and

(5) understand genetic or prenatal tests, coordinate testing for inherited disorders, and interpret complex genetic test results; and

(c) facilitating an individual's or family's:

(1) exploration of the perception of risk and burden associated with the disorder;

(2) decision-making regarding testing or medical interventions consistent with their beliefs, goals, needs, resources, culture and ethical or moral views; and

(3) adjustment and adaptation to the condition or their genetic risk by addressing needs for psychological, social and medical support.

“Provisional licensed genetic counselor”, a person with a provisional license issued under section 239.

Section 253. An application for original license, license renewal or for the licensing examination shall be made on forms approved by the board and accompanied by the appropriate fee. The fee for original licenses and renewals shall be determined by the secretary of administration and finance. An applicant for original license shall be sworn and shall furnish satisfactory proof that he is at least 18 years old, of good moral character and has met the educational and professional experience requirements prerequisite to sitting for the licensing examination.

Section 254. An applicant for registration as a genetic counselor shall have:

(a) successfully completed a genetic counseling education program approved by the board; provided, however, that the program shall meet the educational standards established

by the ABGC or its successor; and provided further that the board shall require continuing education as a condition for license renewals;

(b) earned a masters degree from a genetic counseling training program that is accredited by the ABGC or an equivalent as determined by the ABGC, or a doctoral degree from a medical genetics training program that is accredited by the ABMG or an equivalent as determined by the ABMG;

(c) completed such experience as may be required by the board.

Section 255. A person who meets the qualifications to be admitted to the examination for licensure as a genetic counselor may, between the date of filing an application for licensure and the announcement of the results of the next succeeding examination, practice as a provisional licensed genetic counselor upon filing an approved application with the board and payment of a fee to be determined by the secretary of administration and finance. The board may grant a provisional license to a person who successfully completes a genetic counseling education program approved by the board and is qualified to be admitted to the examination. Such license shall be valid for 2 years from the date of its issue and may be renewed for an additional 2 years if an applicant fails the first sitting of the ABGC or ABMG certification exam. Such provisional license shall expire automatically upon the earliest of the following:

(a) issuance of a full license;

(b) 30 days after the applicant fails to pass the complete examination; or

(c) the date printed on the temporary license.

An application for extension shall be signed by a supervising licensed genetic counselor. A provisional licensed genetic counselor shall be under the general supervision of a licensed genetic counselor or a licensed physician with current ABMG certification in clinical genetics at all times during which the provisional licensed genetic counselor performs clinical genetic counseling. The board shall adopt rules governing such supervision and direction which may not require the immediate physical presence of the supervising licensed genetic counselor.

Section 256. (a) The board shall examine applicants for certification as genetic counselors at such times and places as it may determine. The examination shall meet the standards established by the ABGC. The examination shall test an applicant's knowledge of basic and clinical sciences as they relate to genetic counseling theory and practice and other subjects as the board may deem useful to determine the applicant's fitness to act as a genetic counselor. The board may utilize a national examination that meets the requirements of this section.

(b) The board shall examine applicants for certification as Ph.D. medical geneticists at such times and places as it may determine. The examination shall meet the standards established by the ABMG. The examination shall test an applicant's knowledge of basic and clinical sciences as they relate to genetic counseling theory and practice and other subjects as the board may deem useful to determine the applicant's fitness to act as a genetic coun-

selor. The board may utilize a national examination that meets the requirements of this section.

Section 257. No person shall hold himself out as a genetic counselor unless he is licensed in accordance with section 239 or under section 105 of chapter 13. No person who is not so licensed may use in connection with his name or place of business, the title "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic consultant", "genetic associate" or any words, letters, abbreviations or insignia indicating or implying a person holds a genetic counseling license. Nothing in this section shall be construed to prevent or restrict the practice, service or activities of:

(a) any person licensed, certified, or registered in the commonwealth, by any other statute other than as a genetic counselor from engaging in activities within the scope of practice of the profession or occupation for which he is licensed provided that he does not represent to the public, directly or indirectly, that he is licensed under section 239 or under section 105 of chapter 13, and that he does not use any name, title or designation indicating that the person is licensed under those sections;

(b) any person employed as a genetic counselor by the federal government or an agency thereof if such person provides genetic counseling services solely under the direction and control of the organization by which he is employed;

(c) a student or intern enrolled in an approved genetic counseling education program if genetic counseling services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed genetic counselor assigned to supervise the student and who is on duty and available in the assigned patient care area and if the person is designated by a title which clearly indicates his status as a student or intern;

(d) an individual trained as a genetic counselor, who is reapplying for the ABGC certification examination and gathering logbook cases under general supervision in an approved genetic counseling training site;

(e) an individual trained as a Ph.D. medical geneticist who is reapplying for the ABMG certification examination and is gathering logbook cases under a supervisor identified in the training program's ABMG accreditation documents as a member of the training faculty; and

(f) visiting ABGC or ABMG-certified genetic counselors from outside the commonwealth operating as consultants or the use of occasional services of organizations from outside the commonwealth employing ABGC or ABMG-certified genetic counselors.

Section 258. The board may deny or refuse to renew a license or, after a hearing pursuant to section 105 of chapter 13, revoke, suspend or cancel the license or place on probation, reprimand, censure or otherwise discipline a licensee upon proof satisfactory to a majority of the board that the person has:

(a) obtained or attempted to obtain a license by fraud or deception;

(b) been convicted of a felony under state or federal law or committed any other offense involving moral turpitude;

- (c) been adjudged mentally ill or incompetent by a court of competent jurisdiction;
- (d) used illicit drugs or intoxicating liquors to the extent which adversely affects his practice;
- (e) engaged in unethical or unprofessional conduct including, but not limited to, willful acts, negligence or incompetence in the course of professional practice;
- (f) violated any lawful order, rule or regulation rendered or adopted by the board; or
- (g) been refused issuance or been disciplined in connection with a license issued by any other state or country.

SECTION 74. Section 19 of chapter 118E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 16, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 75. Section 55 of said chapter 118E, inserted by section 18 of chapter 305 of the acts of 2008, is hereby repealed.

SECTION 76. Said chapter 118E is hereby further amended by adding the following section:-

Section 62. (a) Subject to subsection (c), for the purposes of processing claims for health care services submitted by a health care provider and to provide uniformity and consistency in the reporting of patient diagnostic information, patient care service and procedure information as it relates to the submission and processing of health care claims, the executive office of health and human services and its subcontractors shall, without local customization, accept and recognize patient diagnostic information and patient care service and procedure information submitted pursuant to, and consistent with, the current Health Insurance Portability and Accountability Act compliant code sets as adopted by the Centers for Medicare and Medicaid Services; the International Classification of Diseases; the American Medical Association's Current Procedural Terminology codes, reporting guidelines and conventions; and the Centers for Medicare and Medicaid Services Healthcare Common Procedure Coding System. The executive office and its subcontractors shall adopt the aforementioned coding standards and guidelines, and all changes thereto, in their entirety, which shall be effective on the same date as the national implementation date established by the entity implementing the coding standards.

(b) Subject to subsection (c), the executive office and its subcontractors shall, without local customization, use the standardized claim formats for processing health care claims as adopted by the National Uniform Claim Committee and the National Uniform Billing Committee and implemented pursuant to the federal Health Insurance Portability and Accountability Act. The executive office and its subcontractors shall, without local customization, adopt and routinely process all changes to such formats which shall be effective on the same date as the implementation date established by the entity implementing the formats.

(c) Except for the requirements for consistency and uniformity in coding patient diagnostic information and patient care service and procedure information, this section shall

not modify or supersede the executive office's or its subcontractor's payment policy or utilization review policy. Nothing in this section shall preclude the executive office or a subcontractor thereof from adjudicating a claim pursuant to its billing guidelines, payment policies or provider contracts.

(d) The executive office and its subcontractors shall accept and recognize at least 85 per cent of all claims submitted by health care providers pursuant to this section.

NO SECTION 77.

SECTION 78. Said section 62 of said chapter 118E is hereby further amended by striking out subsection (d), as appearing in section 76, and inserting in place thereof the following subsection:-

(d) The executive office and its subcontractors shall accept and recognize all claims submitted by health care providers pursuant to this section.

SECTION 79. Section 27 of chapter 118G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 59, and in lines 62 and 63, the words "mental retardation" and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 80. Section 29 of said chapter 118G, added by chapter 174 of the acts of 2006, is hereby repealed.

SECTION 81. Said chapter 118G is hereby further amended by adding the following section:-

Section 41. (a) For the purposes of this section, the following words shall have the following meanings:-

"Anatomic pathology service", histopathology, surgical pathology, cytopathology, hematology, subcellular pathology, molecular pathology and blood-banking services performed by a pathologist.

"Cytopathology", the examination of cells from the following:

(i) fluids;

(ii) aspirates;

(iii) washings;

(iv) brushings; or

(v) smears, including the pap test examination performed by a physician or under the supervision of a physician.

"Hematology", the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician, and peripheral blood smears when the attending or treating physician or technologist requests that a blood smear be reviewed by a pathologist.

"Histopathology" or "surgical pathology", the gross and microscopic examination of organ tissue performed by a physician or under the supervision of a physician.

(b) A clinical laboratory or physician providing anatomic pathology services for patients shall present or cause to be presented a claim, bill or demand for payment for these services only to the following:

(i) the patient directly;
(ii) the responsible insurer or other third-party payer;
(iii) the hospital, public health clinic or nonprofit health clinic ordering such services;
(iv) the referral laboratory or a physician's office laboratory when the physician of such laboratory performs the anatomic pathology service; or

(v) the governmental agency or its specified public or private agent, agency or organization on behalf of the recipient of the services.

(c) Except as provided in this section, no licensed practitioner shall, directly or indirectly, charge, bill or otherwise solicit payment for anatomic pathology services unless the services were rendered personally by the licensed practitioner or under the licensed practitioner's direct supervision under section 353 of the Public Health Service Act, 42 U.S.C. 263a.

(d) No patient, insurer, third party payer, hospital, public health clinic or non-profit health clinic shall be required to reimburse any licensed practitioner for charges or claims submitted in violation of this section.

(e) Nothing in this section shall be construed to mandate the assignment of benefits for anatomic pathology services.

(f) Nothing in this section shall prohibit billing between laboratories for anatomic pathology services in instances where a sample must be sent to another specialist. Nothing in this section shall authorize a physician's office laboratory to bill for anatomic pathology services when the physician of such laboratory has not performed the anatomic pathology service.

(g) The board of registration in medicine may revoke, suspend or deny renewal of the license of a practitioner who violates this section.

SECTION 82. Paragraph (3) of subsection (a) of section 23 of chapter 119 of the General Laws, as appearing in section 83 of chapter 176 of the acts of 2008, is hereby amended by striking out the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 83. Subsection (l) of section 51B of said chapter 119, as appearing in section 98 of said chapter 176, is hereby amended by striking out, in line 138, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 84. Section 1 of chapter 123A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "authority", in line 76, the following word:- ; and.

SECTION 85. Section 1 of chapter 123B of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "mental retardation" and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 86. Section 8 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 49, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 87. Section 49B of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 88. Section 2B of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the word “Fish”, each time it appears, and inserting in place thereof the following word:- Fisheries.

SECTION 89. Section 4 of said chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 182, the figure “2” and inserting in place thereof the following figure:- 2C.

SECTION 90. Section 187 of said chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 91. Section 28 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in lines 15 and 26, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 92. Section 1.22 of chapter 156D of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 93. Section 1.40 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 1, the word “ACT” and inserting in place thereof the following word:- CHAPTER.

SECTION 94. Said section 1.40 of said chapter 156D, as so appearing, is hereby further amended by striking out, in lines 4 and 8, each time it appears, the word “means”.

SECTION 95. Said section 1.40 of said chapter 156D, as so appearing, is hereby further amended by striking out, in lines 52 and 53, the words “includes authority, county, district, and municipality” and inserting in place thereof the following words:- an authority, county, district or municipality.

SECTION 96. Said section 1.40 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 100, the word “apply” and inserting in place thereof the following word:- applies.

SECTION 97. Section 1.50 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 1, the word “ACT” and inserting in place thereof the following word:- CHAPTER.

SECTION 98. Section 4.01 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 7, the words “section 301” and inserting in place thereof the following words:- section 3.01.

SECTION 99. Said section 4.01 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 15, the word “fictious” and inserting in place thereof the following word:- fictitious.

SECTION 100. Section 5.02 of said chapter 156D, as so appearing, is hereby amended by striking out, in lines 20 to 23, inclusive, the words “(either manually or in facsimile) and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (a) and recites that corporation” and inserting in place thereof the following words:- , either manually or in 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 corporation.

SECTION 101. Subsection (b) of section 6.23 of said chapter 156D, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Shares of 1 class or series shall not be issued as a share dividend in respect of shares of another class or series unless: (1) authorized by the articles of organization; (2) the holders of a majority of the outstanding shares of the class or series to be issued approve the issue; or (3) there are no outstanding shares of the class or series to be issued.

SECTION 102. Said section 6.23 of said chapter 156D, as so appearing, is hereby further amended by striking out, in lines 16 to 18, inclusive, the words “distribution which is prior, superior or substantially equal unless (1) the articles of organization so authorize, or” and inserting in place thereof the following words:- a distribution which is prior, superior or substantially equal unless: (1) authorized by the articles of organization; or.

SECTION 103. Section 6.27 of said chapter 156D, as so appearing, is hereby amended by striking out, in lines 14 to 17, inclusive, the words “transfer of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the formation” and inserting in place thereof the following words:- transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information.

SECTION 104. Said section 6.27 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 26, the word “to” and inserting in place thereof the following words:- of.

SECTION 105. Section 6.30 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 6, the words “‘share’ includes” and inserting in place thereof the following words:- “shares” include.

SECTION 106. Section 6.40 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 16, the word “or” and inserting in place thereof the following word:- of.

SECTION 107. Said section 6.40 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 47, the word “than” and inserting in place thereof the following word:- then.

SECTION 108. Section 6.41 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 44, the word “two-year” and inserting in place thereof the

following word:- 3-year.

SECTION 109. Section 7.04 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 28, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 110. Section 7.24 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 25, the word “demutualization” and inserting in place thereof the following word:- cotenants.

SECTION 111. Section 7.25 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 5, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 112. Section 7.40 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 1, the word “SUBCHAPTER” and inserting in place thereof the following word:- SUBDIVISION.

SECTION 113. Section 7.47 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 3, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 114. Section 8.50 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 1, the word “SUBCHAPTER” and inserting in place thereof the following word:- SUBDIVISION.

SECTION 115. Section 8.55 of said chapter 156D, as so appearing, is hereby amended by inserting after the word “by”, in line 12, the following words:- such a.

SECTION 116. Section 8.56 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 3, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 117. Section 8.58 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 2, the word “SUBCHAPTER” and inserting in place thereof the following word:- SUBDIVISION.

SECTION 118. Said section 8.58 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 24, the figure “11.06” and inserting in place thereof the following figure:- 11.07.

SECTION 119. Said section 8.58 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 27, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 120. Section 8.59 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 1, the word “SUBCHAPTER” and inserting in place thereof the following word:- SUBDIVISION.

SECTION 121. Section 9.21 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 27, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 122. Section 9.22 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 33, the word “chapter” and inserting in place thereof the following word:- Part.

SECTION 123. Section 9.30 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 10, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 124. Section 9.32 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 16, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 125. Section 9.40 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 7, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 126. Paragraph (6) of section 9.52 of said chapter 156D, as so appearing, is hereby amended by striking out clauses (1) and (2) and inserting in place thereof the following 2 clauses:-

(i) would have a right to vote as a separate voting group on a provision in the plan that, if contained in a proposed amendment to the articles of organization, would require action by separate voting groups under section 10.04; or

(ii) is entitled under the articles of organization to vote as a voting group to approve a plan of merger.

SECTION 127. Section 9.55 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 2, the word “subchapter” and inserting in place thereof the following word:- subdivision.

SECTION 128. Section 10.22 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 5, the word “Act” and inserting in place thereof the following word:- chapter.

SECTION 129. Section 11.03 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 24, the word “chapter”, each time it appears, and inserting in place thereof the following word:- Part.

SECTION 130. Said section 11.03 of said chapter 156D, as so appearing, is hereby further amended by striking out, in line 25, the word “PART”, each time it appears, and inserting in place thereof the following word:- Part.

SECTION 131. Section 11.04 of said chapter 156D, as so appearing, is hereby amended by striking out, in line 35, the words “the Act” and inserting in place thereof the following words:- this chapter.

SECTION 132. Section 13.20 of said chapter 156D, as so appearing, is hereby amended by striking out, in lines 6 and 7, and in line 11, the word “chapter”, each time it appears, and inserting in place thereof the following word:- Part.

SECTION 133. Section 14.20 of said chapter 156D, as so appearing, is hereby amended by inserting after the word “under”, in line 7, the following words:- chapter 62C

or chapter 63.

SECTION 134. Section 15.01 of said chapter 156D, as so appearing, is hereby amended by inserting after the word “with”, in line 29, the following word:- the.

SECTION 135. Section 24E of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 27, the words “and/or” and inserting in place thereof the following word:- and.

SECTION 136. Section 8Z of chapter 176A of the General Laws, inserted by section 9 of chapter 172 of the acts of 2006, is hereby repealed.

SECTION 137. Said chapter 176A is hereby further amended by inserting after section 8BB the following section:-

Section 8CC. No contract between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed in the commonwealth shall restrict or discontinue coverage for medically necessary hypodermic syringes or needles to an individual or group subscribers within the commonwealth and to a group subscriber having a principal place of employment within the commonwealth, notwithstanding section 27 of chapter 94C. The term “medical necessity” shall be construed in accordance with the guidelines set forth in subsection (b) of section 16 of chapter 176O.

SECTION 138. Section 4Z of chapter 176B of the General Laws, inserted by section 10 of said chapter 172, is hereby repealed.

SECTION 139. Said chapter 176B is hereby further amended by inserting after section 4BB the following section:-

Section 4CC. No subscription certificate under an individual or group medical service agreement, delivered, issued or renewed in the commonwealth shall restrict or discontinue coverage for medically necessary hypodermic syringes or needles to an individual or group subscriber within the commonwealth or to a group subscriber having a principal place of employment within the commonwealth, notwithstanding section 27 of chapter 94C. The term “medical necessity” shall be construed in accordance with the guidelines set forth in subsection (b) of section 16 of chapter 176O.

SECTION 140. Section 4R of chapter 176G of the General Laws, inserted by section 10 of said chapter 172, is hereby repealed.

SECTION 141. Said chapter 176G is hereby further amended by inserting after section 4T the following section:-

Section 4U. No individual or group health maintenance contract shall restrict or discontinue coverage for medically necessary hypodermic syringes or needles, notwithstanding section 27 of chapter 94C. The term “medical necessity” shall be construed in accordance with the guidelines set forth in subsection (b) of section 16 of chapter 176O.

SECTION 142. Section 16 of chapter 195 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 9 and 14, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- developmental services.

SECTION 143. Section 6A of chapter 201 of the General Laws, as so appearing, is hereby amended by striking out, in line 27, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 144. Section 7 of said chapter 201, as so appearing, is hereby amended by striking out, in line 4, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 145. Section 13 of said chapter 201, as so appearing, is hereby amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 146. Section 7 of chapter 206 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 147. Section 24 of said chapter 206, as so appearing, is hereby amended by striking out, in line 6, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 148. Section 14 of chapter 224 of the General Laws, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 149. Chapter 272 of the General Laws is hereby amended by striking out section 104, inserted by section 6 of chapter 395 of the acts of 2004, and inserting in place thereof the following section:-

Section 105. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

“Electronically surveils” or “electronically surveilled”, to view, obtain or record a person's visual image by the use or aid of a camera, cellular or other wireless communication device, computer, television or other electronic device.

“Partially nude”, the exposure of the human genitals, buttocks, pubic area or female breast below a point immediately above the top of the areola.

(b) Whoever willfully photographs, videotapes or electronically surveils another person who is nude or partially nude, with the intent to secretly conduct or hide such activity, when the other person in such place and circumstance would have a reasonable expectation of privacy in not being so photographed, videotaped or electronically surveilled, and without that person's knowledge and consent, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

(c) Whoever willfully disseminates the visual image of another person who is nude or partially nude, with knowledge that such visual image was unlawfully obtained in violation of subsection (b) and without consent of the person so depicted, shall be punished by imprisonment in the house of correction for not more than 2 1/2 years or in the state prison for not more than 5 years or by a fine of not more than \$10,000, or by both such fine and imprisonment.

(d) This section shall not apply to a merchant that electronically surveils a customer changing room, provided that signage warning customers of the merchant's surveillance activity is conspicuously posted at all entrances and in the interior of any changing room electronically surveilled.

(e) This section shall not apply to a law enforcement officer acting within the scope of the officer's authority under applicable law, or by an order or warrant issued by a court.

(f) A sheriff, deputy sheriff or police officer may arrest without a warrant, a person whom he has probable cause to believe has violated this section.

(g) A photograph, videotape or other recorded visual image, depicting a person who is nude or partially nude that is part of any court record arising from a prosecution under this section, shall not be open to public inspection and shall only be made available by court personnel to a law enforcement officer, prosecuting attorney, defendant's attorney, defendant, or victim connected to such prosecution for inspection, unless otherwise ordered by the court.

(h) In a prosecution under this section, a justice of the superior court or district court may issue appropriate orders to restrain or prevent the unlawful dissemination of a person's visual image in violation of this section.

SECTION 150. Section 80 of chapter 199 of the acts of 1987 is hereby amended by striking out, in line 1, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 151. Section 82 of said chapter 199 is hereby amended by striking out, in line 2, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 152. Section 155 of said chapter 199 is hereby amended by striking out, in line 3, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 153. The first paragraph of section 67 of chapter 164 of the acts of 1988 is hereby amended by striking out, in line 1, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 154. Section 69 of said chapter 164 is hereby amended by striking out, in line 2, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 155. Section 68 of chapter 240 of the acts of 1989 is hereby amended by striking out, in line 1, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 156. The second paragraph of section 69 of said chapter 240 is hereby amended by striking out, in line 3, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 157. Section 70 of said chapter 240 is hereby amended by striking out, in line 2, the words "mental retardation" and inserting in place thereof the following words:- developmental services.

SECTION 158. Section 101 of chapter 150 of the acts of 1990 is hereby amended by striking out, in line 1, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 159. The second paragraph of section 102 of said chapter 150 is hereby amended by striking out, in line 4, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 160. Section 105 of said chapter 150 is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 161. The first paragraph of section 55 of chapter 153 of the acts of 1992 is hereby amended by striking out, in lines 8 and 9, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 162. Section 19 of chapter 289 of the acts of 1992 is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 163. The fifth paragraph of subsection (x) of section 252 of chapter 60 of the acts of 1994 is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 164. Section 541 of chapter 151 of the acts of 1996 is hereby amended by striking out, in line 1, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 165. Section 573 of said chapter 151 is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 166. Subsection (a) of section 633 of said chapter 151 is hereby amended by striking out, in line 19, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 167. Section 4 of chapter 312 of the acts of 1996 is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 168. The definition of “Worcester City Campus Corporation” in section 3 of chapter 163 of the acts of 1997 is hereby amended by striking out the figure “139” and inserting in place thereof the following figure:- 138.

SECTION 169. Subparagraph (b) of paragraph 4 of section 8 of chapter 180 of the acts of 1997 is hereby amended by striking out, in line 5, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 170. The first paragraph of section 3 of chapter 239 of the acts of 1998 is hereby amended by striking out, in lines 3 and 4, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 171. The first paragraph of section 307 of chapter 127 of the acts of 1999 is hereby amended by striking out, in line 9, the words “mental retardation” and inserting in place thereof the following words:- developmental services.

SECTION 172. Clause (12) of subsection (a) of section 1 of chapter 41 of the acts of 2003 is hereby amended by striking out the words “chapter 348” and inserting in place thereof the following words:- section 348.

SECTION 173. The first paragraph of chapter 70 of the acts of 2003 is hereby amended by striking out, in line 2, the words “and the”.

SECTION 174. Section 5 of chapter 483 of the acts of 2004 is hereby amended by inserting after the word “of”, in line 9, the following words:- chapter 32 of.

SECTION 175. The introductory paragraph of section 14 of chapter 302 of the acts of 2008 is hereby amended by striking out the words “appearing in the 2006 Official Edition” and inserting in place thereof the following words:- amended by section 45 of chapter 182 of the acts of 2008.

SECTION 176. The introductory paragraph of section 15 of said chapter 302 is hereby amended by striking out the word “appearing” and inserting in place thereof the following word:- amended.

SECTION 177. Section 18 of said chapter 302 is hereby amended by striking out the words “amended by section 16 of chapter 61 of the acts of 2007, is hereby further” and inserting in place thereof the following words:- appearing in the 2006 Official Edition is hereby.

SECTION 178. Chapter 305 of the acts of 2008 is hereby amended by inserting after section 3 the following section:-

Section 3A. Section 2QQQ of chapter 29 of the General Laws, inserted by section 10 of chapter 182 of the acts of 2008, is hereby repealed.

SECTION 179. Sections 10 and 57 of chapter 305 of the acts of 2008 are hereby repealed.

SECTION 180. Said chapter 305 is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. The first paragraph of section 2 of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the second sentence the following sentence:- The board shall require, as a standard of eligibility for licensure, that applicants show a predetermined level of competency in the use of computerized physician order entry, e-prescribing, electronic health records and other forms of health information technology, as determined by the board.

SECTION 181. Section 22 of said chapter 305 is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

Section 2 of chapter 118G of the General Laws, as so appearing, is hereby amended

by striking out the second paragraph, in lines 13 to 30, inclusive, and inserting in place thereof the following paragraph:-

SECTION 182. Section 27 of said chapter 305 is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

Section 5A of said chapter 176O, as appearing in section 26, is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

SECTION 183. Sections 55 and 59 of said chapter 305 are hereby repealed.

SECTION 184. Chapter 307 of the acts of 2008 is hereby amended by striking out sections 5 to 7, inclusive, and inserting in place thereof the following 3 sections:-

Section 5. Subsection (b) of section 4E of said chapter 40J, as appearing in section 49 of chapter 169 of the acts of 2008, is hereby amended by adding the following sentence:- The board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J, prior to making any funds available to said renewable energy projects and facilities for the purpose of clean energy job creation.

Section 6. Clause (iv) of subsection (c) of said section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following words:- by collaborating with the Massachusetts clean energy technology center established in section 2 of chapter 23J.

Section 7. Subsection (d) of said section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following sentence:- In developing and revising the plan, the board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J to ensure a comprehensive and effective approach to clean energy job creation.

SECTION 185. Section 19 of chapter 321 of the acts of 2008 is hereby amended by striking out the words “early education and care” and inserting in place thereof the following words:- elementary and secondary education.

SECTION 186. Chapter 349 of the acts of 2008 is hereby repealed.

SECTION 187. Sections 4, 9 to 16, inclusive, 20, 23 to 32, inclusive, 35 to 45, inclusive, 52 to 58, inclusive, 60, 66 to 69, inclusive, 74, 79, 82, 83, 85 to 87, inclusive, 90, 91, 142 to 147, inclusive, 150 to 167, inclusive, and 169 to 171, inclusive, shall take effect on June 30, 2009.

SECTION 188. Section 15KKKKK of chapter 6 of the General Laws, inserted by section 8, shall take effect on January 4, 2009.

SECTION 189. Subsection (d) of section 62 of chapter 118E of the General Laws, as appearing in section 62, shall take effect on January 1, 2011.

NO SECTION 190.

SECTION 191. Sections 55 and 59 shall take effect as of July 31, 2003.

SECTION 192. Section 65 shall take effect on October 1, 2012.

SECTION 193. Section 78 shall take effect on July 1, 2012.

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SECTION 194. Sections 175 and 176 shall take effect as of July 1, 2008.

SECTION 195. Section 177 shall take effect as of October 1, 2008.

SECTION 196. Section 180 shall take effect on July 1, 2015.

SECTION 197. Section 181 shall take effect as of August 10, 2008.

SECTION 198. Section 185 shall take effect as of August 30, 2008.

SECTION 199. Section 186 shall take effect on January 4, 2009.

Approved January 5, 2009.

Chapter 452. AN ACT RELATIVE TO ANIMAL FIGHTING OR CRUELTY.

Be it enacted, etc., as follows:

Section 95 of chapter 272 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words “two hundred and fifty dollars or by imprisonment for not more than one month, or both” and inserting in place thereof the following words:- \$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment.

Approved January 5, 2009.

Chapter 453. AN ACT RELATIVE TO HOMEOWNER HEATING SAFETY.

Be it enacted, etc., as follows:

SECTION 1. Section 127B½ of chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 3, the words “a residential underground fuel storage tank or” and inserting in place thereof the following words:- contaminated media caused by a release of home heating oil or from.

SECTION 2. Said section 127B½ of said chapter 111, as so appearing, is hereby further amended by inserting after the word “tank”, in lines 13 and 19, the following words:- , removal of contaminated media caused by a release of home heating oil.

SECTION 3. Chapter 148 of the General Laws is hereby amended by inserting after section 38I the following section:-

Section 38J. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Board”, the board of fire prevention regulations within the department.

“Fuel supply line”, a line from a tank to a burner in which oil is supplied to the burner.

“Fuel return line”, a line that returns unused fuel oil back to the tank.

“Oil burner”, a device for burning oil in heating appliances including, but not limited to, boilers, furnaces, water heaters or ranges.

“Oil safety valve”, a device that prevents the flow of oil if a fuel supply line breaks.

“Residential property”, a 1- to 4-unit dwelling used for living or sleeping.

“Tank”, a liquid fuel tank in which heating oil is stored and from which heating oil is delivered or pumped through a fuel supply line to an oil burner, whether located within a dwelling or other structure, including tanks installed at or below grade level, or located outdoors but excluding underground tanks wherever located.

(b) An owner of residential property utilizing a heating oil tank for consumptive use on the premises with 1 or more fuel supply lines or return lines in direct contact with concrete, earth or other floor surfaces shall: (1) enclose any fuel supply line with a continuous non-metallic sleeve; (2) cause an oil safety valve to be installed at the tank end of any fuel supply line in accordance with the manufacturer’s instructions; or (3) employ any other release prevention method approved by the board; provided, however, that the upgrades described in clauses (1) to (3), inclusive, shall not be required if the burner is located above the fuel storage tank and the entire fuel supply line is connected to, and above, the top of the tank.

(c) The provisions of subsection (b) shall not apply to any tank for which fuel supply lines or an oil safety valve were installed or upgraded on or after January 1, 1990; provided, however, that such installation or upgrade complies with 527 CMR 4.03 and 527 CMR 4.04 and has been inspected and certified to be in compliance with said regulations by a licensed oil burner technician on a form prescribed by the department of fire services and submitted to the head of the local fire department, or his designee.

(d) An inspection of upgrades of fuel supply lines and the installation of oil safety valves for compliance with subsection (b) or (c), and any regulations promulgated relevant thereto, shall be conducted by a licensed oil burner technician. Upgrades that comply with said subsection (b) or (c), and any regulations promulgated relevant thereto, shall be certified by such technician on a form prescribed by the department of fire services and the owner shall submit the certification to the head of the local fire department or his designee.

(e) Each local fire department shall forward to the department of fire services a copy of any certification filed pursuant to subsection (d) and the department of fire services shall maintain such records and annually forward a copy of those records to the department of environmental protection.

SECTION 4. Chapter 175 of the General Laws is hereby amended by inserting after section 4C the following section:-

Section 4D. (a) As used in this section, unless the context clearly requires otherwise, “residential property” shall mean a 1- to 4-unit dwelling used for living or sleeping.

(b) The joint underwriting association, formed pursuant to chapter 175C, and each insurer licensed to write and engaged in the writing of homeowners’ insurance shall make the following coverage available to residential owners: (1) first-party property coverage for

response action costs incurred under chapters 21E or 21K, or regulations promulgated pursuant thereto, in response to a release of heating oil from a residential liquid fuel tank or any piping, fuel supply lines, equipment or systems connected thereto; and (2) liability coverage for third-party claims arising out of a release of heating oil into the environment. Minimum coverage of \$50,000 per occurrence for first-party property, minimum coverage of \$200,000 per occurrence for third-party liability and for legal defense costs shall be made available, subject to a reasonable deductible not to exceed \$1,000 per claim. For the purposes of this section, first-party property coverage shall include response action costs incurred to assess and remediate a heating oil release impacting soil, indoor air or other environmental media on the insured's property and the reimbursement of any associated personal property damage. Third-party liability coverage shall defend and indemnify the insured against any third-party claims and shall include response action costs incurred to address conditions on and off the insured's property arising from a heating oil release on the insured's property that has impacted or is likely to impact groundwater or has migrated to, or is likely to migrate to, a third party's property. First-party and third-party liability coverage shall apply simultaneously and, in addition to, one another when both coverages are applicable. Insurers may charge reasonable premiums for such coverage.

(c) Notwithstanding subsection (b), an insurer and the joint underwriting association may require that an owner supply proof that subsection (b) or (c) of section 38J of chapter 148, and any regulations promulgated relevant thereto, have been met as a precondition to the issuance of a policy for the coverage described in subsection (b).

SECTION 5. The joint underwriting association and each insurance company selling homeowners' insurance policies in the commonwealth shall report to the division of insurance annually the number of liquid fuel endorsements to homeowners' insurance policies that are sold in the commonwealth and the rates of such endorsements. The division of insurance shall maintain records of such information and make the information available to the department of environmental protection.

SECTION 6. Notwithstanding any general or special law to the contrary, the department of environmental protection shall investigate the issues posed by heating oil releases at and from residential properties. The department of environmental protection shall submit a report of its investigation and recommendations, including the reduction of current annual fees billed to residential sites listed under the Massachusetts Contingency Plan, as provided in 310 CMR 40.0000, and measures to consider for reduction of the burden on homeowners for complying with said plan without compromising the protection of the public health, safety, welfare or the environment at such sites, to the joint committee on environment, natural resources and agriculture not later than June 30, 2010.

SECTION 7. The department of environmental protection, in consultation with the board of fire prevention, shall prepare a fact sheet describing the risks posed by the release of home heating oil into the environment, the benefits of preventive measures, the preventive measures required by this act and the availability of insurance coverage for such risks in accordance with this act. The fact sheet shall be updated by the department of environmental

protection and the department of fire services periodically, as necessary, for distribution annually to fuel oil retailers by their industry trade association, to insurance agents and producers, and any additional parties identified by the department of environmental protection. The division of insurance shall annually forward to the department of environmental protection the data required to be collected by section 5 and the department of environmental protection shall report its findings on the number of home heating oil releases reported in the previous year, the number of upgrades completed and certified in accordance with this act in the previous year, and the number of liquid fuel endorsements purchased by homeowners in the previous year, and any recommendations of the department relative to home heating oil releases in an annual report to the joint committee on environment, natural resources and agriculture; provided, however, that the department of environmental protection shall file its first report not later than July 1, 2011.

SECTION 8. Notwithstanding any general or special law to the contrary, the board of fire prevention regulations within the department of fire services, in coordination with the department of public safety, shall adopt regulations to carry out section 38J of chapter 148 of the General Laws, not later than April 30, 2010. Said board of fire prevention regulations, in coordination with said department of public safety, may also adopt regulations which pertain solely to homeowner fuel oil system upgrades for above-ground liquid fuel tanks located outside of any dwelling or other structure. Such regulations shall be filed with the joint committee on public safety and homeland security not less than 60 days before the effective date thereof.

SECTION 9. Sections 3 and 4 shall take effect on July 1, 2010.

Approved January 5, 2009.

Chapter 454. AN ACT RELATIVE TO CREDIT UNION MORTGAGES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 171 of the General Laws is hereby amended by striking out section 65, as appearing in the 2006 Official Edition, and inserting in place thereof the following 6 sections:-

Section 65. As used in sections 65 to 65E, inclusive, the following words shall, unless the context otherwise requires, have the following meanings:-

“Commissioner”, the commissioner of banks.

“Loan”, a loan or line of credit, whether secured by collateral or security of any nature or unsecured, for consumer or other purposes other than a real estate loan.

“Real estate”, land or property, including improved land with a dwelling, owner occupied or unoccupied dwellings, unimproved land, farmland, a unit of a condominium, shares of stock issued by a co-operative housing corporation, leasehold interests under a lease

which does not expire for at least 5 years beyond the maturity date of the loan, leasehold interests created in air rights over land, and any other interest in land.

“Mortgage loan”, a loan, line of credit, or borrowing secured primarily by a lien on an interest in real estate, with the exception of a loan described in subsection (c) of section 65A.

“Non-recourse reverse mortgage loan”, a reverse mortgage loan which limits the lender’s recovery solely to the value of the property at the time the loan becomes due and payable.

Section 65A. (a) Credit unions may make or acquire loans and mortgage loans as specified in sections 65 to 65E, inclusive. A credit union may also subsequently revise or modify any terms or conditions of such loans subject to agreement of the parties.

(b) The following categories of mortgage loans are specifically authorized:

(1) residential mortgage loans secured by a first mortgage lien on a dwelling with 4 or less separate households and occupied or to be occupied by the borrower;

(2) residential mortgage loans secured by a subordinate mortgage lien on a dwelling with 4 or less separate households and occupied, or to be occupied, by the borrower including home improvement loans, home equity lines of credit and second mortgage loans;

(3) mortgage loans secured by a lien on real estate held or used for investment, governmental, non-profit or other purposes;

(4) land loans;

(5) construction loans to improve real estate with improvements, structures or projects for residential, investment, governmental or non-profit use and purposes related or incident thereto, including infrastructure or development; and

(6) mortgage loans secured by a lien on real estate saleable in the secondary market or underwritten in accordance with mortgage loan programs of public instrumentalities created by the commonwealth or the federal government for the purpose of financing and expanding the supply of residence mortgages or affordable housing.

(c) Loans for which a lien on or interest in real estate is taken as additional collateral through an abundance of caution, including loans pursuant to which the credit union takes a blanket lien on all or substantially all of the assets of the borrower, and the value of the real estate is low relative to the aggregate value of all collateral, shall not be considered a “mortgage loan” as defined in section 65 but shall be a “loan” as defined in said section 65.

(d) Extensions of credit under subsections (a) to (c), inclusive, may contain any such agreed to terms and conditions including, but not limited to, those governing the payment of principal and interest, collateral, maximum loan-to-value ratios, maximum debt-to-income ratios, aggregate amounts, amortization, prepayment, loan servicing and the apportionment of taxes, betterment assessments and insurance of any kind applicable to the loan, subject to any limitations imposed by this chapter or other provisions of law. A credit union also may subsequently revise or modify any such terms or conditions subject to agreement of the parties.

(e) Notwithstanding subsections (a) to (d), inclusive, reverse mortgage loans and adjustable rate mortgage loans on owner occupied dwellings shall be subject to sections 65C

and 65D.

(f) The commissioner may, by directive, guideline or regulation, carry out the purposes of sections 65A to 65E, inclusive, and to further define the terms in said sections 65A to 65E, inclusive, to promote safe and sound banking practices.

(g) Each credit union shall adopt and maintain comprehensive written loan policies that establish appropriate limits and standards for extensions of credit made pursuant to sections 65 to 65E, inclusive, that are consistent with safe and sound banking practices and are appropriate to the size, nature and scope of the credit union's operations.

(h) Such loan policies shall establish prudent loan underwriting standards that clearly and measurably address, at a minimum:

(1) maximum loan-to-value, loan amount, aggregate amounts, loan maturities, and debt-to-income requirements;

(2) collateral and appraisal requirements;

(3) application and loan approval requirements; and

(4) loan administration procedures.

(i) Such written loan policies shall be reviewed and approved annually by the credit union's board of directors. The commissioner may by directive, guideline or regulation, establish additional minimum safe and sound lending requirements.

Section 65B. (a) A credit union shall inspect the real estate securing a loan in the event that a payment of interest or principal upon the loan or on account of real estate taxes upon the parcel mortgaged to secure the same shall be in default. Inspection for the purpose aforesaid shall be made within 91 days from the date of such default in payment of interest or principal or within 181 days from the date of such default in payment on account of taxes, as the case may be, and thereafter periodic inspection shall continue in accordance with this section until such loan shall no longer be in default.

(b) The commissioner may cause an appraisal of real estate to be made at the expense of the credit union whenever the commissioner deems an excessive loan has been made or is about to be made upon real estate.

Section 65C. (a) A credit union may make or acquire a reverse mortgage loan, pursuant to any program for reverse mortgage loans which has been submitted to and approved by the commissioner, to the owner of real estate improved with a dwelling designed to be occupied by not more than 4 families. Each owner shall be at least 60 years of age and shall occupy the mortgaged real estate, in whole or in part. A person shall be deemed to be the owner of real estate notwithstanding that legal title thereto is held in the name of a trust if such person is the beneficiary of such trust.

(b) For the purposes of sections 65 to 65E, inclusive, a reverse mortgage loan shall not be considered a residential mortgage transaction, as defined in section 1 of chapter 140D or any other transaction specified in subsection (e) of section 10 of said chapter 140D. The notices and rights contained herein shall be in addition to the disclosure and rights provided in said chapter 140D, including the right of rescission in said section 10 of said chapter 140D.

(c) The proceeds from a reverse mortgage loan shall be disbursed to the borrower, pursuant to such program, and together with unpaid interest, if any, shall become due and payable:

- (1) at the end of a fixed term, if any;
- (2) upon the death of the borrower;
- (3) upon the conveyance of title to the mortgaged real estate;
- (4) upon such borrower ceasing to occupy such real estate as a principal dwelling; or
- (5) upon default by the borrower in the performance of his obligations under the loan

agreement.

(d) The commissioner shall not approve any program for reverse mortgage loans which does not include the following:

(1) the type of loan, whether open-end or closed and whether a recourse or non-recourse loan;

(2) an applicant for the loan shall not be bound for 7 days after his acceptance, in writing, of the lender's written commitment to make the loan;

(3) the credit union shall obtain a written statement signed by the borrower acknowledging receipt of disclosure of all contractual contingencies which could force a sale of the mortgaged real estate;

(4) a provision permitting prepayment of the loan without penalty at any time before the loan becomes due and payable;

(5) the interest rate, which may be fixed or variable, and the method of calculation thereof, shall be established at loan origination quote and, at the option of the borrower, may be contingent on the value of the mortgaged real estate at closing or at maturity or on changes in said value during the period between closing and maturity;

(6) the method of disbursement of the proceeds of the loan to the borrower; but, at the request of the borrower, disbursement may be made to a third party pursuant to the terms of the loan agreement;

(7) a copy of the form of the note and mortgage deed that will be utilized for the loan;

(8) a detailed description of how the plan will function; and

(9) such other information as the commissioner may require.

(e) Before making the loan, a credit union shall provide a prospective borrower with written materials explaining in plain language, the type of mortgage being offered and its specific terms, including but not limited to:

(1) a schedule, if applicable, and explanation of payments to the borrower pursuant to the terms of the mortgage agreement and whether or not property taxes and insurance premiums are to be deducted;

(2) a schedule of outstanding debt over time, if applicable;

(3) repayment date, if a fixed term loan, and other provisions which cause the loan to become due and payable;

(4) method of repayment and schedule, if any;

(5) all contractual contingencies, including lack of home maintenance and other default provisions which may result in a forced sale of the mortgaged property;

(6) interest rate and annual percentage rate, and for a reverse mortgage loan for a specified term, total interest payable thereon;

(7) loan fees and charges;

(8) description of prepayment and, if applicable, refinancing features; and

(9) inclusion of a statement that any such mortgage has tax and estate planning consequences and may affect levels of, or eligibility for, certain government benefits, grants or pensions, and that applicants are advised to explore such matters with appropriate authorities.

(f) A credit union shall not make a reverse mortgage loan as provided in this section until it has received a notice, in writing, that the prospective borrower has completed a reverse mortgage counseling program which has been approved by the executive office of elder affairs and which shall include instruction on reverse mortgage loans. The counseling program shall include, but not be limited to, the subject matters contained in clauses (1) to (9), inclusive, of subsection (d), relative to all reverse mortgage loan programs approved by the commissioner pursuant to this section. For the purpose of providing such counseling, the executive office of elder affairs shall establish and maintain a list of counseling programs approved by it and shall make such list available to all credit unions and to the public.

(g) A reverse mortgage loan shall constitute a lien against the property securing the loan to the extent of all advances made pursuant to the reverse mortgage and all interest accrued on such advances, and the lien shall have priority over any lien filed or recorded after recordation of a reverse mortgage loan. The commissioner may adopt regulations necessary to carry out this section.

(h) Sections 96 to 114A, inclusive, of chapter 140 shall not apply to a reverse mortgage loan.

Section 65D. (a) Any credit union may make or acquire mortgage loans evidenced by a note which provides for variation in the rate of interest over the term of the note, but a loan made to finance or refinance the purchase of and secured by a first lien on a dwelling house of 4 or fewer separate households, occupied in whole or in part by the mortgagor, shall be subject to, but not limited to, the following conditions and restrictions imposed by the commissioner:-

(1) the method by which the rate of interest may be adjusted;

(2) the frequency with which the rate of interest may be adjusted, but that successive rate adjustments shall be not less than 6 months apart;

(3) the maximum increase in the rate of interest allowed for any such adjustment;

(4) provisions for decreases in the rate of interest as may be warranted by market conditions;

(5) requirements for advance notification and explanation of adjustments in the rate of interest, but the notification and explanation shall occur not less than 30 days before the adjustment; and

(6) methods of disclosure to the mortgagor of the terms and conditions of the loan as required under the provisions of chapter 140D.

(b) Notwithstanding any general or special law to the contrary, the commissioner may, by further conditions and restrictions, provide that the rate of amortization may be varied, including utilizing a period of negative amortization, in order to adjust the rate of interest.

Section 65E. Every credit union, subject to limitations imposed by section 65 to section 65E, inclusive, or other general law, shall have the following powers and whatever further incidental or complementary powers that may fairly be implied from those expressly conferred and such as are reasonably necessary to enable it to exercise fully those powers according to common customs and usages:

(1) to discount, buy, invest in, hold, assign, transfer, sell and negotiate promissory notes, drafts, bills of exchange, mortgages, bonds, debentures, bonds or notes secured by mortgages, installment obligations and other evidences of debt;

(2) to advance money or credits on real estate, on improvements thereto or on personal security, on terms to be agreed upon; and

(3) to buy, sell or make loans as participation loans with any other federally-insured credit union, bank or insurance company and to service any loans sold by it.

SECTION 2. Chapter 171 of the General Laws is hereby further amended by striking out section 66, as so appearing, and inserting in place thereof the following section:-

Section 66. In making mortgage loans on real estate pursuant to sections 65 to 65E, inclusive, a credit union shall be subject to the following conditions:

(1) A person obligated from time to time to make payments under a mortgage, whether as the original borrower or as a subsequent owner of the mortgaged property, shall be or shall become a member of the credit union.

(2) Each loan shall be on real estate situated within the commonwealth or within a radius of 100 miles of the main office of the credit union without regard to geographical location.

(3) A credit union having assets of not more than \$100,000 may invest not more than 50 per cent of its assets in real estate mortgages. A credit union having assets of more than \$100,000 but not \$500,000 or more may invest not more than 70 per cent of its assets in real estate mortgages. A credit union having assets of \$500,000 or more may invest not more than 80 per cent of its assets in real estate mortgages.

Approved January 5, 2009.

Chapter 455. AN ACT VALIDATING THE ACTIONS TAKEN BY THE TOWN OF WEBSTER AT CERTAIN ANNUAL AND SPECIAL TOWN MEETINGS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the failure to comply with chapter 43B of the General Laws in amending the charter of the town of Webster to create an open town meeting form of government or of any other general or special law to the contrary, the town of Webster shall have an open town meeting form of government and the acts and proceedings taken by the town of Webster at all annual and special town meetings on and after the May 4, 1992, annual town election and all actions taken pursuant thereto are hereby ratified, validated and confirmed.

SECTION 2. The charter of the town of Webster which currently is on file in the office of the town clerk, under which the town has been operating since the May 4, 1992, annual town election and which reflects amendments to the town charter made from 1987 to the present time, whereby ratified, validated and confirmed as the charter of the town of Webster. The charter may be amended or revised from time to time as provided in the constitution or the General Laws.

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

Approved January 7, 2009.

Chapter 456. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough may grant an additional license for the sale of wines and malt beverages to be drunk on the premises to Anyu Cai d/b/a the Chef Sun Restaurant, Inc. at 30 Lyman street in the town of Westborough. 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 reissued by the licensing authority to a new applicant at the same location if the applicant files with the licensing authority a letter 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 under the same conditions as specified in this act.

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

Approved January 7, 2009.

**Chapter 457. AN ACT AUTHORIZING THE CITY OF LOWELL TO LEASE
CERTAIN CITY-OWNED LAND.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Lowell may lease any part or portion of the retail space located in the Middlesex street parking garage located at 135 Middlesex street, Lowell, for a period not to exceed 20 years, upon such terms and conditions as the city manager, with the approval of the city council, shall determine to be in the best interests of the city.

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

Approved January 7, 2009.

**Chapter 458. AN ACT AUTHORIZING THE TOWN OF SUDBURY TO REGU-
LATE CERTAIN PROPERTY TAX EXEMPTION ELIGIBILITY
REQUIREMENTS.**

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 320 of the acts of 2002 is hereby amended by inserting after the word "year", in line 9, the following words:- , except that effective fiscal year 2009, the income eligibility shall be established as equal to that for a married couple filing jointly under subsection (k) of section 6 of chapter 62 of the General Laws.

SECTION 2. Said section 1 of said chapter 320 is hereby further amended by inserting after the first sentence the following 2 sentences:- For each taxable year thereafter, the maximum income eligibility shall be increased by an amount equal to such income, multiplied by the cost-of-living adjustment for the calendar year in which such taxable year begins. These amounts shall be cumulative for each year; provided, however, that the maximum income eligibility shall always be equal to the income limits established for a married couple filing jointly under said subsection (k) of said section 6 of said chapter 62.

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

Approved January 7, 2009.

Chapter 459. AN ACT AUTHORIZING THE APPOINTMENT OF DARRYL SENCABAUGH FOR THE POSITION OF FIREFIGHTER IN THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a firefighter, Darryl Sencabaugh shall be allowed to have his civil service exam test results from April, 2008 considered by the town of Wilmington for his appointment to the position of firefighter in the town of Wilmington, and if he meets all other requirements, he shall be eligible for certification and appointment to the fire department of the town of Wilmington.

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

Approved January 7, 2009.

Chapter 460. AN ACT ESTABLISHING A SELECTMEN-ADMINISTRATOR FORM OF GOVERNMENT FOR THE TOWN OF NEWBURY.

Be it enacted, etc., as follows:

SECTION 1. Upon the effective date of this act, the town of Newbury shall be governed by this act. To the extent that this act modifies or repeals existing General Laws and special acts or that body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth, this act shall govern.

SECTION 2. The administration of all of the fiscal, prudential, and municipal affairs of the town shall remain vested in the executive branch headed by the board of selectmen and the legislative powers of the town shall remain vested in a town meeting open to all voters.

SECTION 3. The board of selectmen shall appoint the chief of police and all other police officers, the town counsel, the administrative assistant to the selectmen, the members of the personnel board, the members of the zoning board of appeals, the members of the finance committee, 2 members of the capital planning committee, the board of fire engineers, and all the members of other appointed boards, committees, and commissions except as may be otherwise specified in this act.

SECTION 4. The regional school committee members shall continue to be elected in conformity with the votes of the regional school district. All powers, rights and duties, now or hereafter conferred or imposed by law upon the regional school committee, shall be exercised and performed by the regional school committee. This act shall not be construed to affect the powers and duties of the regional school committee as provided by law.

SECTION 5. A member of the board of selectmen, or of the regional school committee, or of the finance committee, during the term for which the member was elected or appointed, shall be ineligible either by election or appointment to hold any other town office. Any other person appointed by the selectmen or town administrator to a town office under this act or of any general or special law shall be eligible during the term of said office to appointment to any other town office, except that the town accountant shall not be eligible to hold the position of town treasurer or the position of town collector. The town administrator, subject to applicable General Laws relating thereto, may assume the duties of an office which he is authorized to fill by appointment.

SECTION 6. The selectmen elected as provided herein shall appoint, as soon as practicable, for a definite term to be set by the selectmen, a town administrator who shall be a person especially fitted by education, training, and experience, to perform the duties of the office. The town administrator shall be appointed without regard to political affiliations or beliefs. The town administrator need not be a resident of the town or of the commonwealth, shall possess a college degree at the bachelor level and shall have 3 years of full-time paid experience in a supervisory administrative position. A master's degree may substitute for not more than 1 year of such paid experience. The town administrator shall execute a bond in favor of the town for the faithful performance of the duties of the office in a sum and with such surety or sureties as fixed or approved by the selectmen, the cost of which shall be paid by the town. The selectmen shall enter into a formal contract with the town administrator and establish a compensation and benefits package which may take precedence over any personnel by-laws.

SECTION 7. A vacancy in the office of town administrator shall be filled as soon as possible by the selectmen. Pending the appointment of a town administrator or filling of a vacancy, the selectmen shall, within 7 days, appoint a suitable person to perform the duties of the office.

SECTION 8. The town administrator may designate, subject to approval by the board of selectmen, by letter filed with the town clerk, a qualified officer of the town to perform the duties of the office during a temporary absence or disability of the town administrator. In the event of failure of the town administrator to make that designation, the selectmen may, by resolution, designate an officer of the town to perform the duties of the office until the town administrator shall return or the disability shall cease.

SECTION 9. During any term of appointment of the administrator, the board of selectmen may, under the terms and conditions of the contract entered into between the town and the administrator as set forth in section 6, remove the administrator for good cause. In the event of such removal, the administrator shall receive a severance pay in the amount equal to 1 month of pay for each full year of service to the town, but in no event more than an amount equal to 3 months' pay.

SECTION 10. The town administrator shall receive such compensation for services as the board of selectmen shall determine, but the compensation shall not exceed the amount

appropriated therefore by the town.

SECTION 11. In addition to specific powers and duties provided in this act, the town administrator shall have the general powers and duties enumerated in this section as follows:

(1) The town administrator shall supervise the heads of all departments and shall supervise and direct the general administration of all commissions, boards, and offices, except the board of selectmen, the regional school committee, the planning board, the board of health, the board of assessors, the finance committee, the library trustees, the town counsel, and the moderator. The town administrator shall not exercise any control over the discretionary power vested by statute in any such board, committee, commission, or office.

(2) The town administrator, in accordance with this act and with the approval of the board of selectmen, except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate, or abolish departments, commissions, boards, or offices under his direction and supervision, in whole or in part, and may establish such new departments, commissions, boards, or offices as the town administrator considers necessary and may transfer the powers and duties of one department, commission, board, or office to another.

(3) The town administrator shall approve, upon the recommendation of department heads, the appointment and removal of all officers and employees of the town. Department heads shall select, on merit and fitness alone, all department employees for such recommendation. The town administrator shall appoint on merit and fitness alone, and may remove, all officers and employees of the town who are not otherwise appointed or elected under this act.

(4) The town administrator shall attend all regular meetings of the board of selectmen.

(5) The town administrator shall keep full and complete records of the office, and shall render as often as may be required by the selectmen, but, in any case, annually, a full report of all operations during the period reported on.

(6) The town administrator shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption measures requiring action by them or by the town as the town administrator considers necessary or expedient.

(7) The town administrator shall have jurisdiction over the rental and use of town property and shall be responsible for the maintenance and repair of town buildings. The town administrator shall be responsible for the preparation of plans and the supervision of work on existing town buildings and on the construction of new town buildings.

(8) The town administrator shall appoint the chief procurement officer of the town who shall be responsible for the purchase of all supplies and materials and equipment, except books and educational materials for schools and books and other media for libraries, and shall approve the awards of all contracts for all departments of the town. The chief procurement officer may hold other positions with the town consistent with the officer's role hereunder.

(9) The town administrator shall administer, either directly or through a person appointed by the town administrator in accordance with this act, general and special laws applicable to the town, all town by-laws and all regulations established by the selectmen.

(10) The town administrator shall have authority, with the approval of the board of selectmen and the town counsel, to prosecute, defend and compromise all litigation to which the town is a party, and shall be the executive officer of a public employer in the town as referred to in chapter 258 of the General Laws pertaining to the processing of claims against the town.

(11) The town administrator shall be the selectmen's agent for collective bargaining and may request the town counsel to assist in the performance of these duties.

(12) The town administrator shall secure on or before December first of each year from all offices, boards, and committees charged with equipment, a list of the equipment upon forms approved by the finance committee. The lists shall be filed with the town accountant who shall transmit them to the clerk of the finance committee.

(13) The town administrator shall attend town meetings and shall be permitted to speak when recognized by the moderator.

(14) The town administrator shall be responsible for the implementation of town meeting votes and shall report annually in writing to the town meeting on the status of prior town meeting votes on which implementation is not complete.

(15) The town administrator shall be accessible and available during regular office hours for consultation to chairpersons of boards, committees, and commissions of the town, whether appointed or elected, and shall make accessible and available to them data and records of the office of town administrator as may be requested in connection with their official duties.

(16) The town administrator shall perform such duties, consistent with the office, as may be required by the by-laws of the town or by vote of selectmen or town meeting.

SECTION 12. The town administrator may, without notice, cause the affairs of any division or department under his or her supervision, or the job-related conduct of any officer or employee thereof, to be examined. The town administrator shall have access to all town books and papers for information necessary for the proper performance of the town administrator's duties. The town administrator shall promptly transmit any findings of wrongdoing to the board of selectmen.

SECTION 13. The town administrator shall appoint, with the approval of the board of selectmen, the town treasurer, the tax collector, the town accountant, the building inspector and assistant building inspector, the conservation agent, the highway superintendent, the harbormaster, the town planner, and the director of veterans' affairs. The town administrator shall appoint, and may remove subject to the approval of the board of selectmen, department heads, officers, and subordinates and employees for whom no other method of appointment is provided in this act, except the assistant town clerk, who shall be appointed by the town clerk, and persons serving under other elected agencies and appoint-

ments made by representatives of the commonwealth. Appointments to the permanent positions made by the town administrator shall become effective on the fifteenth day following the day notice of appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of the full board, vote to reject any such appointment.

SECTION 14. The registered voters of the town of Newbury shall, in accordance with applicable laws, town by-laws, and votes of the town, continue to elect the following:

- (1) moderator;
- (2) members of the board of selectmen;
- (3) regional school committee members;
- (4) members of the planning board;
- (5) members of the board of health;
- (6) library trustees;
- (7) town clerk;
- (8) constables;
- (9) fish commissioners;
- (10) trustees of the First Settlers Burial Ground;
- (11) tree warden; and
- (12) members of the board of assessors.

This act shall not affect the term of office of an elected official or elected member of a board, committee or authority. Every other elective office, board, committee, or commission of the town shall be terminated or shall become appointive as provided herein, any other law to the contrary notwithstanding. The term of office of a person elected to an office, board, committee, or commission of the town, existing at the time of such acceptance and terminated hereunder, shall continue until the appointment of the town administrator, and thereafter the offices, boards, committees, and commissions shall be abolished, and all powers, duties and obligations conferred or imposed thereon by law, except as provided by this act, shall be conferred and imposed upon the town administrator to the extent hereinafter provided. The term of office of a person elected to an office, board, committee, or commission, existing as an elected office on the effective date of this act and having become appointive hereunder, shall continue until the term for which that person was elected shall have expired, and until the appointment and qualification of a successor. The powers, duties, and responsibilities of elected officials shall be as now or hereafter provided by applicable General Laws, special acts, town by-laws, and votes of the town, except as otherwise expressly provided herein. Notwithstanding the election by the voters of the town of the officers named in this section, those officers shall be available to the administrator for consultation, conference and discussion on matters relating to their respective offices. The town administrator may require those officials, except the selectmen, to prepare reports for the town administrator necessary for the efficient administration of any of the fiscal responsibilities of the office.

SECTION 15. At least 90 days before the annual town meeting, the town administrator shall submit in writing to the board of selectmen a careful detailed estimate of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the preceding year and an estimate of the expenditures for the current year. The town administrator shall also submit a statement showing all revenues received by the town in the preceding fiscal year together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. The town administrator shall report the probable amount required to be levied and raised by the taxation to defray all expenses and liabilities of the town, together with an estimate of the tax rate necessary to raise that amount. For the purposes of enabling the town administrator to make up the annual estimates of expenditures, all boards, offices, and committees of the town shall, at least 120 days before the annual town meeting, furnish all information in their possession and submit in writing to the town administrator a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

SECTION 16. The board of selectmen shall consider the tentative budget submitted by the town administrator and make recommendations relative thereto as it considers expedient and proper in the interests of the town. On or before the seventy-fifth day before the annual town meeting, the board of selectmen shall transmit a copy of the budget, together with its recommendations relative thereto, to each member of the finance committee.

SECTION 17. The town administrator shall perform the duties of the town's director of municipal finance and, as such, shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws shall be submitted to the town administrator. The approval of warrants by the town administrator shall be sufficient to authorize payment by the town treasurer, but in the event of a vacancy in the office of town administrator the selectmen shall approve the warrants.

SECTION 18. Laws, town by-laws, votes, rules, and regulations, whether enacted by the authority of the town or by any other authority, which are in force in the town of Newbury on the effective date of this act, or any portion or portions thereof, not inconsistent with this act, shall continue in full force and effect until otherwise provided by other laws, town by-laws, votes, rules, and regulations, respectively.

SECTION 19. A contract or an action at law or suit in equity, or other proceeding existing or pending on the effective date of this act shall not be affected by this act.

SECTION 20. A person holding a town office or employment under the town shall retain the office or employment and shall continue to perform the duties of the office or employment until provisions have been made in accordance with this act for the performance

of those duties by another person or agency. A person who continues in the permanent full-time service or employment of the town shall not forfeit pay grade or time in service.

SECTION 21. This act shall take effect upon its passage.

Approved January 7, 2009.

Chapter 461. AN ACT RELATIVE TO THE ESTABLISHMENT OF A TAX AMNESTY PROGRAM BY THE COMMISSIONER OF REVENUE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the commissioner of revenue to establish a tax amnesty plan, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the commissioner of revenue shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner for the failure of the taxpayer to: (i) timely file any proper return for any tax type and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect. The waiver of a taxpayer's liability under this section shall apply if the taxpayer files returns, makes payments as required by the commissioner or otherwise comes into compliance with the tax laws of the commonwealth as required by the commissioner pursuant to the tax amnesty. The scope of the amnesty program in terms of the particular tax types and periods covered, including any limited look-back period for unfiled returns, shall be determined by the commissioner.

The amnesty program shall be established for a period of 2 consecutive months within fiscal year 2009 to be determined by the commissioner, such period to expire not later than June 30, 2009, and all required payments shall be made on or before June 30, 2009, in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2009, the commissioner shall retain any payments made and shall apply said payments against the outstanding liability, and the provisions of the tax amnesty program shall not apply.

The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who, before the start date of the amnesty program selected by the commissioner, was the subject of a tax-related criminal investigation or prosecution. The amnesty program shall not authorize the waiver of interest or any amount treated as interest.

The commissioner may offer tax amnesty to those taxpayers who have either any unpaid self-assessed liability or who have been assessed a tax liability, whether before or after their filing of a return, which assessed liability remains unpaid.

To the extent that a taxpayer within the scope of the amnesty program as determined by the commissioner and wishing to participate in the amnesty program has postponed the payment of an assessment of tax, interest and penalty under the authority of subsection (e) of section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights under said subsection (e) to further delay the payment of the tax and interest portions of the assessment. The tax and interest portions of the assessment shall be payable in full from the date of the commissioner's notice of assessment. Upon payment by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall waive all penalties associated with that assessment. Thereafter, the taxpayer and the commissioner shall proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect to the assessment.

Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

The commissioner shall maintain records of the amnesty provided under this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability, for which amnesty was provided and, for each type of liability, the amount of tax liability collected; and the amount of penalties foregone by virtue of the amnesty program; and (iii) the total outstanding tax liability due to the commonwealth, for the period through December 31, 2006, after the collection of all funds under this section. The commissioner shall file a report detailing such information with the clerks of the house of representatives and the senate, the joint committee on revenue, the house and senate committees on ways and means, the minority leader of the house and the minority leader of the senate, not later than September 1, 2009; provided, however, that such report shall not contain information sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

SECTION 2. Section 2 of chapter 182 of the acts of 2008 is hereby amended by inserting after item 1201-0100 the following item:-

1201-0101 The department of revenue may expend an amount not to exceed \$500,000 from the revenues collected under any tax amnesty program authorized to be implemented after the effective date of this act before June 30, 2009, for the costs of administering this program, for discovering and identifying persons who are delinquent either in the filing of any tax return or the payment of any tax due and payable to the commonwealth, for the costs of obtaining those delinquent returns and collecting those delinquent taxes for any prior fiscal year;

provided, however, 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 therefor as reported in the accounting system

..... \$500,000.

Approved January 7, 2009.

Chapter 462. AN ACT RELATIVE TO THE CONVERSION OF A CREDIT UNION CHARTED ON THE COMMONWEALTH TO A FEDERAL CHARTER.

Be it enacted, etc., as follows:

Chapter 171 of the General Laws is hereby amended by inserting after section 80A the following section:-

Section 80B. (a) A credit union chartered in the commonwealth may convert, subject to this section, into a credit union chartered under applicable federal law and regulations upon the affirmative vote of a majority of the members of the credit union voting on the proposal.

(b) The board of directors of a credit union chartered in the commonwealth, by an affirmative vote of two-thirds of the entire board, may approve a plan of conversion and submit the plan to the commissioner for his review. Included with the plan shall be an information statement to be sent to members which shall fully and fairly disclose all significant terms and steps to be taken for the conversion and shall include but not be limited to the following:-

- (1) a statement as to why the board of directors is considering the conversion;
- (2) a statement of the major positive and negative business effects of the proposed conversion; and
- (3) the impact on the member's financial and other interests in the credit union.

(c) The commissioner shall review the contents of the plan before the credit union board of directors presents the conversion plan to the members for a vote. The commissioner may require changes to the plan of conversion and information statement. The commissioner may also require an equitable disclosure if he determines such disclosure is applicable to the transaction. The commissioner may specify the form, type and other material aspects of the plan of reorganization and information statement to be sent to members. The commissioner shall approve the contents of the conversion plan and information statement only if the commissioner is satisfied that the following elements have been met:-

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(1) the plan discloses to the members information concerning the advantages and disadvantages of the proposed conversion;

(2) the information statement discloses the impact on the member's financial and other interests in the credit union; and

(3) the conversion would not be made to circumvent a pending supervisory action that is initiated by the commissioner or other regulatory agency because of a concern over the safety and soundness of the credit union.

(d) Upon approval of the contents of the conversion plan and information statement by the commissioner, the credit union shall call a special meeting of its members to vote on the conversion plan. At least 14 days before the meeting, the credit union shall mail to each member a notice of the meeting, the conversion plan and information statement.

(e) Certified copies of records of all proceedings held by the board of directors and members of the credit union shall be filed with the commissioner. In addition, the credit union shall furnish a certified copy of consent or approval of the federal regulatory authority to the commissioner. Upon acceptance of the federal charter, the credit union's charter from the commonwealth shall terminate.

(f) A person who willfully violates the disclosure provisions of this section knowing such disclosure made to be false or misleading in any material respect shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 3 years, or both.

Approved January 7, 2009.

Chapter 463. AN ACT RELATIVE TO POLICE AUCTIONS.

Be it enacted, etc., as follows:

Section 8 of chapter 135 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "auction", in line 8, the following words:- or any other licensed auction service, including sale over the Internet.

Approved January 7, 2009.

Chapter 464. AN ACT RELATIVE TO CERTAIN LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES IN THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

The licensing authority of the town of Hingham shall not approve the transfer of the license for the sale of all alcoholic beverages to be drunk on the premises held by the Country Club Management Committee of the town of Hingham, d/b/a the South Shore Country Club,

which is located at 274 South street in the town of Hingham to any other location.

Approved January 7, 2009.

Chapter 465. AN ACT INCREASING THE FINE FOR PARKING IN POSTED BUS STOPS.

Be it enacted, etc., as follows:

SECTION 1. Section 20A of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “thereafter”, in line 88, the following words:- ; provided, however, that the fine for the violation of parking a motor vehicle within a posted bus stop shall be \$100.

SECTION 2. Section 20A½ of said chapter 90, as so appearing, is hereby amended by inserting after the word “that”, in line 73, the following words:- the fine for the violation of parking a motor vehicle within a posted bus stop shall be \$100; and provided further, that.

SECTION 3. Section 46 of chapter 161A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The authority may promulgate rules and regulations concerning any posted authority bus stops throughout the authority service area. The authority, in consultation with the registry of motor vehicles, shall develop a uniform citation for the violation of parking a motor vehicle within a posted authority bus stop and all such citations issued by the authority shall be processed by the authority and the revenue generated from those citations shall be distributed equally between the authority and the municipality in which the citation was issued. Nothing in this section shall impair a municipality’s authority to issue citations for parking in a posted bus stop within that municipality. All citations for parking in a posted bus stop issued by a municipality shall be processed by the municipality and the municipality shall retain all the revenue generated by the citations. Not more than 1 citation shall be issued to the same vehicle for parking in a posted bus stop within a 24-hour period. If a Massachusetts Bay Transportation Authority police officer tows a vehicle, the tow shall be completed in a manner consistent with the towing policies and procedures of the municipality in which the illegally parked vehicle is located.

SECTION 4. If a municipality and the authority have entered into an agreement concerning the issuance of citations for parking in a posted bus stop before the effective date of section 3, the terms of that agreement shall control until the termination of that agreement.

Approved January 7, 2009.

Chapter 466. AN ACT TO PROMOTE BREASTFEEDING.

Be it enacted, etc., as follows:

Chapter 111 of the General Laws is hereby amended by adding the following section:-

Section 221. (a) A mother may breastfeed her child in any public place or establishment or place which is open to and accepts or solicits the patronage of the general public and where the mother and her child may otherwise lawfully be present.

(b) Notwithstanding any general or special law to the contrary, the act of a mother breastfeeding her child, and any exposure of a breast incidental thereto that is solely for the purpose of nursing such child, shall not be considered lewd, indecent, immoral, or unlawful conduct.

(c) No person or entity, including a governmental entity, shall, with the intent to violate a mother's right under subsection (a), restrict, harass or penalize a mother who is breastfeeding her child.

(d) The attorney general may bring a civil action for equitable relief to restrain or prevent a violation of subsection (c).

(e) A civil action may be brought under this section by a mother subjected to a violation of subsection (c). In any such action, the court may: (i) award actual damages in an amount not to exceed \$500; (ii) enter an order to restrain such unlawful conduct; and (iii) award reasonable attorney fees.

(f) A place of religious instruction or worship shall not be subject to this section.

Approved January 9, 2009.

Chapter 467. AN ACT RELATIVE TO THE RETIREMENT BENEFITS OF EMERGENCY MEDICAL TECHNICIANS.

Be it enacted, etc., as follows:

Paragraph (g) of subdivision (2) of section 3 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

A municipality may elect to place in Group 4 uniformed employees of a municipal or public emergency medical service who are certified at any level by the department of public health as an emergency medical technician. This section shall take effect in a municipality upon its acceptance in the following manner: in a city having a Plan D or Plan E charter, by majority vote of its city council and approved by the manager; in any other city by majority vote of the city council and approved by the mayor; in a town, by vote of the board of selectmen.

Approved January 9, 2009.

Chapter 468. AN ACT FURTHER PROVIDING FOR THE FINANCIAL STABILITY OF THE CITY OF SPRINGFIELD.

Be it enacted, etc., as follows:

SECTION 1. Chapter 656 of the acts of 1989 is hereby amended by striking out sections 2 and 3 and inserting in place thereof the following 3 sections:-

Section 2. (a) Notwithstanding any general or special law or local ordinance to the contrary, there shall be in the city of Springfield a department of administration and finance which shall be responsible for the overall budgetary and financial administration of the city. The department shall be under the charge and control of a chief administrative and financial officer, herein after referred to the CAFO. The CAFO shall report to and be under the direction of the mayor. Nothing in this section shall abrogate the powers and duties of the school committee under any general or special law, except as specifically provided in this section.

(b)(1) The mayor shall appoint the CAFO for a term of not more than 3 years, as provided in this subsection. The CAFO shall be appointed solely on the basis of administrative and executive qualifications and shall be a person especially fitted by education, training and experience to perform the duties of the office. The CAFO need not be a resident of the city or the commonwealth when appointed, but shall become a resident of the city within 1 year of appointment.

(2) When the office of CAFO is vacant or it is known that it will become vacant, the mayor shall initiate the selection process by giving notice of his intention to establish a screening committee to review applicants for the position and shall send a copy of the notice to each agency or officer responsible for appointing persons to serve on the screening committee. The mayor shall appoint the screening committee not earlier than 21 days after sending that notice. No screening committee shall be required if the mayor reappoints an incumbent CAFO.

(3) The screening committee shall consist of 7 members. The school committee, city council and state secretary of administration and finance of the commonwealth shall each appoint 1 person to serve on the screening committee. The mayor shall appoint 4 other members to the screening committee, 2 of whom shall be experts in municipal management.

(4) The screening committee shall recommend to the mayor the names of not less than 2 or more than 5 candidates whom it believes to be best suited to perform the duties of the CAFO. If the screening committee determines that there are not at least 2 candidates qualified to perform the duties of the CAFO, the screening committee shall report to the mayor that it is unable to complete its assigned task. In that event, the mayor shall direct the screening committee to reopen the search.

(5) The mayor shall appoint as the CAFO 1 of the candidates recommended by the screening committee or, if he finds that no such candidate to be qualified for the office, he shall direct the screening committee to reopen the search.

(c) While the process of appointing a CAFO under subsection (b) is proceeding, the mayor may appoint an acting CAFO.

(d) If a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, the appointment, including an acting appointment, or removal of the CAFO shall not take effect until it has been approved in writing by the secretary of administration and finance.

(e) The powers and duties of the CAFO shall include the following:

(1) coordinating, administering, and supervising of all financial services and activities;

(2) assisting in all matters related to municipal financial affairs;

(3) implementing and maintaining uniform systems, controls, and procedures for all financial activities in all departments, including the school department, boards, commissions, agencies or other units of city government the operations of which have a financial impact upon the general fund and enterprise funds of the city, and including, but not limited to, maintaining of all financial and accounting data and records;

(4) implementing and maintaining uniform financial data processing capabilities for all departments;

(5) supervision of all financial data processing activities;

(6) implementing and maintaining uniform budget guidelines and procedures;

(7) assisting in the development and preparation of all department budgets and spending plans;

(8) reviewing all proposed contracts and obligations with a term in excess of 1 year;

(9) monitoring the expenditure of all funds, including periodic reporting by and to appropriate agencies of the status of accounts;

(10) reviewing the spending plan for each department; and

(11) providing for the allotment of funds on a periodic basis as provided for in this act.

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the CAFO to promote, secure, and preserve the financial interests of the city.

(f) All department budgets and requests for budget transfers shall be submitted to the CAFO for review and recommendation before submission to mayor, city council or school committee, as appropriate. For each proposed appropriation order, and with respect to any proposed city council vote necessary to effectuate a financial transfer, ordinance revision or special legislation which may require the expenditure of funds or otherwise financially obligate the city for a period in excess of 1 year, or with respect to a vote to authorize a borrowing pursuant to a provision of law other than section 4, 6 or 6A of chapter 44 of the General Laws, the CAFO shall, if it be the case, submit in writing to the mayor and city council a certification that it is the CAFO's professional opinion, after an evaluation of all pertinent financial information reasonably available, that the city's financial resources and revenues are and will continue to be adequate to support such proposed expenditures or obligations without a detrimental impact on the continuous provision of the existing level of municipal services. If the CAFO fails to provide this certification within 7 days after a request for such certification from the mayor or city council, the appropriation order, financial

transfer, ordinance revision, special legislation or borrowing authorization may nonetheless be approved, but the absence of the certification of the CAFO shall be expressly noted in that order or vote.

(g) All departments, officers, boards, commissions, agencies and other units of the city, including the school department, shall submit budget requests to the mayor upon the schedule and in the form established by the CAFO.

(h) Annually, not later than March 30, the CAFO shall submit a 4-year financial plan and a 5-year capital plan to the mayor and city council that includes all capital needs of the city.

(i) The board of assessors, treasurer/collector, budget director, comptroller, director of information technology, director of purchasing, director of human resources, labor relations director, director of capital asset construction and employees performing similar duties but with different titles shall report to and be under the direction of the CAFO. The CAFO shall appoint all such officers and employees with the approval of the mayor. The mayor may also place other positions and departments under the direction of the CAFO.

(j) The CAFO shall not assume the duties or responsibilities of the director of internal audit or collector/treasurer and shall not hold an elective office or engage in any other business or occupation.

(k) The city shall annually appropriate amounts sufficient for the proper administration of the department, as determined in writing by the secretary of administration and finance. If the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct the necessary funds from the city's distribution from the State Lottery Fund and shall expend those funds directly for the benefit of the department.

(l) The city of Springfield shall be deemed to have accepted section 37M of chapter 71 of the General Laws for the purpose of consolidating the operations of the business and financial services department of the school department with those of the city under the authority of the CAFO. Such acceptance may be revoked but no revocation of acceptance shall be valid or effective in any year during which a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, without the written approval of the secretary of administration and finance.

The CAFO and the director of internal audit shall comply with all requests of the school department to provide any information relating to the operation of the school department held within the authority or control of the CAFO or the director of internal audit as the result of the consolidation. If the CAFO, the director of internal audit, or any employee thereof refuses to provide such information or engages in unreasonable delay, the school department shall notify the secretary of administration and finance. The secretary shall, within a reasonable time, make a determination that any such information shall be provided to the school department which shall be binding upon the CAFO, the director of internal audit and the school department. The secretary's determination shall not be an adjudicatory proceeding reviewable under chapter 30A of the General Laws. Nothing in this subsection shall abrogate any of the other powers or duties of the school committee under

chapter 71 of the General Laws.

Section 2A. (a) There shall be in the city the office of comptroller. Employees of the office shall be especially fitted by education, training and experience to assist in the performance of the duties of the office.

(b) The CAFO shall appoint the comptroller, with the approval of the mayor, solely on the basis of administrative and executive qualifications. The comptroller shall be a person especially fitted by education, training and previous experience to perform the duties of the office, and need not be a resident of the city or commonwealth when appointed.

(c) The comptroller shall report to and be under the direction of the CAFO, who may remove the comptroller at will.

(d) The comptroller shall have the powers and duties of a city auditor under sections 50 to 54A, inclusive, of chapter 41 of the General Laws; provided, however, that section 50 of said chapter 41 shall only apply to the comptroller to the extent that it does not conflict with the duties of the director of internal audit under section 3.

(e) The comptroller may transfer from the accounts of any department any funding not projected to be necessary due to position vacancies or operating efficiencies developed during a fiscal year. This transfer shall be into a central holding account which shall expire on June 30 of each fiscal year. If a vacant position is filled after any such transfer, the comptroller may reverse the portion of the transfer associated with that position to ensure sufficient funding in the relevant department. This transfer authority shall extend to the school department only during a year during which budgeted net school spending, as reported to the department of elementary and secondary education, is at or above required amounts under chapter 70 of the General Laws.

(f) Upon majority vote and at the written request of the city council, within a reasonable time period after such a request, the comptroller shall provide an oral or written assessment, or both, as the city council may request, of the current and future financial impact of the cost of any proposed appropriation order, lease arrangement for a term in excess of 1 year, collective bargaining agreement or borrowing authorization, particularly, but not limited to, as such cost item would relate to the continuous provision of the existing level of municipal services. To the extent reasonable, this assessment shall include such analysis or other information of a financial nature as is specifically requested by vote of the city council. The comptroller shall provide this assessment and analysis as the comptroller's professional opinion and the comptroller shall not be obliged to represent the position of the mayor or CAFO.

(g) The comptroller may hire, fire, discipline and manage personnel under the comptroller's direction.

Section 3. (a) There shall be in the city a director of internal audit. The mayor shall appoint the director with the approval of the city council, for a term of 3 years and may likewise remove the director.

(b) The director shall have the powers and duties of a city auditor under sections 50

and 53, inclusive, of chapter 41 of the General Laws and the ordinances of the city. The director may hire, fire, discipline and manage personnel under the director's direction.

(c) The director shall examine or cause to be examined the financial and other records of the city and its departments. The director shall conduct or cause to be conducted both financial and performance audits to prevent and detect waste, fraud and abuse and to improve the efficiency, effectiveness and quality of public services provided in and by the city.

(d) Annually, not later than March 30, the director shall propose to the city council an audit plan for the following fiscal year which shall be reviewed and accepted by the city council, subject to modification by majority vote. The audit plan may be filed, considered, modified and approved in an executive session of the city council if public review, consideration, modification or approval would negatively impact the ability of the director to execute the audit plan.

(e) All offices and employees of officers, boards, commissions, agencies and other units of city government, including the school department, shall comply with all requests for information or access to systems and records by any employee of the director acting in an official capacity. If any such officer or employee refuses to provide or engages in unreasonable delay in providing information or access, or knowingly or through neglect provides false or misleading information, the director may bring to the CAFO an administrative complaint against that officer or employee. If the CAFO finds, after notice and opportunity for hearing, that the officer or employee refused information or access to the office of the director or knowingly or through neglect provided false information, the officer or employee shall be individually and personally subject to a civil fine of \$100 per violation per day until the violation is cured. This fine shall be payable to the general fund of the city. Notwithstanding any general or special law, contract or collective bargaining agreement to the contrary, a violation of this subsection shall be just cause for termination.

(f) The director may retain the assistance of audit firms and others in the conduct of the work of the director's office.

SECTION 2. Section 2 of chapter 169 of the acts of 2004 is hereby amended by striking out the eighth and ninth sentences and inserting in place thereof the following 2 sentences:- The city shall repay the entire balance of amounts loaned pursuant to this section not later than June 30, 2022. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed from the fund to the city shall result in an equally commensurate reduction in local aid payments made by the commonwealth to the city in fiscal year 2023.

SECTION 3. Subsection (d) of section 4 of chapter 169 of the acts of 2004 is hereby amended by striking out clauses (7) and (8) and inserting in place thereof the following 2 clauses:-

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city; provided, that executive order number 8-11-04 issued by the board shall be repealed as of July 31, 2011.

(8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; provided, however that the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; provided further, that the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; provided further, that the board shall, subject to collective bargaining, require all new city employees and those current employees receiving promotions, to be residents of the city within 6 months after their appointment and the board shall not issue a residency waiver; provided further, that and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board; and provided further, that the board may delegate or otherwise assign these powers with the approval of the secretary.

SECTION 4. (a) There shall be in the city of Springfield a consolidated department of community development which shall be under the direction of a director of community development.

(b) The director shall report directly to and be supervised by the mayor, shall be the chief development officer of the city and shall supervise, manage and coordinate the day-to-day activities of the department and all city departments and employees placed under his jurisdiction by this section. The director shall coordinate all community development activities of these departments with the community development activities of other departments under the jurisdiction of other city officials, boards and commissions.

(c) The department shall include the existing community development department, including its housing, neighborhood and economic development departments, code enforcement department, and planning department, as well as the staffing for the redevelopment authority and the industrial development financing authority. The planning board, zoning board of appeals, conservation commission and historical commission of the city shall be under the administrative control of the director of community development.

SECTION 5. In any year in which a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, on or before July 1, the CAFO shall submit to the director of accounts a pro forma tax rate recapitulation for the following fiscal year. 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 conclusion to the commissioner of revenue. In any such year, upon submission of the annual tax rate recapitulation, the director shall also 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 said section 23 of said chapter 59 and the director shall report his conclusion to the commissioner. If the commissioner determines that the city budget as presented on the pro forma or annual tax rate recapitulation would not

permit certification of the tax rate for the applicable fiscal year, he shall certify this determination in writing and provide notice of the determination with a copy of the certificate to the secretary of administration and finance. Upon such notification, the secretary may recommend to the governor that he submit legislation reviving the finance control board or establishing a receiver for the city.

SECTION 6. Notwithstanding chapter 43 of the General Laws or any other general or special law to the contrary, the city board of election commissioners shall place upon the ballot for the regular city election in 2009 in the city of Springfield the following question:—"Shall the term of office of the mayor of the city of Springfield be 4 years?"

If a majority of the votes cast in answer to said question is in the affirmative, the term of office of the mayor of the city of Springfield shall be for 4 years and shall continue until the election and qualification of his successor, beginning with the 2011 regular city election.

SECTION 7. Whenever the term "department of finance" appears in any general or special law or any ordinance, regulation, contract or other document with reference to the city of Springfield, it shall mean the department of administration and finance of the city of Springfield. Whenever the term "chief financial officer" appears in any general or special law or any ordinance, regulation, contract or other document with reference to the city of Springfield, it shall mean the chief administrative and financial officer of the city of Springfield. Whenever the term "auditor" or "city auditor" appears in any general or special law or any ordinance, regulation, contract or other document with reference to the city of Springfield, it shall mean the comptroller or director of internal audit of the city of Springfield, as the case may be under sections 2A and 3 of chapter 656 of the acts of 1989.

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

Approved January 9, 2009.

Chapter 469. AN ACT AUTHORIZING 5 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES IN THE TOWN OF WEST BRIDGEWATER.

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 or rule or regulation to the contrary, the licensing board of the town of West Bridgewater may grant 5 additional licenses for the sale of all alcoholic beverages to be drunk on the premises, subject to the conditions set forth in this section. The 5 additional licenses authorized in this act shall be granted only to businesses located in the development known as The Villages at West Bridgewater.

Notwithstanding any general law or special law or rule or regulation to the contrary, the licensing authority of the town of West Bridgewater shall not approve the transfer of any of the licenses authorized in this act to any other person, corporation or organization but, a

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license may be re-issued by the licensing authority at another location within The Villages at West Bridgewater if an applicant for the license files with the licensing authority a letter 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 a 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 under the same conditions as set forth in this act.

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

Approved January 9, 2009.

**Chapter 470. AN ACT AUTHORIZING THE CITY OF SALEM TO GRANT AN
ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Salem may grant 1 additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to JMRS Restaurant, Inc. for a restaurant to be located at 163-189 Washington street in the city of Salem. The license shall be subject to all of said chapter 138 except section 17.

(b) Notwithstanding any general or special law or any rule or regulation to the contrary, the licensing authority of the city of Salem shall not approve the transfer of said license to any other location. The license may be granted by the said licensing authority at the same location if an applicant for the license files with the authority a letter 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 act.

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

Approved January 9, 2009.

**Chapter 471. AN ACT AUTHORIZING THE TOWN OF SHARON TO GRANT 5
LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES
NOT TO BE DRUNK ON THE PREMISES.**

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 Sharon may grant licenses for the sale of wines and malt beverages not to be drunk on the premises to not more than 5 food stores under section 15 of said chapter 138. Except as provided herein, such licenses 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 with a gross floor area of more than 1,000 square feet which sells at retail, food for consumption on or off the 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. Food store shall also mean a high-end food store or other specialty store that may sell imported, organic, ethnic or prepared foods for personal, family or household use. A food store shall specifically exclude a convenience store or a store that also sells gasoline; provided, however, that the board of selectmen shall determine whether an applicant is a food store under this act. In making the 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 the license under this act may sell wines and malt beverages in combination with any other items offered for sale. The licensed premises shall be located in the Business D District or the Light Industrial District, provided that the use as a grocery store or food store is allowed by right or by special permit in either such zoning district, and the licensed premises may also be located upon land in the town of Sharon identified by assessors parcel map 37, lot 5 as Shaw’s Supermarket, 700 South Main street. The amount of any initial or renewal fee for such license shall be determined by the licensing authority issuing or renewing that license. The licensing authority shall not approve the transfer of the license to any other location, but the license may be granted to a new applicant at the same location if the applicant has followed all rules prescribed by the licensing authority related to the application and procedures for approval of a transfer including, but not limited to, the filing of a completed application for the transfer of the license to the new operator at the same location and the filing of a letter 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 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, which may 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 January 9, 2009.

Chapter 472. AN ACT DESIGNATING THE DEPARTMENT OF YOUTH SERVICES FACILITY IN THE TOWN OF WESTBOROUGH AS THE ZARA CISCO BROUGH PRINCESS WHITE FLOWER FACILITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith the Department of Youth Services facility in the town of Westborough, 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 department of youth services facility, located at 288 Lyman street in the town of Westborough, shall be designated and known as the Zara Cisco Brough Princess White Flower Facility, in honor of Zara Cisco Brough, a prominent and well respected member of the Nipmuc Nation Tribe in the town of Grafton, who died in 1988 and who played a key role in founding the commission on Indian Affairs. The division of capital asset management and maintenance shall erect suitable markers bearing the designation in compliance with the standards of said division.

Approved January 10, 2009.

Chapter 473. AN ACT RELATIVE TO THE GROTON COUNTRY CLUB AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 533 of the acts of 1991 is hereby amended by striking out, in line 2, the words "and Recreation" inserted by section 1 of chapter 115, of the acts of 1995.

SECTION 2. Section 11 of chapter 115 of the acts of 1995 is hereby repealed.

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

Approved January 10, 2009.

Chapter 474. AN ACT AUTHORIZING THE TOWN OF LINCOLN TO ESTABLISH A POST EMPLOYMENT HEALTH INSURANCE TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there is hereby established in the town of Lincoln a trust fund to be known as the Group Insurance Liability Fund, as set out in sections 2 to 4, inclusive, for the purpose of funding the town's future liabilities for contributions to retired employees' health insurance premiums.

SECTION 2. As used in this act, the following words shall have the following meanings:

"Normal cost of post-retirement benefits", that portion of the actuarial present value of future premium costs or claim costs payable by the town on behalf of, or direct payments payable by the town, to retired employees, including school teachers, of the town and the eligible surviving spouses or dependents of deceased employees, including school teachers, of the town, under this act which is allocable to a particular fiscal year, as determined by an actuary under section 4.

"Post-retirement benefit liability", the present value of the town's obligation for future premium payments and claim costs on behalf of, or direct payments to, retired and prospectively retired employees of the town and the eligible surviving spouses or dependents of deceased and prospectively deceased employees of the town attributed by the terms of the plan to employee's service rendered to the date of the measurement under this act, as determined by an actuary under section 4.

"Unfunded post-retirement benefit liability", the difference between the post-retirement benefit liability on the measurement date and the actuarial value of the assets of the Group Insurance Liability Fund on the same date, as determined by an actuary.

"Unfunded post-retirement benefit liability amortization payments", the amount which, when paid into the Group Insurance Liability Fund annually over a period of years together with the normal cost of post-retirement benefits for each year of that period of years, will reduce to zero at the end of that period the unfunded post-retirement benefit liability in existence as of the beginning of the period as determined by an actuary.

SECTION 3. The town treasurer shall manage the Group Insurance Liability Fund in consultation with the board of selectmen and the town administrator. The fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future cost of premiums payable by the town on behalf of, or direct payments payable by the town to, retired employees of the town and the eligible surviving spouses or dependents of deceased employees of the town under this act, and the town shall be expressly authorized to appropriate or otherwise make available funds for such purposes. Amounts in the fund, including any earnings or interest accruing from the investment of these amounts, shall be expended only for the payment of these premiums or direct payments, except as otherwise provided in this act, and only in accordance with a schedule of payments developed by the actuary in consultation with the board of selectmen. Subject in each instance to the approval of the town administrator, the town treasurer shall invest and reinvest the amounts in the fund not needed for current disbursement consistent with the prudent investor rule and sections 3, 4, 5, 8 and 9 of chapter 203C of the General

Laws. The treasurer may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the fund and may pay for this advice and other services as determined by the board of selectmen.

SECTION 4. An actuary shall determine, as of January 1, 2009 and not less frequently than every second year after that date, the normal cost of post-retirement benefits, the post-retirement benefit liability and the unfunded post-retirement benefit liability. All these determinations shall be made in accordance with generally-accepted actuarial standards, and the actuary shall make a report of these determinations. The report shall, without limitation, detail the demographic and economic actuarial assumptions used in making these determinations, and each report after the first report shall also include an explanation of the changes, if any, in the demographic and economic actuarial assumptions employed and the reasons for any changes. The report shall also include a comparison of the actual expenses by the town for premium or direct payments constituting the post-retirement benefit liability during the period since the last determination and the amount of these expenditures which were predicted under the previous report for that period.

The actuary, in consultation with the board of selectmen, shall establish a schedule of annual payments to be made to the Group Insurance Liability Fund designed to reduce to zero the unfunded post-retirement benefit liability. This schedule shall reduce the initial unfunded post-retirement benefit liability over a period of years not to exceed 30. Any additional unfunded liability created after the last such determination by the provision of any new benefit or by any increase in the premium share payable by the town shall be separately amortized over the 15 years following the date of the determination in which the additional liability was first recognized. Each annual payment shall be equal to the sum of the unfunded post-retirement benefit amortization payment required for that year and the payments required to meet the normal cost of post-retirement benefits for the fiscal year.

All payments for the purposes of meeting the town's share of premium costs for direct payments to retired employees of the town and the surviving spouses or dependents of deceased employees of the town under this act shall be made from the Group Insurance Liability Fund in accordance with a schedule of disbursements established by the actuary.

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

Approved January 10, 2009.

Chapter 475. AN ACT RELATIVE TO THE POSITIONS OF TREASURER AND TAX COLLECTOR IN THE TOWN OF BECKET.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 662 of the acts of 1989, as appearing in section 1 of chapter 158 of the acts of 1996, is hereby amended by striking out clauses (h) and (I).

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

(v) treasurer, for a term of 3 years

(w) tax collector, for a term of 3 years.

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

Approved January 10, 2009.

Chapter 476. AN ACT AUTHORIZING THE ESTABLISHMENT OF AN AFFORDABLE HOUSING FUND IN THE TOWN OF HARWICH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Harwich may establish and maintain a special fund to be known as Affordable Housing Fund. The following monies shall be deposited into the fund: (1) the lease payments received pursuant to the terms of the lease between the town and Sprint Spectrum, L.P., for the lease of town land located off state highway route 137 as authorized under Article 4 of the 2001 special town meeting; (2) the proceeds from the sale of 6 parcels of land on Great Western road authorized under Article 55 of the 1999 annual town meeting and approved for transfer for affordable housing purposes under Article 6 of the 2004 special town meeting; (3) the proceeds from the sale of 6 lots authorized under Article 73 of the 2007 annual town meeting; (4) the proceeds from the sale of any other land or buildings provided that the town meeting specifically authorizes the dedication of the sale proceeds to the fund; (5) any monies received through private and public gifts, contributions and grants for affordable housing purposes; and (6) appropriations made to the fund by town meeting.

SECTION 2. The treasurer of the town of Harwich shall be the custodian of the fund and may deposit the monies in national banks or invest the same in securities as are legal for the investment of funds or in savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth. Any interest earned shall be added to and become part of the fund.

SECTION 3. To preserve, promote and increase affordable housing in the town of Harwich, the board of selectmen may expend fund monies to pay for research, acquisition, creation, construction, repair, maintenance, rehabilitation, program administration and legal and engineering costs associated with and incurred for affordable housing and to fund grants to the Harwich Housing Authority for any low-income rental assistance program sponsored by the authority.

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

Approved January 10, 2009.

Chapter 477. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOHN VITALE, 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 John Vitale, an employee of the land 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 Vitale. Whenever John Vitale 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 shall 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 January 10, 2009.

Chapter 478. AN ACT AUTHORIZING THE CITY OF LOWELL TO PAY FUNERAL AND BURIAL EXPENSES OF EMPLOYEES KILLED IN THE PERFORMANCE OF THEIR DUTIES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Lowell, by majority vote of its city council, shall pay the reasonable expenses, not to exceed \$15,000, of the funeral and burial of a city of Lowell employee who, while acting in the performance of his office or employment, was killed or sustained injuries that resulted in his death. For the purpose of this act, "employee" shall mean any person in the service of the city of Lowell whose duties require not less than 20 hours of work during a regular work week, and shall not include any seasonal employee, emergency employee or retiree.

SECTION 2. This act shall not apply to city of Lowell employees or officers otherwise covered under the provisions of section 100G¼ of chapter 41 of the General Laws, which has been previously accepted by the city of Lowell.

SECTION 3. No payment shall be made under this act unless documentation that such expense has actually been incurred has been submitted to the city auditor who shall report to the city council as to its adequacy.

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

Approved January 10, 2009.

Chapter 479. AN ACT PROVIDING FOR THE ESTABLISHMENT OF OTHER POST EMPLOYMENT BENEFITS LIABILITY TRUST FUNDS IN MUNICIPALITIES AND CERTAIN OTHER GOVERNMENTAL UNITS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a local option for municipalities and certain other governmental units to establish certain trust funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 32B of the General Laws is hereby amended by adding the following section:-

Section 20. A city, town, district, county or municipal lighting plant that accepts this section, may establish a separate fund, to be known as an Other Post Employment Benefits Liability Trust Fund, and a funding schedule for the fund. The schedule and any future updates shall be designed, consistent with standards issued by the Governmental Accounting Standards Board, to reduce the unfunded actuarial liability of health care and other post-employment benefits to zero as of an actuarially acceptable period of years and to meet the normal cost of all such future benefits for which the governmental unit is obligated. The schedule and any future updates shall be: (i) developed by an actuary retained by a municipal lighting plant or any other governmental unit and triennially reviewed by the board for a municipal lighting plant or by the chief executive officer of a governmental unit; and (ii) reviewed and approved by the actuary in the public employee retirement administration commission.

The board of a municipal lighting plant or the legislative body of any other governmental unit may appropriate amounts recommended by the schedule to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. 1395w-132 may be added to and become part of the fund.

The custodian of the fund shall be: (i) a designee appointed by the board of a municipal lighting plant; or (ii) the treasurer of any other governmental unit. Funds shall be invested and reinvested by the custodian consistent with the prudent investor rule set forth in chapter 203C.

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This section may be accepted in a city having a Plan D or Plan E charter by vote of the city council; in any other city by vote of the city council and approval of the mayor; in a town by vote of the town at a town meeting; in a district by vote of the governing board; in a municipal lighting plant by vote of the board; and in a county by vote of the county commissioners.

Approved January 10, 2009.

Chapter 480. AN ACT VALIDATING THE ACTIONS TAKEN AT CERTAIN ANNUAL TOWN ELECTIONS HELD IN THE TOWN OF DALTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 10 of chapter 39 of the General Laws and sections 63 and 54 of chapter 54 of the General Laws or any other general or special law to the contrary, the votes taken by the town of Dalton at its May 12, 2003, May 10, 2004, May 9, 2005, May 8, 2006, May 14, 2007, and May 12, 2008, annual town elections and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission with regard to the warrant for the election.

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

Approved January 10, 2009.

Chapter 481. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN ANNUAL AND SPECIAL TOWN MEETING IN THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law to the contrary, the votes taken by the town of Rockland at its 2008 annual town meeting held on May 5, 2008, and at its special town meeting held on May 5, 2008, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed in all respects to the same extent as if the meetings had been called and held in full compliance with the town charter and any other laws.

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

Approved January 10, 2009.

Chapter 482. AN ACT RELATIVE TO THE PARK DEPARTMENT IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of subsection (a) of section 5-3 of article 5 of chapter 189 of the acts of 2005 is hereby amended by striking out, in lines 9 and 10, the words “, park department and commissioners of parks and playgrounds”.

SECTION 2. Section 5-8 of said article 5 of said chapter 189 is hereby amended by inserting after the word “department”, in line 2, the following words:- , park department.

SECTION 3. Said section 5-8 of said article 5 of said chapter 189 is hereby further amended by adding the following 2 sentences:- There shall be a parks and recreation commission consisting of 7 residents appointed by the mayor. Said commission shall advise the mayor on the operation and maintenance of and policies pertaining to parks, playgrounds, school athletic facilities, the golf course and recreational programs.

Approved January 10, 2009.

Chapter 483. AN ACT RELATIVE TO ELECTIONS IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

SECTION 1. Clause (iii) of subsection (a) of section 7-3 of article 7 of chapter 189 of the acts of 2005 is hereby amended by striking out, in line 2, the word “sought.” and inserting in place thereof the following words:- sought; and.

SECTION 2. Said subsection (a) of said section 7-3 of article 7 of said chapter 189 is hereby further amended by adding the following clause:-

(iv) for the office of electric light board, library trustee or housing authority, not less than 50 signatures townwide.

Approved January 10, 2009.

Chapter 484. AN ACT PROVIDING FOR THE FILLING OF VACANCIES IN CERTAIN OFFICES IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

Article 7 of chapter 189 of the acts of 2006 is hereby amended by adding the following section: -

Section 7-13: FILLING OF VACANCIES IN CERTAIN ELECTED OFFICES

(a) Runner-up to succeed to office - If a vacancy shall occur in the office of library

trustee, electric light board or housing authority, the vacancy shall be filled in descending order of votes received by the candidate for that office at the preceding regular town election who received the largest number of votes without being elected, if that person remains eligible and willing to serve and if that person received votes equal to at least 60 per cent of the vote total received by the person receiving the largest number of votes for that office at that election. The town clerk shall certify this candidate to the office to serve for the balance of the then unexpired term but if the vacancy occurs during the first 18 months of the term for which members are elected, the person so chosen shall serve only until the next regular town election at which the remainder of the term shall be filled by the voters. A person serving as a member of the library trustees, electric light board or housing authority who was not elected by the voters shall not have the words "candidate for reelection" printed with his name on the ensuing election ballot. If a vacancy shall occur in the office of library trustee, electric light board, or housing authority during the last 6 months of the term, the vacancy shall be filled by the person at the regular town election who receives the highest number of votes for that office and who is not then serving as a member of the library trustees, electric light board or housing authority. That person shall immediately be certified and shall serve for the last 2 months of the concluding term in addition to the term for which he was elected.

(b) Filling of vacancies by board - Whenever a vacancy shall occur in the office of library trustee, electric light board or housing authority and there is no available candidate to fill the vacancy in the manner provided in subsection (a), the vacancy shall be filled by the remaining members of the board on which the vacancy exists. Persons appointed to fill a vacancy by the remaining members of the board shall serve only until the next regular town election at which the vacancy shall be filled by the voters and the person elected to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which he was elected. A person serving as a member of the library trustees, electric light board or housing authority who was not elected by the voters shall not have the words "candidate for reelection" printed with his name on the ensuing election ballot.

Approved January 10, 2009.

Chapter 485. AN ACT RELATIVE TO VACANCIES IN CERTAIN ELECTED OFFICES IN THE TOWN OF BRAINTREE.

Be it enacted, etc., as follows:

The second paragraph of subsection (g) of section 7-12 of article 7 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:- Vacancies in any other office shall be filled under sections 2-11, 4-6 and 7-13.

Approved January 10, 2009.

Chapter 486. AN ACT RELATIVE TO THE CITY OF EVERETT.

Be it enacted, etc., as follows:

SECTION 1. The board of aldermen shall cause the following question to be placed on the official ballot to be used in the city of Everett at the next biennial municipal election in the year 2009: "Shall the city of Everett nominate and elect a charter commission in accordance with the provisions of chapter 43B of the General Laws of Massachusetts?"

SECTION 2. If a majority of votes on the question in section 1 are cast in the affirmative, then the city shall nominate and elect a charter commission, but not otherwise. The city of Everett shall nominate and elect a charter commission for the purposes of revising and amending its charter, in accordance with the provisions of chapter 43B of the General Laws. Such nomination and election shall take place at the next biennial election to be held in 2009.

Approved January 9, 2009.

Chapter 487. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF GREENFIELD.

Be it enacted, etc., as follows:

Section 4-1 of the charter of the town of Greenfield, 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 paragraph (b), as appearing in section 2 of chapter 230 of the acts of 2007, and inserting in place thereof the following paragraph:-

(b) Term of Office. The term of office for the 6 persons elected by the voters as school committee members shall be for 3 years each, with staggered terms, beginning on the first business day of July after the annual town election and continuing until their successors have been qualified. Transitional elections shall provide for 1 member of the school committee to be elected for a 3-year term in the 2008 election, 1 member of the school committee to be elected for a 3-year term and 1 member of the school committee to be elected for a 2-year term in the 2009 election, 2 members of the school committee to be elected for 3-year terms and 1 member of the school committee to be elected for a 2-year term in the 2010 election and 2 members of the school committee to be elected for 3-year terms at each election thereafter.

Approved January 10, 2009.

Chapter 488. AN ACT AUTHORIZING THE MASHPEE WATER DISTRICT TO HOLD ELECTIONS FOR THE BOARD OF WATER COMMISSIONERS CONCURRENTLY WITH THE MASHPEE TOWN ELECTIONS.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 136 of the acts of 1987 is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 3 sentences:- Elections to the board of water commissioners shall be on the same date and, as far as practicable, at the same place as the Mashpee town elections. The term of each elected member of the board of water commissioners shall be 3 years beginning on the date of the election and ending on the date of the Mashpee town election held in the third year following the commissioners' election. The date of the annual district meeting shall be fixed by the district by-laws.

SECTION 2. The terms of the members of the board of water commissioners on the effective date of this act shall be extended from the second Tuesday in April 2009 until the date of the 2009 Mashpee town election.

Approved January 10, 2009.

Chapter 489. AN ACT ESTABLISHING THE CAPE COD AND ISLANDS COMMISSION ON THE STATUS OF WOMEN.

Be it enacted, etc., as follows:

(a) There is hereby established a permanent commission on the status of women in Barnstable, Dukes and Nantucket counties called the Cape Cod and Islands commission on the status of women, herein referred to as the commission, which shall consist of 13 persons to be appointed by the Massachusetts commission on the status of women. The commission shall conduct an ongoing study of all matters concerning women on Cape Cod and the Islands. The commission shall report its findings to the Massachusetts commission on the status of women annually and recommend solutions to the problems facing the women of Cape Cod and the Islands.

(b) The Massachusetts commission on the status of women shall make such appointments to the commission from a pool of applicants who reside in Barnstable, Dukes and Nantucket counties.

(c) Members of the commission 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, former members may reapply to serve on the commission after 1 year has passed since their last term. The initial members of the commission shall be appointed for the following terms: 4 members for a term of 1 year, 4 members for a term of 2 years and 5 members for a term of 3 years.

(d) 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.

(e) Appointments by the Massachusetts commission on the status of women to the commission shall be made in consultation with women's organizations. Nominations shall be solicited each year through an open application that is widely distributed throughout Barnstable, Dukes and Nantucket counties. Members of the commission should be diverse and represent different towns and municipalities in Barnstable, Dukes and Nantucket counties.

(f) Members shall serve on the commission as volunteers and shall not be compensated.

(g) The commission shall elect from among its members a chair, a vice chair, a treasurer, a secretary and any other officers it deems necessary.

(h) The commission shall meet at least 6 times a year, at the members' discretion. Members of the Massachusetts commission on the status of women may attend the meetings of the commission.

(i) The commission may accept and solicit funds, including any gifts, donations, grants or bequests or any federal funds for the purposes of this section. Such funds shall be deposited in a separate account to be expended at the discretion of the commission.

(j) The powers of the commission shall include, but not be limited to, the following: (i) to use voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and needed; (ii) to recommend policies and make recommendations to agencies and officers of the state and local subdivisions of government to effectuate the purposes of the commission; (iii) to enact by-laws for its own governance; and (iv) to hold regular, public meetings and to hold fact-finding hearings and other public forums as it may deem necessary.

Approved January 9, 2009.

Chapter 490. AN ACT AUTHORIZING LOUIS MAGLIOZZI TO TAKE THE CIVIL SERVICE EXAMINATION FOR APPOINTMENT AS A POLICE OFFICER IN THE TOWN OF BURLINGTON NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

Be it enacted, etc., as follows:

Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age of an applicant for appointment as a police officer, Louis Magliozzi of the town of Burlington shall be eligible to take the next open, competitive civil service examination for appointment to the position of police officer in the town of Burlington and, if he meets all other requirements, shall be eligible for certification and appointment to such position.

Approved January 9, 2009.

Chapter 491. AN ACT RELATIVE TO RETIREMENT BENEFITS FOR LOUIS CATALDO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the contrary, the retirement allowance of Louis Cataldo, a retired employee of the Barnstable county sheriff's office and retired chief of the police department of the town of Dennis, shall, upon a majority vote of the Barnstable county retirement board and the Barnstable county commissioners, be increased to an amount not exceeding one-half of the regular rate of compensation payable to the present chief deputy sheriff of Barnstable county or a similar position at the time of the increase of such allowance. Barnstable county shall be responsible for an increase in the pension allowance of Louis Cataldo made pursuant to this act.

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

Approved January 13, 2009.

Chapter 492. AN ACT RELATIVE TO SIGNATURES FOR NOMINATION PETITIONS FOR CITY COUNCILLOR-AT-LARGE IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 56 of chapter 452 of the acts of 1948, as appearing in section 1 of chapter 90 of the acts of 1993, is hereby amended by striking out, in line 4, the words "five hundred" and inserting in place thereof the following figure:- 1,500.

SECTION 2. The fourth paragraph of section 3 of chapter 605 of the acts of 1982 is hereby amended by striking out, in lines 3 to 5, inclusive, the words "but in no event shall these requirements exceed two per cent of the vote cast in the preceding mayoral election in the respective district"

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

Approved January 13, 2009.

Chapter 493. AN ACT RELATIVE TO CERTAIN PUBLIC NUISANCES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith declare the Asian longhorn beetle and oak wilt public nuisances and to provide penalties for the knowing resistance or obstruction of efforts to suppress or eradicate said public nuisances, 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 11 of chapter 132 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “way”, in line 9, the following words:- , and any invasive plant or animal species, diseases and insects which damage the health, safety or quality of forest, shade or other trees including, but not limited to, the Asian longhorned beetle or oak wilt.

SECTION 2. Said chapter 132 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. Whoever knowingly resists or obstructs the commissioner, any local superintendent or employee or authorized agent of any of them, while any of those persons is engaged in suppressing or eradicating the Asian longhorned beetle, oak wilt or any public nuisance described in section 11, or whoever knowingly violates any rule, regulation, order or quarantine issued by the commissioner, in writing, relative to the suppression or eradication of public nuisances shall be subject to a civil penalty of not more than \$25,000 for each violation. Each day that such violation occurs or continues shall be deemed a separate violation. The penalty may be assessed by the department, and may be recovered in an action brought on behalf of the commonwealth in the superior court. The commonwealth also may bring an action for injunctive relief in the superior court for any such violation, and the superior court shall have jurisdiction to enjoin such violation and to grant such further relief as it may deem appropriate.

Approved January 13, 2009.

Chapter 494. AN ACT AUTHORIZING THE ISSUANCE OF CERTAIN BONDS BY THE TOWN OF NORTHBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Northborough may issue bonds and notes not exceeding \$1,500,000 for the costs of environmental remediation and costs incidental and related thereto for a term of not more than 20 years from their date of issuance. The town may also issue temporary loans in anticipation of any borrowing pursuant hereto 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 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 January 13, 2009.

Chapter 495. AN ACT RELATIVE TO DISCHARGING SEWAGE FROM MARINE VESSELS INTO WATERS OF THE COMMONWEALTH DESIGNATED AS NO DISCHARGE AREAS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the waters 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 10H of chapter 21A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section 5C of chapter 90B may appear and pay a fine of \$2,000. For the purposes of this paragraph, "person" shall mean a natural person, corporation, association, partnership or other legal entity or other legal agency or political subdivision of the commonwealth.

SECTION 2. Section 1 of chapter 90B of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Owner" the following definition:-

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

SECTION 3. Said chapter 90B is hereby further amended by inserting after section 5B the following section:-

Section 5C. Any person that discharges sewage, whether treated or not, from a marine sanitation device into any waters of the commonwealth designated by the secretary of environmental affairs as a no discharge area pursuant to 33 U.S.C. 1322 shall be punished by a fine not to exceed \$2,000 for each violation of this section.

If a person defaults in the payment of a fine imposed for a violation of this section, or any portion thereof, the court shall cause a copy of the court record reflecting such default to be transmitted forthwith to the director. The court shall send a new copy of such person's court record to the director upon satisfaction of the fine. After receipt of a court record showing a default for nonpayment of a fine, or portion thereof, the director shall not issue an original certificate of number or renew a certificate of number to the person in default for any boat owned by such person until notified that such fine is satisfied. If a certificate of number was issued to such person prior to receipt of the record showing a default for nonpayment of a fine, or portion thereof, the director shall revoke such certificate of number for any boat owned by such person until notified that such fine is satisfied.

Notwithstanding section 10G of chapter 21A, all fines collected pursuant to this section shall be paid to the commonwealth for deposit into the General Fund.

Approved January 13, 2009.

Chapter 496. AN ACT AUTHORIZING THE APPOINTMENT OF ALTERNATE MEMBERS OF THE TOWN OF CANTON HISTORICAL COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 8D of chapter 40 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Canton may appoint 2 persons to serve as alternate members of the historical commission.

(b) A person appointed as an alternate member of the historical commission may act as a member of the commission as set forth in section 8D of chapter 40 of the General Laws and any other applicable law or by-law but only in the absence of a regular member of the commission.

(c) The initial terms of the alternate members shall be for 2 years and 3 years respectively, and thereafter their successors shall be appointed for terms of 3 years each. An alternate member may, after a public hearing if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term of an alternate member shall be filled for the remainder of the unexpired term in the same manner as the initial appointment.

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

Approved January 13, 2009

Chapter 497. AN ACT AUTHORIZING THE TOWN OF TEWKSBURY TO ISSUE PENSION FUNDING BONDS OR NOTES.

Be it enacted, etc., as follows:

SECTION 1. The town of Tewksbury may issue bonds or notes from time to time in an aggregate amount not to exceed \$5,000,000 for the purpose of funding the town's liability attributable to the additional benefits payable under the early retirement incentive programs authorized by chapter 116 of the acts of 2002 and chapter 46 of the acts of 2003 and an aggregate amount not to exceed \$50,000,000 for the purpose of funding the town's unfunded pension liability and to provide for the issuance costs and other necessary or incidental expenses. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms of not more than 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.

SECTION 2. The maturities of bonds or notes issued under this act shall: (i) be scheduled 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 the board of selectmen, or in accordance with a schedule providing for a more rapid amortization of principal; or (ii)

be arranged so that for each issue the annual combined payments of principal and interest shall be in amounts specifically approved by the secretary of 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 town of Tewksbury to the Middlesex retirement system; allocated solely to reduce the unfunded pension liability to which the bonds or notes relate; invested in any investments which are permitted under chapter 32 of the General Laws; and otherwise held and expended by the Middlesex retirement system in accordance with law.

SECTION 4. Before the issuance of bonds or notes under this act, the town 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 and interest on the bonds and notes, if any, the present value savings reasonably expected to be achieved as a result of the issue of the bonds or notes and any other information requested by the secretary of 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.

SECTION 5. If the unfunded pension liability to be funded with the proceeds of an issuance of bonds or notes under this act relates in part to employees of a governmental unit other than the town of Tewksbury, that governmental unit shall be responsible for reimbursing the town for the proportion of the annual debt service expense paid by the town for bonds or notes issued under this act that is equal to the proportion of the total unfunded pension liability to be funded with the proceeds of the bonds or notes that relates to that governmental unit. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in the retirement system other than the town, by each such governmental unit's proportional share of the annual debt service 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 6. Notwithstanding any other general or special law to the contrary, any debt service on bonds or notes issued under this act to finance that portion of the unfunded pension liability applicable to school department personnel who are members of the Middlesex retirement system shall be included in the computation of net school spending for the purposes of chapter 70 of the General Laws.

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

Approved January 13, 2009.

Chapter 498. AN ACT ESTABLISHING A CHARLES RIVER WATER QUALITY COMMISSION.

Be it enacted, etc., as follows:

(a) Notwithstanding any general or special law to the contrary, there shall be a Charles river water quality commission which shall consist of: the house and senate chairs of the joint committee on environment, natural resources and agriculture who shall serve as co-chairs of the commission; 2 members of the house of representatives 1 of whom shall be appointed by the minority leader; 2 members of the senate 1 of whom shall be appointed by the minority leader; 7 members who shall be appointed by the governor, 1 of whom shall be a representative of the environmental protection agency selected from 3 nominations recommended by the environmental protection agency, 1 of whom shall be a representative of the department of conservation and recreation, 1 of whom shall be a representative of the department of environmental protection, 1 of whom shall be a representative from the swimmable Charles river working group selected from 3 nominations made by the Charles River Conservancy, 1 of whom shall be an environmental water expert from a college or university and 1 of whom shall be a representative from the Charles river watershed association selected from 3 nominations made by the Charles river watershed association. All members shall serve without compensation. The commission may consult individuals and entities outside of its membership for research, advice, support and other functions necessary and appropriate to accomplish the commission's objectives.

(b) The commission shall make an investigation and study relative to improving the conditions necessary to, and determining the feasibility of, bringing the water quality in the Charles river lower basin to a level safe for swimming. The commission shall support the goals established in 1995 by the Clean Charles River 2005 environmental protection agency initiative and assist with the objectives of the swimmable Charles river working group to improve water quality in the Charles river. The commission shall study the water quality of the lower Charles river basin through sources which shall include, but not be limited to, the following: (1) the collection of existing data concerning bacteria, viral, turbidity, clarity and all other water quality and environmental parameters that may affect human exposure to water from the Charles river; (2) the collection of existing data concerning sediment volume and quality; (3) identification of additional data, technologies, engineering solutions or environmental solutions necessary with cost estimates to decontaminate toxic sediments from the Charles river; (4) identification of additional data, various technologies, engineering solutions or environmental solutions necessary with cost estimates to improve water quality that may impact human exposure to water from the Charles river and the creation of public swimming areas and facilities in the lower Charles river on department of conservation and recreation property; and (5) sites for the development of public swimming areas along the lower Charles river basin, taking into account current uses, public transportation and environmental factors.

(c) The commission shall submit a report of its findings together with legislation, if

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any, to the chairs of the joint committee on environment, natural resources and agriculture and the chairs of the house and senate committees on ways and means not later than March 1, 2010.

Approved January 13, 2009.

Chapter 499. AN ACT DESIGNATING RIVERDALE PARK IN THE TOWN OF DEDHAM AS THE HONORABLE MARIE- LOUISE KEHOE PARK.

Be it enacted, etc., as follows:

Riverdale park on Riverside drive abutting the Charles river in the town of Dedham shall be designated and known as The Honorable Marie-Louise Kehoe P ark, in honor of Marie-Louise Kehoe who served more than 40 years in public service as a member of the town meeting, the planning board, and the board of selectmen of the town of Dedham and the Massachusetts house of representatives. The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved January 13, 2009.

Chapter 500. AN ACT RELATIVE TO ELEVATOR REGULATIONS.

Be it enacted, etc., as follows:

Chapter 143 of the General Laws is hereby amended by striking out section 71E, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 71E. As used in sections 62 to 71F, inclusive, the term "elevator" shall include moving stairways, dumbwaiters, moving walks, material lifts, wheelchair lifts, automatic people movers, vertical reciprocating conveyors, orchestra lifts, car lifts and other associated devices within the elevator industry recognized by the board of elevator regulations, except inclined stair lifts located and installed in residential homes.

Approved January 13, 2009.

Chapter 501. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM TO ESTABLISH CERTAIN REVOLVING FUNDS.

Be it enacted, etc., as follows:

Chap. 501

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Bellingham may establish the following revolving funds: the Nextel Revolving Fund, the Bank of America Lease Revolving Fund and the Bellingham Historical Commission Revolving Fund, which shall be kept separate and apart from all other funds of the town by the treasurer and in which shall be deposited the proceeds of any appropriation, grants, transfers, gifts or fees received by the town. Monies in the Nextel Revolving Fund may be spent without further appropriation by the town administrator. Monies in the Bank of America Lease Revolving Fund may be spent without further appropriation by the town common trustees committee. Monies in the Historical Commission Revolving Fund may be spent without further appropriation by the historical commission. The treasurer may invest the monies in the funds in the manner authorized by sections 54 and 55 of said chapter 44. Any income derived from such investments shall be deposited in the general fund of the town.

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

Approved January 13, 2009.

Chapter 502. AN ACT AUTHORIZING ANTONIO F. DINIS TO TAKE THE CIVIL SERVICE EXAMINATION FOR THE POSITION OF POLICE OFFICER IN THE TOWN OF MILFORD NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law or rule or regulation to the contrary regulating the maximum age requirement of an applicant for appointment as a police officer, Antonio F. Dinis of the town of Milford shall be eligible to take the next open competitive civil service examination in 2009 for police officer in the town of Milford and, if he meets all other requirements, shall be eligible for certification and appointment to the position.

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

Approved January 13, 2009.

Chapter 503. AN ACT AUTHORIZING THE TOWN OF HULL TO DESIGNATE A CHECK-OFF ON ITS TAX BILLS.

Be it enacted, etc., as follows:

Chap. 503

SECTION 1. The town of Hull may, subject to the approval of the commissioner of revenue, designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or mail with such tax bills a separate form whereby taxpayers of the town can voluntarily check off, donate and pledge an amount of money which shall increase the amount already due and which shall be paid over to the Hull Veterans Council Assistance Fund for the support of Hull veterans and dependents in need, and to promote the recognition and observance of patriotic holidays.

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

Approved January 13, 2009.

**Chapter 504. AN ACT RELATIVE TO THE MINIMUM YEARS OF SERVICE
REQUIRED TO BE ELIGIBLE FOR A CIVIL SERVICE
PROMOTION TO THE POSITION OF FIRE CAPTAIN IN THE
TOWN OF CHELMSFORD.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law, charter, by-law, rule or regulation to the contrary in order to be eligible for a civil service promotion to the rank of fire captain within the fire department in the town of Chelmsford, an applicant must have at least 10 years of service in the rank of firefighter or higher within a civil service fire department. A person who does not meet this requirement shall not be eligible to take a promotional examination for the position of fire captain in the Chelmsford fire department. Except as otherwise provided herein, applicants for promotional appointments shall be subject to all applicable provisions of said chapter 31.

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

Approved January 13, 2009.

**Chapter 505. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHARON
PEELER-LA FOUNTAIN, 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.

Chap. 505

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 Sharon Peeler-La Fountain, 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 Sharon Peeler-La Fountain. Whenever Sharon Peeler-La Fountain 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 shall 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 January 13, 2009.

Chapter 506. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GERMAINE MAYERS, AN EMPLOYEE OF THE MIDDLESEX SUPERIOR COURT PROBATION DEPARTMENT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the trial court shall establish a sick leave bank for Germaine Mayers, an employee of the Middlesex superior court probation department. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Germaine Mayers. Whenever Germaine Mayers 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 shall 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 January 13, 2009.

Chapter 507. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GENEVIEVE O'BRIEN, AN EMPLOYEE OF THE TRIAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the department of the trial court 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 or rule or regulation to the contrary, the trial court shall establish a sick leave bank for Genevieve O'Brien, an employee of the trial court community service program in the city of Boston. An employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Genevieve O'Brien. Whenever Genevieve O'Brien 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 shall 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 January 13, 2009.

Chapter 508. AN ACT FURTHER REGULATING THE INSTALLATION OF AUTOMATIC SPRINKLERS.

Be it enacted, etc., as follows:

SECTION 1. Section 26G of chapter 148 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code. No such sprinkler system shall be required unless sufficient water and water pressure exists. For purposes of this section, the gross square footage of a building or structure shall include the sum total of the combined floor areas for all floor levels, basements, sub-basements and additions, in the aggregate, measured from the outside walls, irrespective of the existence of interior fire resistive walls, floors and ceilings. This section shall not apply to buildings used for agricultural purposes as defined in section 1A of chapter 128.

SECTION 2. Said section 26G of said chapter 148, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the word "additions" and inserting in place thereof the following word:- structures.

SECTION 3. The second paragraph of said section 26G of said chapter 148, as so appearing, is hereby amended by striking out the third sentence.

SECTION 4. The fourth paragraph of said section 26G of said chapter 148, as so appearing, is hereby amended by adding the following sentence:- The board may grant a reasonable waiver from the provisions of this section, or may allow the installation of a reasonable alternative or modified system of automatic sprinklers upon reviewing the characteristics of buildings that have architectural or historical significance.

SECTION 5. Nothing in this act shall be construed as limiting any requirement for buildings, less than 7,500 gross square feet, in the aggregate, from installing automatic sprinklers as otherwise may be required by the state building code.

SECTION 6. This act shall apply to construction of buildings, structures or additions or major modifications thereto which total, in the aggregate, more than 7,500 gross square feet permitted after January 1, 2010.

Approved January 13, 2009.

Chapter 509. AN ACT RELATIVE TO AUTHORIZING TAX CREDITS FOR QUALIFIED DONATIONS OF CERTAIN LAND TO A PUBLIC OR PRIVATE CONSERVATION AGENCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith tax credits for qualified donations of certain land to a public or private conservation agency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 62 of the General Laws is hereby amended by adding the following subsection:-

(p)(1) As used in this subsection, the following words shall have the following meanings:-

“Bargain sale”, the sale of an interest in real property by a taxpayer at a cost below appraised market value, when a portion of the value of the interest in real property is a qualified donation, as such term is defined herein and which meets the requirements of section 1011(b) of the Internal Revenue Code of 1986, as amended.

“Certified land”, an interest in real property, the donation or bargain sale of which has first been determined by the secretary of environmental affairs to be in the public interest for natural resource protection including, but not limited to, drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities, or scenic and cultural values; provided, however, that the secretary of environmental

affairs shall assure that all certified lands are protected in perpetuity.

"Interest in real property", any right in real property in the commonwealth, with or without improvements thereon, or water including, but not limited to, fee simple, life estate, restriction, easement, covenant, condition, partial interest, remainder, future interest, lease, license, mineral right, riparian right or other interest or right in real property that may be conveyed concerning the power to transfer property.

"Public or private conservation agency", the commonwealth, or any subdivision thereof, or any municipality, or private nonprofit corporation organized for the purposes of land conservation, which is authorized to do business in the commonwealth, and which has tax-exempt status as a nonprofit charitable organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

"Qualified donation", a donation, or the donated portion of a bargain sale, made in perpetuity of a fee interest in real property or a less-than-fee interest in real property, including a conservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to chapter 184, provided that such less-than-fee interest meets the requirements of qualified conservation contributions under section 170(h) of the Internal Revenue Code of 1986.

"Taxpayer", a taxpayer subject to the income tax under this chapter.

(2) A taxpayer making a qualified donation of certified land to a public or private conservation agency shall be allowed a credit against the taxes imposed by this chapter. The credit shall be equal to 50 per cent of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed \$50,000.

(3) The fair market value of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A-13(c)(3), and shall be prepared by a qualified appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For any taxpayer to qualify for the credit provided for in subdivision (2), the taxpayer shall at the same time that the taxpayer files a return for the taxable year in which the credit is claimed, file with the department a summary of a qualified appraisal or, if requested by said department, the taxpayer shall submit the appraisal itself.

(4) In any one tax year, the credit used may not exceed the amount of tax liability otherwise owed by the taxpayer. The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 10 subsequent tax years.

(5) All or any tax credits issued in accordance with this section may be in addition to any charitable deductions claimed on the taxpayer's federal income tax return for the same qualified donations of certified lands.

(6) Any taxpayer claiming a state income tax or excise tax credit under this section may not claim an additional state income tax credit or deduction during any one tax year for costs related to the same interest in certified lands.

(7) Any tax credits which arise under this section from the qualified donation of certified land by a pass-through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited liability partnership, limited liability corporation, subchapter S organization, or other fiduciary, shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, partner, shareholder, or beneficiary, as the case may be, in proportion to its interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, partner, shareholder, or beneficiary, for the same conveyance.

(8) Any tax credits which arise under this chapter from the qualified donations of certified land by a married couple shall be used only if the spouses file a joint return, if both spouses are required to file Massachusetts income tax returns. If only one spouse is required to file a Massachusetts income tax return, that spouse may claim the credit allowed by this chapter on a separate return.

(9) The secretaries of energy and environmental affairs and of administration and finance, acting jointly and in writing, shall authorize tax credits under this subsection together with section 38Z of chapter 63 in a cumulative amount, including the current year cost of credits allowed in previous years, that shall not exceed \$2,000,000 annually. No credits shall be allowed under this subsection except to the extent authorized as provided in this paragraph. The commissioner of revenue, after consulting those secretaries concerning, among other things, the land conservation objectives of this section, shall adopt regulations governing applications for and other administration of these tax credits.

SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after section 38Z the following section:-

Section 38AA. (a) As used in this section, the following words shall have the following meanings:-

“Bargain sale”, the sale of an interest in real property by a taxpayer at a cost below appraised market value, when a portion of the value of the interest in real property is a qualified donation, as such terms are defined herein, and which meets the requirements of section 1011(b) of the Internal Revenue Code of 1986, as amended.

“Certified land”, an interest in real property, the donation or bargain sale of which has first been determined by the secretary of environmental affairs to be in the public interest for natural resource protection including, but not limited to, drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities or scenic and cultural values; provided, however, that the secretary of environmental affairs shall assure that all certified lands are protected in perpetuity.

“Interest in real property”, any right in real property in the commonwealth, with or without improvements thereon, or water, including, but not limited to, fee simple, life estate, restriction, easement, covenant, condition, partial interest, remainder, future interest, lease, license, mineral right, riparian right, or other interest or right in real property that may be conveyed concerning the power to transfer property.

“Public or private conservation agency”, the commonwealth, or any subdivision thereof, or any municipality, or private nonprofit corporation organized for the purposes of land conservation, which is authorized to do business in the commonwealth, and which has tax-exempt status as a nonprofit charitable organization as described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

“Qualified donation”, a donation, or the donated portion of a bargain sale, made in perpetuity of a fee interest in real property or a less-than-fee interest in real property, including a conservation restriction, agricultural preservation restriction or watershed preservation restriction, pursuant to chapter 184, provided that such less-than-fee interest meets the requirements of qualified conservation contributions under section 170(h) of the Internal Revenue Code of 1986.

“Taxpayer”, a taxpayer subject to the income tax under this chapter.

(b) A taxpayer making a qualified donation of certified land to a public or private conservation agency shall be allowed a credit against the taxes imposed by this chapter. The credit shall be equal to 50 per cent of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation shall not exceed fifty thousand dollars.

(c) The fair market value of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A-13(c)(3), and shall be prepared by a Qualified Appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For any taxpayer to qualify for the credit provided for in subsection (b) of this section, the taxpayer shall at the same time as the taxpayer files a return for the taxable year in which the credit is claimed, file with the department a summary of a qualified appraisal or, if requested by said department, the taxpayer shall submit the appraisal itself.

(d) In any one tax year the credit used may not exceed the amount of tax liability otherwise owed by the taxpayer. The tax credit shall be taken against the taxes imposed under this chapter and shall not be refundable. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward by the taxpayer to any of the 10 subsequent taxable years.

(e) Any tax credits issued in accordance with this section may be in addition to any charitable deductions claimed on the taxpayer's federal income tax return for the same qualified donations of certified lands.

(f) Any taxpayer claiming a state income tax or excise tax credit under this section may not claim an additional state income tax credit or deduction during any one tax year for costs related to the same interest in certified lands.

(g) Any tax credits which arise under this section from the qualified donation of certified land by a pass-through tax entity such as a trust, estate, partnership, corporation, limited partnership, limited liability partnership, limited liability corporation, subchapter S organization, or other fiduciary, shall be used either by such entity in the event it is the taxpayer on behalf of such entity or by the member, partner, shareholder, or beneficiary, as

the case may be, in proportion to its interest in such entity in the event that income, deductions, and tax liability passes through such entity to such member, partner, shareholder, or beneficiary. Such tax credits may not be claimed by both the entity and the member, partner, shareholder, or beneficiary, for the same conveyance.

(h) The secretaries of energy and environmental affairs and of administration and finance, acting jointly and in writing, shall authorize tax credits under this section together with subsection (p) of section 6 of chapter 62 in a cumulative amount, including the current year cost of credits allowed in previous years, that shall not exceed \$2,000,000 annually. No credits shall be allowed under this section except to the extent authorized as provided in this subsection. The commissioner of revenue, after consulting those secretaries concerning, among other things, the land conservation objectives of this section, shall adopt regulations governing applications for and other administration of these tax credits.

SECTION 3. (a) The secretary of energy and environmental affairs shall promulgate regulations to define land eligible for certification under subsection (p) of section 6 of chapter 62 of the General Laws and under section 38AA of chapter 63 of the General Laws. Such regulations shall be promulgated within 180 days after the effective date of this act.

(b) The secretary of environmental affairs shall, within 5 years after the effective date of this act, prepare a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, describing the certified lands conserved under subsection (p) of section 6 of chapter 62 of the General Laws and section 38AA of chapter 63 of the General Laws.

(c) The commissioner of revenue shall, in consultation with the secretary of energy and environmental affairs, promulgate regulations to administer subsection (p) of section 6 of chapter 62 of the General Laws and section 38AA of chapter 63 of the General Laws. Such regulations shall include provisions to prevent the generation of multiple credits with respect to the same property. Regulations shall be promulgated within 180 days after the effective date of this act.

(d) The commissioner of revenue shall, within 5 years after the effective date of this act, submit a report to the joint committee on revenue and the joint committee on environment, natural resources and agriculture, calculating the annual tax savings under subsection (p) of section 6 of chapter 62 of the General Laws and section 38AA of chapter 63 of the General Laws.

(e) There shall be a commission to study the transferability of tax credits under subsection (p) of section 6 of chapter 62 of the General Laws and section 38AA of chapter 63 of the General Laws. The commission shall be composed of 9 persons, including the commissioner of the department of agricultural resources, or his designee, who shall serve as chairman; the commissioner of revenue, or his designee; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 2 members of the senate, 1 of whom shall be appointed by the minority leader; a representative of the American Farmland Trust; a representative of the Massachusetts Audubon Society; and a representative

of The Nature Conservancy. The commission shall examine all aspects of transferability including, but not limited to: the status of its application in other states, potential fiscal impacts and potential conservation benefits. The commission shall file a report of its findings and recommendations, including any drafts of legislation necessary to put its recommendations into effect, with the joint committee on revenue and the joint committee on environment, natural resources and agriculture on or before January 1, 2011.

SECTION 4. Sections 1 and 2 shall be effective for tax years beginning on and after January 1, 2011.

Approved January 14, 2009.

Chapter 510. AN ACT EXEMPTING THE POSITION OF SCHOOL CUSTODIAN IN THE TOWN OF SOUTH HADLEY FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of school custodian in the town of South Hadley shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any incumbent holding the position of school custodian in the town of South Hadley on the effective day of this act.

Approved January 14, 2009.

Chapter 511. AN ACT RELATIVE TO CAREGIVER EDUCATION AND HEALTH CARE AUTHORIZATION.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 201E the following chapter:—

**CHAPTER 201F
CAREGIVER AUTHORIZATION AFFIDAVITS.**

Section 1. As used in this chapter the following words shall have the following meanings, unless the context clearly indicates otherwise:—

“Authorizing party”, a parent, legal guardian or legal custodian who authorizes a caregiver to act under a caregiver authorization affidavit.

“Caregiver”, an adult with whom a minor resides.

“Caregiver authorization affidavit”, an affidavit prepared pursuant to this chapter that authorizes a designated caregiver to act relative to a minor’s education and health care.

“Parental rights and responsibilities”, rights and responsibilities of a parent, legal guardian or legal custodian under state or federal law or court order.

Section 2. A parent, legal guardian or legal custodian of a minor, by a caregiver authorization affidavit, may authorize a designated caregiver to exercise certain concurrent parental rights and responsibilities relative to a designated minor’s education and health care, as described in section 3. If a conflicting decision is made under these concurrent rights and responsibilities, the decision of the authorizing party shall supersede the decision of the caregiver.

The caregiver authorization affidavit shall only authorize those rights and responsibilities that the authorizing party possesses and shall not divest the authorizing party of his rights or responsibilities.

The authorizing party shall not use a caregiver authorization affidavit to circumvent any state or federal law, solely for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

Section 3. Under a caregiver authorization affidavit, a caregiver may:

(1) consent to medical, surgical, dental, developmental, mental health or other treatment for the minor under the supervision or upon the advice of a health care professional licensed to practice in the commonwealth;

(2) exercise parental rights to obtain records and other information with regard to health care services and insurance provided to the minor; and

(3) make educational decisions on behalf of the minor and in all other ways stand in for the authorizing party with respect to federal, state and district educational policy, including, but not limited to, accessing the minor’s educational records, representing the minor in enrollment, disciplinary, curricular, special education or other educational matters, signing permission slips for school activities and any other decision that facilitates the minor’s educational experience.

Section 4. A person who relies on a caregiver authorization affidavit that is consistent with the requirements of this chapter has no obligation to make any further inquiry or investigation and shall not incur any criminal or civil liability or be subject to professional discipline for doing so, unless he knows facts contrary to the affidavit or knows that an authorizing party has made a decision to supersede the caregiver’s decision. Nothing in this chapter shall relieve a person from liability arising from other provisions of the law.

Section 5. The caregiver authorization affidavit shall include the following information:—

(1) the name, address and telephone number of the parent, legal guardian or legal custodian;

(2) the name, address and telephone number of the caregiver;

(3) the name and date of birth of the minor;

(4) the relationship of the caregiver to the minor;

(5) a statement by the authorizing party that there are no court orders in effect that would prohibit him from exercising or conferring the rights and responsibilities that he seeks to confer upon the caregiver;

(6) a statement of the authority being conferred and of any prohibitions; and

(7) a statement that the affidavit is not for the purposes of circumventing any state or federal law, for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

The affidavit shall be signed under the pains and penalties of perjury by the authorizing party in the presence of 2 adult witnesses, neither of whom may be the caregiver and the affidavit shall be notarized. The affidavit also shall be signed by the caregiver, who shall attest to being an adult with whom the minor resides.

The caregiver authorization affidavit may be valid for up to 2 years and may be reauthorized. The authorizing party may reauthorize, amend or revoke the caregiver authorization affidavit by notifying the caregiver in writing. The authorizing party shall provide the amended affidavit or revocation to all parties to whom he has provided the original affidavit. The caregiver shall provide the amended affidavit or revocation to all parties to whom he has provided the original affidavit prior to further exercising any rights or responsibilities under the affidavit.

Section 6. The caregiver authorization affidavit shall be substantially in the following form, except that the use of alternative language consistent with the statute shall not be precluded:

Caregiver Education and Health Care Authorization Affidavit

I. What this form enables: A parent, legal guardian or legal custodian of a minor, by this affidavit, may authorize a designated caregiver, who is an adult with whom the minor child resides, to exercise certain concurrent parental rights and responsibilities relative to a designated minor's education and health care. If a conflicting decision is made under these concurrent rights and responsibilities, the decision of the authorizing party shall supersede the decision of the caregiver.

The caregiver authorization affidavit shall only authorize those rights and responsibilities that the authorizing party possesses and shall not divest the authorizing party of his rights or responsibilities.

Under a caregiver authorization affidavit, a caregiver may:

(1) consent to medical, surgical, dental, developmental, mental health or other treatment for the minor under the supervision or upon the advice of a health care professional licensed to practice in the commonwealth;

(2) exercise parental rights to obtain records and other information with regard to health care services and insurance provided to the minor; and

(3) make educational decisions on behalf of the minor and in all other ways stand in for the authorizing party with respect to federal, state and district educational policy, including, but not limited to, accessing the minor's educational records, representing the minor in enrollment, disciplinary, curricular, special education or other educational matters,

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signing permission slips for school activities and any other decision that facilitates the minor's educational experience.

II. Steps to authorize caregiver rights and responsibilities:

1. AUTHORIZING PARTY

I, [name of authorizing party], residing at [address of authorizing party] am the parent/legal guardian/legal custodian of the minor child(ren) listed below.

I, [name of parent or legal guardian or legal custodian], do hereby authorize [name of caregiver], residing at [address of caregiver], to exercise concurrently the rights and responsibilities, except those prohibited below, that I possess relative to the education and health care of the minor child(ren) listed:

Minor Child's Name

Date of Birth

_____	_____
_____	_____
_____	_____

The caregiver may NOT:

(Please list specifically any education or health care rights and responsibilities that you do NOT wish to confer upon the caregiver.)

There are no court orders in effect that would prohibit me from exercising or conferring the rights and responsibilities that I wish to confer upon the caregiver. *(If you are the legal guardian or custodian, attach the court order.)*

I am not using this affidavit to circumvent any state or federal law, for the purposes of attendance at a particular school, or to re-confer rights to a caregiver from whom those rights have been removed by a court of law.

I confer these rights and responsibilities freely and knowingly in order to provide for the child(ren) and not as a result of pressure, threats or payments by any person or agency.

I understand that, if the affidavit is amended or revoked, I must provide the amended affidavit or revocation to all parties to whom I have provided this affidavit.

This document shall remain in effect until [enter date up to 2 years hence] or until I notify the caregiver in writing that I have amended or revoked it.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature:

Printed name:

Telephone number:

2. WITNESSES TO AUTHORIZING PARTY SIGNATURE

(To be signed by persons over the age of 18 who are not the designated caregiver.)

Witness No. 1 signature:

Witness No. 1 printed name and address:

Witness No. 2 signature:

Witness No. 2 printed name and address:

3. NOTARIZATION OF AUTHORIZING PARTY SIGNATURE

On this [date] before me, the undersigned notary public, personally appeared [name of authorizing party], proved to me through satisfactory evidence of identification, which was [driver's license, etc.], to be the person whose name is signed on the preceding document, and swore under the pains and penalties of perjury that the foregoing statements are true.

Signature and seal of notary:

Printed name of notary:

My commission expires:

4. CAREGIVER ACKNOWLEDGEMENT

I, [name of caregiver], am at least 18 years of age and the child(ren) currently reside with me at [address of caregiver]. I am [relationship to the minor].

I understand that I may, without obtaining further consent from a parent, legal custodian or legal guardian of the child(ren), exercise concurrent rights and responsibilities relative to the education and health care of the child(ren), except those rights and responsibilities prohibited above. However, I may not knowingly make a decision that conflicts with the decision of the child(ren)'s parent, legal guardian or legal custodian.

I understand that, if the affidavit is amended or revoked, I must provide the amended affidavit or revocation to all parties to whom I have provided this affidavit prior to further exercising any rights or responsibilities under the affidavit.

I hereby affirm that the above statements are true, under pains and penalties of perjury.

Signature of caregiver:

Printed name:

Telephone Number:

III. Explanations: This caregiver authorization affidavit is pursuant to chapter 201F of the General Laws. A dispute arising hereunder shall be the exclusive jurisdiction of the probate courts pursuant to section 3 of chapter 215 of the General Laws.

A person who relies on a caregiver authorization affidavit that is consistent with the requirements of said chapter 201F has no obligation to make any further inquiry or investigation and shall not incur any criminal or civil liability or be subject to professional discipline for doing so, unless he knows facts contrary to the affidavit or knows that an authorizing party has made a decision to supersede the caregiver's decision. The reliance on the affidavit shall not relieve a person from liability arising from other provisions of the law.

SECTION 2. Section 3 of chapter 215 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:—

Probate courts shall have exclusive original jurisdiction of all actions concerning the execution and validity of health care proxies created under chapter 201D and caregiver authorization affidavits created under chapter 201F or disputes arising thereunder.

Approved January 14, 2009.

Chapter 512. AN ACT RELATIVE TO THE MUNICIPAL GOVERNMENT OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 239 of the acts of 1897 is hereby amended by striking out, in line 7, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 2. Said section 2 of said chapter 239 is hereby further amended by striking out, in line 8, the word "aldermen" and inserting in place thereof the following word:- councilor.

SECTION 3. Section 3 of said chapter 239 is hereby amended by striking out, in line 2, the word "seven" and inserting in place thereof the following figure:- 9.

SECTION 4. Said section 3 of said chapter 239 is hereby further amended by striking out, in line 6, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 5. Section 4 of said chapter 239 is hereby amended by striking out, in line 5, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 6. Section 5 of said chapter 239 is hereby amended by striking out, in line 2, the word "second" and inserting in place thereof the following word:- first.

SECTION 7. Said section 5 of said chapter 239 is hereby further amended by striking out, in said line 2, the word "December" and inserting in place thereof the following word:- November.

SECTION 8. Section 6 of said chapter 239 is hereby amended by striking out, in lines 3 and 4, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 9. The first sentence of section 7 of said chapter 239, as appearing in chapter 447 of the acts of 1998, is hereby amended by striking out, in line 4, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 9A. The third sentence of said section 7 of said chapter 239, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 9B. Said section 7 of said chapter 239, as most recently amended by chapter 447 of the acts of 1998, is hereby further amended by striking out, in lines 15, 18, 22 and 25, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 10. Said section 7 of said chapter 239, as so amended, is hereby further amended by striking out, in line 16, the word "alderman" and inserting in place thereof the following words:- city councilor.

SECTION 11. Section 8 of said chapter 239 is hereby amended by striking out, in

line 6, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 12. Section 9 of said chapter 239 is hereby amended by striking out, in line 1, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 13. Section 10 of said chapter 239 is hereby amended by striking out, in lines 1, 5, 10, 14, 17 and 18, 23, 30, 34, 36 and 41, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 14. Said section 10 of said chapter 239 is hereby further amended by striking out, in lines 25 and 32, the word “board” and inserting in place thereof, in each instance, the following word:- council.

SECTION 15. Said section 10 is hereby further amended by striking out, in lines 41 and 44, the word “alderman” and inserting in place thereof, in each instance, the following words:- city councilor.

SECTION 16. Section 11 of said chapter 239 is hereby amended by striking out, in line 1, the word “aldermen” and inserting in place thereof the following words:- city councilors.

SECTION 17. Said section 11 of said chapter 239 is hereby further amended by striking out, in lines 7, 11, 13 and 14, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 18. Section 12 of said chapter 239 is hereby amended by striking out, in line 2, the word “aldermen” and inserting in place thereof the following words:- city councilors.

SECTION 19. Said section 12 of said chapter 239 is hereby further amended by striking out, in line 4 and in lines 10 and 11, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 20. Said section 12 of said chapter 239 is hereby further amended by striking out, in lines 6, 12 and 13, the word “board” and inserting in place thereof, in each instance, the following word:- council.

SECTION 21. Section 13 of said chapter 239 is hereby amended by striking out, in line 1, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 22. Said section 13 of said chapter 239 is hereby further amended by striking out, in lines 2, 4, 16, 17, 18 and 23, the word “board” and inserting in place thereof, in each instance, the following word:- council.

SECTION 23. Said section 13 of said chapter 239 is hereby further amended by striking out, in line 19, the word “aldermanic” and inserting in place thereof the following word:- council.

SECTION 24. Said section 13 of said chapter 239 is hereby further amended by striking out, in line 22, the word “aldermen” and inserting in place thereof the following

word:- councilors.

SECTION 25. Section 14 of said chapter 239 is hereby amended by striking out, in lines 1 and 23, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 26. Said section 14 of said chapter 239 is hereby further amended by striking out, in lines 4, 6, 9, 11 and 13, the word “board” and inserting in place thereof, in each instance, the following word:— council.

SECTION 27. Section 15 of said chapter 239 is hereby amended by striking out, in lines 1 and 2, the words “overseers of the poor” and inserting in place thereof the following words:- public welfare.

SECTION 28. Said section 15 of said chapter 239 is hereby further amended by striking out, in line 4, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 29. Said section 15 of said chapter 239 is hereby further amended by striking out, in line 8, the word “board” and inserting in place thereof the following word:- council.

SECTION 30. Section 16 of said chapter 239 is hereby amended by striking out, in lines 1, 7 and 15, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 31. Section 17 of said chapter 239 is hereby amended by striking out, in line 1, and in lines 11 and 12, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 32. Said section 17 of said chapter 239 is hereby further amended by striking out, in line 15, the word “board” and inserting in place thereof the following word:- council.

SECTION 33. Section 18 of said chapter 239 is hereby amended by striking out, in line 1, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 34. Section 19 of said chapter 239 is hereby amended by striking out, in line 1, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 35. Section 20 of said chapter 239 is hereby amended by striking out, in lines 1, 3 and 4, and in line 5, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 36. Said section 20 of said chapter 239 is hereby further amended by striking out, in lines 2 and 3, the word “engineer” and inserting in place thereof the following words:- of the fire department.

SECTION 37. Said section 20 of said chapter 239 is hereby further amended by striking out, in line 19, the word “aldermen” and inserting in place thereof the following word:- council.

SECTION 38. Section 21 of said chapter 239 is hereby amended by striking out, in line 1, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 39. Section 22 of said chapter 239 is hereby amended by striking out, in lines 1 and 18, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 40. Said section 22 of said chapter 239 is hereby further amended by striking out, in lines 2 and 3, lines 6 and 13 and in lines 16 and 17, the words "city marshal" and inserting in place thereof, in each instance, the following words:- chief of police.

SECTION 41. Section 23 of said chapter 239 is hereby amended by striking out, in lines 1 and 11, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 42. Section 24 of said chapter 239 is hereby amended by striking out, in line 1, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 43. Section 25 of said chapter 239 is hereby amended by striking out, in lines 5 and 11, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 44. Section 26 of said chapter 239 is hereby amended by striking out, in lines 1, 4 and 5, 5 and 6, and in line 8, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 45. Said section 26 of said chapter 239 is hereby further amended by striking out, in line 9, the words "an alderman" and inserting in place thereof the following words:- a councilor.

SECTION 46. Section 27 of said chapter 239 is hereby amended by striking out, in lines 2 and 7, and in lines 10 and 11, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 47. Section 30 of said chapter 239 is hereby amended by striking out, in lines 3 and 4, and in lines 10, 13, 18, 21 and 22, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 48. Section 31 of said chapter 239 is hereby amended by striking out, in lines 2 and 3 and in line 7, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 49. Section 33 of said chapter 239, as most recently amended by section 2 of chapter 4 of the acts of 1998, is hereby further amended by striking out, in lines 3 and 4, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 50. Section 34 of said chapter 239 is hereby amended by striking out, in line 7, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 51. Section 35 of said chapter 239 is hereby amended by striking out, in lines 9 and 17, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 52. Section 36 of said chapter 239 is hereby amended by striking out, in lines 6, 8 and 9, 13, and in lines 14 and 15, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 53. Section 38 of said chapter 239 is hereby amended by striking out, in line 6, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 54. Said section 38 of said chapter 239 is hereby further amended by striking out, in lines 7 and 14, the words “city marshal” and inserting in place thereof, in each instance, the following words:- chief of police.

SECTION 55. Said section 38 of said chapter 239 is hereby further amended by striking out, in line 9, and in lines 25 and 26, the words “overseers of the poor” and inserting in place thereof, in each instance, the following words:- public welfare.

SECTION 56. Said section 38 of said chapter 239 is hereby further amended by striking out, in lines 10 and 26, the word “almoners” and inserting in place thereof the following words:- public welfare.

SECTION 57. Section 39 of said chapter 239 is hereby amended by striking out, in lines 2 and 4 and in lines 8 and 9, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 58. Section 42 of said chapter 239, as amended by chapter 33 of the acts of 1945, is hereby further amended by striking out, in lines 3 and 4, the words “board of aldermen” and inserting in place thereof the following words:- city council.

SECTION 59. Section 43 of said chapter 239 is hereby amended by striking out, in lines 8 and 9, the words “board of aldermen” and inserting in place thereof, in each instance, the following words:- city council.

SECTION 60. Section 44 of said chapter 239 is hereby amended by striking out, in line 1, the words “overseers of the poor” and inserting in place thereof, in each instance, the following words:- board of public welfare.

SECTION 61. Said section 44 of said chapter 239 is hereby further amended by striking out, in line 2, the word “almoner” and inserting in place thereof the following words:- welfare agent.

SECTION 62. Said section 44 of said chapter 239 is hereby further amended by striking out, in lines 4, 6, 7 and 8, the word “overseers” and inserting in place thereof the following word:- board.

SECTION 63. Said section 44 of said chapter 239 is hereby further amended by striking out, in line 9, the words “overseers of the poor” and inserting in place thereof the following words:- public welfare.

SECTION 64. Section 45 of said chapter 239 is hereby amended by striking out, in line 11, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 65. Section 46 of said chapter 239 is hereby amended by striking out, in line 10, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 66. Section 47 of said chapter 239 is hereby amended by striking out, in lines 1 and 2, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 67. Section 48 of said chapter 239 is hereby amended by striking out, in line 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 68. Section 50 of said chapter 239 is hereby amended by striking out, in lines 2 and 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 69. Section 51 of said chapter 239 is hereby amended by striking out, in lines 5 and 6 and in line 10, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 70. Said section 51 of said chapter 239 is hereby amended by striking out, in line 8, the word "board" and inserting in place thereof the following word:- council.

SECTION 71. Section 53 of said chapter 239 is hereby amended by striking out, in lines 2 and 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 72. Section 54 of said chapter 239 is hereby amended by striking out, in lines 6, and in lines 9 and 10, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 73. Section 55 of said chapter 239 is hereby amended by striking out, in lines 5 and 9, the words "board of aldermen" and inserting in place thereof, in each instance, the following words:- city council.

SECTION 74. Said section 55 of said chapter 239 is hereby further amended by striking out, in line 10, the word "board" and inserting in place thereof the following word:- council.

SECTION 75. Said section 55 of said chapter 239 is hereby further amended by striking out, in line 23, the word "December" and inserting in place thereof the following word:- July.

SECTION 76. Section 56 of said chapter 239 is hereby amended by striking out, in line 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 77. Section 57 of said chapter 239 is hereby amended by striking out, in

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line 8, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 78. Section 59 of said chapter 239 is hereby amended by striking out, in line 10, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 79. Section 60 of said chapter 239 is hereby amended by striking out, in line 3, the words "board of aldermen" and inserting in place thereof the following words:- city council.

SECTION 80. Section 62 of said chapter 239 is hereby amended by striking out, in line 22, the words "board of aldermen" and inserting in place thereof the following words:- city council.

Approved January 14, 2009.

Chapter 513. AN ACT RELATIVE TO PUBLIC ACCESS TO RECREATIONAL TRAILS.

Be it enacted, etc., as follows:

SECTION 1. Section 17C of chapter 21 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "limitation", in line 3, the following words:- , railroad and utility corridors, easements and rights of way.

SECTION 2. Subsection (b) of said section 17C of said chapter 21, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- For the purposes of this section, "person" shall include the person having any interest in the land, his agent, manager or licensee and shall include, without limitation, any governmental body, agency or instrumentality, a nonprofit corporation, trust, association, corporation, company or other business organization and any director, officer, trustee, member, employee, authorized volunteer or agent thereof. For the purposes of this section, "structures, buildings and equipment" shall include any structure, building or equipment used by an electric company, transmission company, distribution company, gas company or railroad in the operation of its business.

Approved January 14, 2009.

Chapter 514. AN ACT ESTABLISHING A POST EMPLOYMENT HEALTH INSURANCE LIABILITY FUND IN THE TOWN OF IPSWICH.

Be it enacted, etc., as follows:

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The town of Ipswich may appropriate funds in order to offset the anticipated cost of health insurance contributions for retired employees, their spouses and eligible dependents and the surviving spouses and eligible dependents of deceased retirees. This amount shall be credited to a special fund to be known as the Post Employment Health Insurance Liability Fund. The fund shall be under the supervision and management of the town manager and under the custody of the town treasurer. The town treasurer may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth or invest the funds in securities that are legal for the investment of funds of savings banks under the laws of the commonwealth. Any interest or other income earned by the fund shall be added to and become part of the fund. Amounts may be appropriated to the fund by a town meeting by a majority vote not to exceed the total liability developed by an actuarial study. Authorized disbursements shall be made from the fund in payment of contributions and premiums for the benefit of retirees and their eligible dependents and surviving spouses and for costs associated with conducting the actuarial study without further appropriation. The town manager may employ a qualified bank, trust company, corporation, firm or person for advice on the investment of the fund and to prepare an actuarial study and may pay for this advice or service from the fund.

Approved January 14, 2009.

Chapter 515. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF WESTON TO GRANT A LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF THE JOSIAH SMITH TAVERN AND BARN.

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 board of selectmen of the town of Weston, for the purpose of preserving and operating the Josiah Smith Tavern and Barn consistent with a preservation restriction on the property, may grant a license for the sale of all alcoholic beverages to be drunk on the premises to a nonprofit corporation established in accordance with section 2. The board of selectmen shall not approve the transfer of the license to any other entity or location. The Josiah Smith Tavern and Barn is located at 358 Boston Post road in the town of Weston and is owned by said town, subject to a 500-year historic preservation restriction held by Historic New England and recorded at the Middlesex south district registry of deeds at Book 15086, page 081-086.

SECTION 2. There shall be a body corporate to be known as the Josiah Smith Tavern Corporation. The corporation shall have all the rights, privileges, powers, duties and responsibilities of a corporation established pursuant to chapter 180 of the General Laws, and

shall be deemed to be a nonprofit corporation established pursuant to said chapter 180 for all purposes of the General Laws including, but not limited to, liability of the corporation and its members pursuant to section 85K of chapter 231 of the General Laws. The corporation shall not be deemed to be an agency, commission, authority or other subdivision of the commonwealth or the town of Weston or an instrumentality of any of the foregoing for any purpose. The principal office of the corporation shall be in the town of Weston.

The purposes of the corporation shall be to assist, promote and support the historic renovation and reuse of the Josiah Smith Tavern and Barn in order to promote the common good and general welfare of the town of Weston. The corporation may hold the all alcoholic beverages license authorized in section 1 for use at the tavern and barn. Notwithstanding any other provision of this paragraph, the corporation shall apply to the board of selectmen for the license in accordance with section 15A of chapter 138 of the General Laws, and shall include in such license application the name of the responsible manager. Except as otherwise provided herein, the license shall be subject to said chapter 138. The board of selectmen may grant the license to the corporation and may condition, modify, suspend or revoke the license as it deems appropriate. The corporation may enter into such management and operations agreements as may be needed for the exercise of the license at the Josiah Smith Tavern and Barn. Any such agreement may allow the manager or operator to share in any of the profits earned as a result of the exercise of the license; but no such agreement between the corporation and the operator or manager shall be deemed a license transfer for purposes of said chapter 138. Any such agreement granting the manager or operator an interest in the license shall be approved by the board of selectmen and the alcoholic beverage control commission.

The corporation shall be governed by a board of directors, which shall have all the powers of the corporation. The board shall consist of not less than 5 members who shall be residents of the town and appointed by the moderator for staggered 3-year terms as designated by the moderator. No member of the board of selectmen, fire or police department, or any such member's immediate family, shall be eligible for appointment as a director of the corporation. For purposes of this act, the term "immediate family" shall be defined as set forth in paragraph (e) of section 1 of chapter 268A of the General Laws. Members of the board shall serve until their successors are appointed and qualified and may be removed after a hearing. A vacancy in the board, however occurring, may be filled by the moderator for the remainder of the unexpired term. The board of directors shall annually elect a president, treasurer and clerk.

Initial appointments to the board shall be made not later than 1 month after the effective date of this act. The first meeting of the corporation shall be called not later than 2 months after the acceptance of this act by the town at an election pursuant to section 3 by a notice signed by the chairperson of the board of selectmen stating the time, place and purpose of the meeting, a copy of which notice shall be mailed or delivered to each member of the board at least 5 days before the day appointed for the meeting.

At the first meeting, the directors shall organize by the election of a temporary clerk, the adoption of by-laws, the election of officers, the adoption of additional articles of organization, consistent with this act, including whether the corporation will have more than 1 class of members, indemnification of directors, officers, employees and other agents of the corporation, the conduct and regulation of the business and affairs of the corporation, the street address of the principal office of the corporation in the commonwealth, the name, residential street address and post office address of each director and officer of the corporation, the fiscal year of the corporation and the filer's contact information and such other matters within the powers of the corporation as the directors may see fit; provided, however, that no member of the board of selectmen, fire or police department, or any such member's immediate family, shall be eligible to be a member or employee of the corporation. The temporary clerk shall be sworn and shall make and attest a record of the proceedings until the clerk has been chosen and sworn. Within 30 days after the final adjournment of the first meeting, the clerk shall make, sign, swear to and file in the office of the state secretary a copy of this act, any additional articles of organization approved by the board of directors, the by-laws, a certificate stating the date on which the meeting for organization was held and the names of the officers elected at such meeting and any other information or documentation required by the state secretary.

Members of the board shall not be subject to sections 23A and 23B of chapter 39 of the General Laws, but the board shall post its meetings in the manner provided in said sections 23A and 23B and otherwise abide by the requirements thereof. The members of the board of directors shall not be subject to chapter 268A of the General Laws, but shall abide by the provisions thereof as if they were special municipal employees for purposes of said chapter 268A.

The corporation shall make reports of its condition and activities not less than annually to the board of selectmen of the town of Weston and shall make all other filings and reports as would otherwise be required by chapter 180 of the General Laws.

The corporation shall be exempt from chapters 59 and 62 of the General Laws, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

SECTION 3. 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 or special town election the following question:-

"Shall an act passed by the general court in the year 2008, entitled 'An Act Authorizing the board of selectmen of the town of Weston to grant a license for the sale of all alcoholic beverages to be drunk on the premises of the Josiah Smith Tavern and Barn,' 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

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authorized the town to grant a license for the sale of all alcoholic beverages to be drunk on the premises of the Josiah Smith Tavern and Barn.

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

Approved January 15, 2009.

Chapter 516. AN ACT RELATIVE TO THE PURCHASE OF FLAGS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith regulate the purchase of flags by 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 6 of chapter 2 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

All flags of the United States or the commonwealth displayed pursuant to this section or procured by an agency shall have been manufactured in the United States; provided, however, that a flag shall be considered manufactured in the United States if a substantial majority of the principal components are assembled into the final product in an assembly plant in the United States.

Approved January 15, 2009.

Chapter 517. AN ACT AUTHORIZING THE TOWN OF LITTLETON TO ISSUE PENSION OBLIGATION BONDS OR NOTES.

Be it enacted, etc., as follows:

SECTION 1. The town of Littleton may issue bonds or notes from time to time in an aggregate amount not to exceed \$1,130,000 for the purpose of funding the town's liability attributable to the additional benefits payable under the early retirement incentive program authorized by chapter 116 of the acts of 2002 and the vote of the town passed under Article 15 of the warrant for the May 6, 2002 special town meeting, and to provide for issuance costs and other necessary or incidental expenses. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws, shall be issued for terms of not more than 20 years from their date of issue and, except as otherwise provided in this act, shall be subject to the applicable provisions of said chapter 44.

SECTION 2. The maturities of bonds or notes issued under this act shall be arranged so that for each issue the annual combined payments of principal and interest shall be as nearly equal as practicable, in the opinion of the treasurer and board of selectmen, or in accordance with a schedule providing for a more rapid amortization of principal.

SECTION 3. Proceeds of any bonds or notes issued under this act, other than amounts to be applied to issuance costs or other expenses, shall be paid by the town of Littleton to the Middlesex retirement system, shall be allocated solely to reduce the liability to which the bonds or notes relate, shall be invested as permitted under chapter 32 of the General Laws and shall otherwise be held and expended by the Middlesex retirement system and no further payments to that system by the town shall be required with respect to the liability to which the bonds and notes relate.

SECTION 4. Before the issue of any bonds or notes under this act, the town of Littleton 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 or notes, the proposed allocation of, if any, and plan to finance the principal of and interest on the bonds and notes, the present value savings reasonably expected to be achieved as a result of the issue of the bonds or notes and any other information requested by the secretary of administration and finance relating to the bonds and notes. No bonds or notes shall be issued under this act until the secretary of administration and finance has approved the plan and specifically approved the maturity schedule of the bonds or notes if required by section 2.

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

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

Approved January 15, 2009.

**Chapter 518. AN ACT AUTHORIZING THE TOWN OF PROVINCETOWN TO
IMPOSE A LIEN UPON PROPERTY IN THE TOWN OF TRURO TO
SECURE UNPAID WATER FEES AND CHARGES.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 439 of the acts of 1952 is hereby amended by inserting after

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section 7A the following section:-

Section 7B. Notwithstanding section 4A of chapter 40 of the General Laws or any other general or special law to the contrary, the town of Provincetown may impose a lien upon property in the town of Truro which is, or in the future will be, connected or in the future connects to the water system established within the town of Truro by the town of Provincetown pursuant to this chapter or chapter 483 of the acts of 1907, including those properties which connect pursuant to this section, pursuant to an intermunicipal agreement with the town of Truro. Such lien shall secure unpaid fees and charges relative to connection to or use of the water system so established. If a charge or fee secured by the lien remains unpaid when the town of Truro assessor is preparing a real estate tax list and warrant, upon request by the town of Provincetown, the charge or fee shall be added to the tax on such 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 Truro shall forthwith transfer such charge or fee payment to the town of Provincetown.

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

Approved January 15, 2009.

Chapter 519. AN ACT RELATIVE TO GROUP LIFE INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 133 of chapter 175 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the words “not less than ten employees at date of issue” and inserting in place thereof the following word:- employees.

SECTION 2. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 15 to 21, inclusive, the words “provided, that when part of the premium is to be derived from funds contributed by the insured employees and the benefits of the policy are offered to all eligible employees, not less than seventy-five per cent of such employees may be so insured, or not less than forty per cent if each employee belonging to the insured group has been medically examined and found acceptable for ordinary insurance by an individual policy” and inserting in place thereof the following words:- or wholly from funds contributed by the insured employee where the benefits under the policy are offered to all eligible employees of the employer, or all of a class thereof determined by conditions pertaining to their employment, or by duration of service in which case no employee shall be excluded if he has been employed by the employer for 1 year or more, or for such period longer than 1 year as may be required by a pension plan under, or in connection with, which the policy is taken out and insuring all of the eligible employees

who contribute premium for amounts of insurance based upon some plan precluding individual selection and for the benefit of persons other than the employer.

SECTION 3. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 32 to 35, inclusive, the words "provided, that when the premium is to be paid by the union or association and its members jointly and the benefits of the policy are offered to all eligible members, not less than seventy-five per cent of such members may be so insured" and inserting in place thereof the following words:- or wholly from funds contributed by the member of such union or association where the benefits under the policy are offered to all eligible members, or all of a class thereof determined by conditions pertaining to their employment or to membership in such union or association, or both, and insuring all of the eligible members who contribute premium for amounts of insurance based upon some plan which will preclude individual selection and for the benefit of persons other than the union or association or any officers thereof.

SECTION 4. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 37, and in lines 81 and 82, the words "any percentage of".

SECTION 5. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 75 to 77, inclusive, the words "and insuring not less than fifty members at date of issue and seventy-five per cent of all persons eligible for membership therein,".

SECTION 6. Said section 133 of said chapter 175, as so appearing, is hereby further amended by inserting after the word "association", in line 85, the following words:- ; provided, however, that when the premium is to be paid wholly or partly from funds contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible members, then the policy shall insure those eligible members who contribute premium.

SECTION 7. Said section 133 of said chapter 175, as so appearing, is hereby further amended by inserting after the words "their insurance", in lines 103 and 108, each time it appears, the following words:- or wholly from funds contributed by the insured persons specifically for their insurance where the benefits under the policy are offered to all of the employees or members, or all of a class thereof determined by conditions pertaining to their employment or to membership in such union or association, or both,.

SECTION 8. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 113 to 120, inclusive, the words "provided that when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than seventy-five per cent of such eligible employees of the employer or employers or of such eligible members of the union or unions or association or associations, who remit funds for premium payments to the trustees may be so insured; provided that the policy shall, at date of its issue, cover at least one hundred persons" and inserting in place thereof the following words:- ; provided, however, that when the premium is to be paid wholly or partly from funds contributed by the

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insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, then the policy shall insure those eligible employees or members who contribute premium.

SECTION 9. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 130 to 135, inclusive, the words “provided, that when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than seventy-five per cent of such eligible members may be so insured; provided, that the policy shall, at date of its issue, cover at least one hundred persons” and inserting in place thereof the following words:- ; provided, however, that when the premium is to be paid wholly or partly from funds contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible members, then the policy shall insure those eligible members who contribute premium.

Approved January 15, 2009.

**Chapter 520. AN ACT RELATIVE TO THE FIRST DISTRICT COURT OF
EASTERN MIDDLESEX.**

Be it enacted, etc., as follows:

The thirteenth paragraph of section 10 of chapter 218 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the line reading “district court of Chelsea” the following line:- first district court of eastern Middlesex.

Approved January 15, 2009.

Chapter 521. AN ACT RELATIVE TO THE UNIFORM PROBATE CODE.

Be it enacted, etc., as follows:

SECTION 1. Sections 5 and 5A of chapter 65A of the General Laws are hereby repealed.

SECTION 2. Chapter 114 of the General Laws is hereby amended by striking out section 32, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 32. A person shall be entitled to a right of interment for his own body in any burial lot or tomb of which his spouse was seized at any time during marriage, which shall be exempt from the operation of the laws relating to conveyance, descent and devise, but may be released by him.

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SECTION 3. Sections 33A and 33B of chapter 184 of the General Laws are hereby repealed.

SECTION 4. Sections 1 to 4, inclusive, 6 and 11 of chapter 184A of the General Laws are hereby repealed.

SECTION 5. Section 1 of chapter 186 of the General Laws is hereby repealed.

SECTION 6. Chapter 189 of the General Laws is hereby repealed.

SECTION 7. Chapter 190 of the General Laws is hereby repealed.

SECTION 8. Chapter 190A of the General Laws is hereby repealed.

SECTION 9. The General Laws are hereby amended by inserting after chapter 190A the following chapter:—

CHAPTER 190B.

MASSACHUSETTS UNIFORM PROBATE CODE ARTICLE, PART AND SECTION ANALYSIS.

Article I

GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION OF COURT.

Part 1

SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS.

Section

- 1-101. [Short Title.]
- 1-102. [Purposes; Rule of Construction.]
- 1-103. [Supplementary General Principles of Law Applicable.]
- 1-104. [Severability.]
- 1-105. [Construction Against Implied Repeal.]
- 1-106. [Effect of Fraud and Evasion.]
- 1-107. [Evidence of Death or Status.]
- 1-108. [Acts by Holder of General Power.]
- 1-109. [Standard of Proof]

Part 2

DEFINITIONS

- 1-201. [Definitions and Inclusions.]

Part 3

SCOPE, JURISDICTION AND COURTS

- 1-301. [Territorial Application.]
- 1-302. [Subject Matter Jurisdiction.]
- 1-303. [Venue; Multiple Proceedings; Transfer.]
- 1-304. [Reserved.]
- 1-305. [Reserved.]
- 1-306. [Reserved.]

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- 1-307. [Magistrate; Powers.]
- 1-308. [Reserved.]
- 1-309. [Reserved.]
- 1-310. [Oath or Affirmation on Filed Documents.]

Part 4**NOTICE, PARTIES AND REPRESENTATION IN ESTATE LITIGATION
AND OTHER MATTERS**

- 1-401. [Notice; Method and Time of Giving.]
- 1-402. [Notice; Waiver.]
- 1-403. [Pleadings; When Parties Bound by Others; Notice.]
- 1-404. [Guardian ad Litem and Next Friend.]

Article II**INTESTACY, WILLS AND DONATIVE TRANSFERS****Part 1****INTESTATE SUCCESSION**

- 2-101. [Intestate Estate.]
- 2-102. [Share of Spouse.]
- 2-103. [Share of Heirs Other Than Surviving Spouse.]
- 2-104. [Reserved.]
- 2-105. [No Taker.]
- 2-106. [Representation.]
- 2-107. [Kindred of Half Blood.]
- 2-108. [Afterborn Heirs.]
- 2-109. [Advancements.]
- 2-110. [Debts to Decedent.]
- 2-111. [Alienage.]
- 2-112. [Dower and Curtesy Abolished.]
- 2-113. [Individuals Related to Decedent Through 2 Lines.]
- 2-114. [Parent and Child Relationship.]

Part 2

- 2-201 to 2-299 [Reserved.]

Part 3**SPOUSE AND CHILDREN UNPROVIDED FOR IN WILLS**

- 2-301. [Entitlement of Spouse; Premarital Will.]
- 2-302. [Omitted Children.]

Part 4**EXEMPT PROPERTY AND ALLOWANCES**

- 2-401. [Applicable Law.]
- 2-402. [Reserved.]

- 2-403. [Exempt Property.]
- 2-404. [Discretionary Family Allowance.]
- 2-405. [Source, Determination, and Documentation.]

Part 5

WILLS, WILL CONTRACTS, AND CUSTODY AND DEPOSIT OF WILLS

- 2-501. [Who May Make Will.]
- 2-502. [Execution of Wills.]
- 2-503. [Reserved.]
- 2-504. [Self-proved Will.]
- 2-505. [Who May Witness.]
- 2-506. [Choice of Law as to Execution.]
- 2-507. [Revocation by Writing or by Act.]
- 2-508. [Revocation by Change of Circumstances.]
- 2-509. [Revival of Revoked Will.]
- 2-510. [Incorporation by Reference.]
- 2-511. [Testamentary Additions to Trusts.]
- 2-512. [Events of Independent Significance.]
- 2-513. [Separate Writing Identifying Devise of Certain Types of Tangible Personal Property.]
- 2-514. [Contracts Concerning Succession.]
- 2-515. [Deposit of Will With Court in Testator's Lifetime.]
- 2-516. [Duty of Custodian of Will; Liability.]
- 2-517. [Penalty Clause for Contest.]

Part 6

RULES OF CONSTRUCTION APPLICABLE ONLY TO WILLS

- 2-601. [Scope.]
- 2-602. [Will May Pass All Property and After-acquired Property.]
- 2-603. [Anti-lapse; Deceased Devisee; Class Gifts.]
- 2-604. [Failure of Testamentary Provision.]
- 2-605. [Increase in Devisee Securities; Accessions.]
- 2-606. [Nonademption of Specific Devises; Unpaid Proceeds of Sale, Condemnation, or Insurance; Sale by Conservator or Agent.]
- 2-607. [Nonexoneration.]
- 2-608. [Exercise of Power of Appointment.]
- 2-609. [Ademption by Satisfaction.]
- 2-610. [Annuities.]

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- 2-701. [Scope.]
- 2-702. [Requirement of Survival.]

- 2-703. [Choice of Law as to Meaning and Effect of Donative Dispositions.]
- 2-704. [Taxes on QTIPS.]
- 2-705. [Class Gifts Construed to Accord with Intestate Succession.]
- 2-706. [Life Insurance; Retirement Plan; Account With POD Designation; Transfer-on-Death Registration; Deceased Beneficiary.]
- 2-707. [Survivorship With Respect to Future Interests Under Terms of Trust; Substitute Takers.]
- 2-708. [Class Gifts to "Descendants", "Issue", or "Heirs of the Body"; Form of Distribution If None Specified.]
- 2-709. [Representation; Per Capita at Each Generation; Per Stirpes.]
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- 2-802. [Effect of Divorce, Annulment, and Decree of Separation.]
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- 3-102. [Necessity of Order of Probate For Will.]
- 3-103. [Necessity of Appointment For Administration.]
- 3-104. [Claims Against Decedent; Necessity of Administration.]
- 3-105. [Proceedings Affecting Devolution and Administration.]
- 3-106. [Proceedings Within the Exclusive Jurisdiction of Court; Service; Jurisdiction Over Persons.]

- 3-107. [Scope of Proceedings; Proceedings Independent; Exception.]
- 3-108. [Probate, Testacy and Appointment Proceedings; Ultimate Time Limit.]
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- 3-201. [Venue for First and Subsequent Estate Proceedings; Location of Property.]
- 3-202. [Appointment or Testacy Proceedings; Conflicting Claim of Domicile in Another State.]
- 3-203. [Priority Among Persons Seeking Appointment as Personal Representative.]
- 3-204. [Reserved.]
- 3-205. [Judge or Register as Personal Representative.]

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- 3-302. [Informal Probate; Duty of Magistrate; Effect of Informal Probate.]
- 3-303. [Informal Probate; Proof and Findings Required.]
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- 3-402. [Formal Testacy or Appointment Proceedings; Petition; Contents.]
- 3-403. [Formal Testacy Proceedings; Notice of Hearing on Petition.]
- 3-404. [Reserved.]
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- 3-409. [Formal Testacy Proceedings; Order; Foreign Will.]
- 3-410. [Formal Testacy Proceedings; Probate of More Than One Instrument.]

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- 3-609. [Termination of Appointment; Death or Disability.]
- 3-610. [Reserved.]
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ARTICLE I

**GENERAL PROVISIONS, DEFINITIONS, AND PROBATE
JURISDICTION OF COURT**

PART 1

SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS

Section 1-101. [Short Title.]

This chapter shall be known and may be cited as the Massachusetts Uniform Probate Code.

Section 1-102. [Purposes; Rule of Construction.]

(a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The underlying purposes and policies of this chapter are:

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(1) to simplify and clarify the law concerning the affairs of decedents and missing persons;

(2) to discover and make effective the intent of a decedent in distribution of the decedent's property;

(3) to promote a speedy and efficient system for liquidating the estate of the decedent and making distribution to the decedent's successors;

(4) to facilitate use and enforcement of certain trusts; and

(5) to make uniform the law among the various jurisdictions.

Section 1-103. [Supplementary General Principles of Law Applicable.]

Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

Section 1-104. [Severability.]

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 1-105. [Construction Against Implied Repeal.]

This chapter is a general act intended as a unified coverage of its subject matter and no part of it shall be deemed impliedly repealed by subsequent legislation if it can reasonably be avoided.

Section 1-106. [Effect of Fraud and Evasion.]

Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this chapter or if fraud is used to avoid or circumvent the provisions or purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person other than a bona fide purchaser benefiting from the fraud, whether innocent or not. Any proceeding shall be commenced within 2 years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than 5 years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during the decedent's lifetime which affects the succession of the decedent's estate.

Section 1-107. [Evidence of Death or Status.]

In addition to the rules of evidence in courts of general jurisdiction, the following rules relating to a determination of death and status apply:-

(1) Death occurs when an individual has sustained either (i) irreversible cessation of circulatory and respiratory functions or (ii) irreversible cessation of all functions of the entire brain, including the brain stem. A determination of death shall be made in accordance with accepted medical standards.

(2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.

(3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive is prima

facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.

(4) In the absence of prima facie evidence of death under paragraph (2) or (3), the fact of death may be established by evidence, including circumstantial evidence.

(5) An individual whose death is not established under the preceding paragraphs who is absent for a continuous period of 5 years, during which the person has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. The person's death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Section 1-108. [Act by Holder of General Power.]

For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms,

(i) the sole holder or all co-holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, or a presently exercisable power to appoint among a class of appointees which is broader than the class of those persons who would take in default of the exercise of such power,

(ii) if the court so permits in its discretion, the sole holder or all co-holders of a testamentary general power of appointment, or a testamentary power to appoint among a class of appointees which is broader than the class of those persons who would take in default of the exercise of such power,

are deemed to act for beneficiaries to the extent their interests (as objects, takers in default, or otherwise) are subject to the power.

Section 1-109. [Standard of Proof.]

In contested cases, the standard of proof is a preponderance of the evidence.

PART 2

DEFINITIONS

Section 1-201. [Definitions and Inclusions.]

Subject to additional definitions contained in the subsequent articles that are applicable to specific articles, parts, or sections, and unless the context otherwise requires, in this chapter:

(1) "Administration", includes both formal and informal testate and intestate proceedings under article III.

(2) "Agent", includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care in accordance with chapter 201D, and an individual authorized to make decisions for another under a natural death act.

(3) "Beneficiary", as it relates to a trust beneficiary, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer; as it relates to a charitable trust, includes any person entitled

to enforce the trust; as it relates to a "beneficiary of a beneficiary designation", refers to a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death; and, as it relates to a "beneficiary designated in a governing instrument", includes a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation", refers to a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death.

(5) "Child", includes an individual entitled to take as a child under this chapter by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6) "Claims", in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term shall not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Court", the probate and family court department of the trial court and includes the district court and juvenile court departments of the trial court in proceedings relating to the appointment of guardians of minors when the subject of the proceeding is a minor and there is proceeding before such district or juvenile court.

(8) "Conservator", a person who is appointed by a court to manage the estate of a protected person.

(9) "Descendant", of an individual means all of such individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this chapter.

(10) "Devise", when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(11) "Devisee", a person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee or trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(12) "Disability", cause for appointment of a conservator under section 5-401.

(13) "Distributee", any person who has received property of a decedent from the decedent's personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in such trustee's hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal

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representative. For the purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(14) "Estate", includes the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration.

(15) "Exempt property", that property of a decedent's estate which is described in section 2-403.

(16) "Fiduciary", includes a personal representative, guardian, conservator, and trustee.

(17) "Foreign personal representative", a personal representative appointed by another jurisdiction.

(18) "Formal proceedings", proceedings conducted before a judge with notice to interested persons.

(19) "Governing instrument", a deed, will, trust, insurance or annuity policy, account with POD designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a donative, appointive, or nominative instrument of any other type.

(20) "Guardian", a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes 1 who is a guardian ad litem.

(21) "Heirs", except as controlled by section 2-711, are persons, including the surviving spouse and the commonwealth, who are entitled under the statutes of intestate succession to the property of a decedent.

(22) "Incapacitated person", an individual for whom a guardian has been appointed under part 3 of article V.

(23) "Informal proceedings", those conducted without notice to interested persons by an officer of the court acting as a magistrate for probate of a will or appointment of a personal representative.

(24) "Interested person", includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claims against a trust estate or the estate of a decedent, ward, or protected person. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

(25) "Issue", means descendant as defined in subsection (9).

(26) "Joint tenants with the right of survivorship", includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others, but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

(27) "Lease", includes an oil, gas, or other mineral lease.

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(28) "Letters", includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(29) "Magistrate", refers to the official of the court designated to perform the function of magistrate as provided in section 1-307.

(30) "Minor", a person who is under 18 years of age.

(31) "Mortgage", any conveyance, agreement, or arrangement in which property is encumbered or used as security.

(32) "Nonresident decedent", a decedent who was domiciled in another jurisdiction at the time of death.

(33) "Organization", a corporation, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

(34) "Parent", includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this chapter by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(35) "Payor", a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

(36) "Person", an individual or an organization.

(37) "Personal representative", includes executor, administrator, successor personal representative, special administrator, special personal representative, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special personal administrator.

(38) "Petition", a written request to the court for an order after notice.

(39) "Proceeding", includes action at law and suit in equity.

(40) "Property", includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(41) "Protected person", a person for whom a conservator has been appointed under part 4 of article V.

(42) "Protective proceedings", a proceeding for appointment of a conservator under part 4 of article V.

(43) "Register", refers to the official designated in section 4 of chapter 217.

(44) "Security", includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

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(45) "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(46) "Special personal representative", a personal representative as described by sections 3-614 to 3-618, inclusive.

(47) "State", a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(48) "Successor personal representative", a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(49) "Successors", persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this chapter.

(50) "Supervised administration", refers to the proceedings described in part 5 of article III.

(51) "Survive", except for purposes of part 3 of article VI, means that an individual has neither predeceased an event, including the death of another individual, nor is deemed to have predeceased an event under section 2-104 or 2-702. The term includes its derivatives, such as "survives", "survived", "survivor", "surviving".

(52) "Testacy proceeding", a proceeding to establish a will or determine intestacy.

(53) "Testator", includes an individual of either sex.

(54) "Trust", includes an express trust, private or charitable, with additions thereto, wherever and however created. The term also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. The term excludes other constructive trusts and excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in article VI, custodial arrangements pursuant to chapter 201A, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrow for another.

(55) "Trustee", includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(56) "Ward", an individual for whom a guardian has been appointed pursuant to part 2 of article V.

(57) "Will", includes codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

PART 3
SCOPE, JURISDICTION AND COURTS

Section 1-301. [Territorial Application.]

Except as otherwise provided in this chapter, this chapter applies to: (1) the affairs and estates of decedents, missing persons, and persons to be protected, domiciled in the commonwealth, (2) the property of nonresidents located in the commonwealth or property coming into the control of a fiduciary who is subject to the laws of the commonwealth, (3) incapacitated persons and minors in the commonwealth, (4) survivorship and related accounts in the commonwealth, and (5) trusts subject to administration in the commonwealth.

Section 1-302. [Subject Matter Jurisdiction.]

(a) To the full extent permitted by the constitution, the court has jurisdiction over all subject matter relating to: (1) estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons, (2) protection of minors and incapacitated persons, (3) trusts, and (4) any other matters authorized by section 6 of chapter 215. The district court and the juvenile court shall have concurrent jurisdiction with the probate and family court to appoint guardians of minors when the subject of the petition is a minor and there is a proceeding before such district or juvenile court. The district and juvenile court shall have continuing jurisdiction over resignation, removal, reporting, and other proceedings related to the guardianship.

(b) The court has full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in the matters which come before it.

(c) The court has jurisdiction over protective proceedings and guardianship proceedings.

(d) If both guardianship and protective proceedings as to the same person are commenced or pending in the same court, the proceedings may be consolidated.

Section 1-303. [Venue; Multiple Proceedings; Transfer.]

(a) Where a proceeding under this chapter could be maintained in more than one place in the commonwealth, the division in which the proceeding is first commenced has the exclusive right to proceed.

(b) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of the commonwealth, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

(c) If a court finds that in the interest of justice a proceeding or a file should be located in another court of the commonwealth, the court making the finding may transfer the proceeding or file to the other court.

Section 1-304. [Reserved.]

Section 1-305. [Reserved.]

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Section 1-306. [Reserved.]

Section 1-307. [Magistrate; Powers.]

The acts and orders which this chapter specifies as performable by the magistrate may be performed either by the magistrate or such other official of the court, including a judge or other official of the court, all as designated by the court by a written order filed and recorded in the office of the court.

Section 1-308. [Reserved.]

Section 1-309. [Reserved.]

Section 1-310. [Oath or Affirmation on Filed Documents.]

Except as otherwise specifically provided in this chapter or by rule, every document filed with the court under this chapter including petitions, and demands for notice, shall be deemed to include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed, and penalties for perjury may follow deliberate falsification therein.

PART 4

NOTICE, PARTIES AND REPRESENTATION IN ESTATE LITIGATION AND OTHER MATTERS

Section 1-401. [Notice; Method and Timing of Giving.]

(a) If notice on any matter is required by reference to this section and except for specific notice requirements as otherwise provided, the court shall fix a return date and issue a citation. The petitioner shall cause notice of the return day of any matter to be given to any interested person or attorney if the appearance is by attorney or the interested person requested that notice be sent to the attorney. Notice shall be given:

(1) by mailing a copy of the citation at least 14 days before the return date by certified, registered or ordinary first class mail addressed to all interested persons who have not assented in writing or their attorney if the appearance is by attorney or the interested person requested that notice be sent to the attorney at the person's office or place of residence, if known; or

(2) by delivering a copy of the citation to the person being notified personally at least fourteen days before the return date; or

(3) by publishing a copy of the citation once in a newspaper designated by the register of probate having general circulation in the county where the proceeding is pending, the publication of which is to be at least 7 days before the return date.

(b) The court for good cause shown may provide for a different method or time of giving notice for any return date. Notice of proceedings for guardianships of minors in the district court and the juvenile court shall be given in accordance with the rules of those courts.

(c) Proof of the giving of notice shall be made on or before the hearing or return day and filed in the proceeding.

(d) Any party to a formal proceeding who opposes the proceeding for any reason shall before 10:00 A.M. of the return date enter an appearance in writing giving the name of the proceeding, the objecting party's name and the objecting party's address or the name and address of the objecting party's attorney.

(e) The objecting party shall file a written affidavit of objections to the proceeding, stating the specific facts and grounds upon which the objection is based within 30 days after the return date.

(f) If an affidavit of objections fails to comply with the requirements of the foregoing section (e), such affidavit of objections and the appearance of the party filing such affidavit of objections may be struck on motion after notice at any time after filing of such affidavit of objections.

(g) If a proceeding is unopposed, after the time required for any notice has expired, upon proof of notice, the court or the magistrate may enter appropriate orders on the strength of the pleadings if satisfied that all conditions are met, or the court may conduct a hearing and require proof of the matters necessary to support the order sought.

Section 1-402. [Notice; Waiver.]

A person, including a guardian ad litem, conservator, or other fiduciary, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding. A person for whom a guardianship or other protective order is sought, a ward, incapacitated person or a protected person may not waive notice.

Section 1-403. [Pleadings; When Parties Bound by Others; Notice.]

In formal proceedings involving trusts or estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, the following apply:

(1) Interests to be affected shall be described in pleadings which give reasonable information to owners by name or class, by reference to the instrument creating the interests, or in other appropriate manner.

(2) Persons are bound by orders binding others in the following cases:

(i) Orders binding the sole holder or all co-holders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, or a presently exercisable power to appoint among a class of appointees which is broader than the class of those persons who would take in default of the exercise of such power, bind other persons to the extent their interests as objects, takers in default, or otherwise are subject to the power.

(ii) To the extent there is no conflict of interest between them or among persons represented, orders binding a conservator bind the person whose estate the conservator controls; orders binding a guardian bind the protected person or ward if no conservator has been appointed; orders binding a trustee bind beneficiaries of the trust in proceedings to probate a will establishing or adding to a trust, to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties; and orders binding a

personal representative bind persons interested in the undistributed assets of a decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no conservator or guardian has been appointed, a parent may represent a minor child.

(iii) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent the person's interest is adequately represented by another party having a substantially identical interest in the proceeding.

(3) Notice is required as follows:

(i) Notice as prescribed by section 1-401 shall be given to every interested person or to one who can bind an interested person as described in (2)(i) or (2)(ii) above. Notice may be given both to a person and to another who may bind such person.

(ii) Notice is given to unborn or unascertained persons, who are not represented under (2)(i) or (2)(ii), by giving notice to all known persons whose interest in the proceedings are substantially identical to those of the unborn or unascertained persons.

Section 1-404. [Guardian Ad Litem and Next Friend.]

(a) If, in a formal proceeding involving trusts or estates of decedents, minors, protected persons, or incapacitated persons, and in judicially supervised settlements, or otherwise, a minor, a mentally retarded person, an autistic person, or person under disability, or a person not ascertained or not in being, may be or may become interested in any property, real or personal, or in the enforcement or defense of any legal rights, the court in which any action, petition or proceeding of any kind relative to or affecting any such estate or legal rights is pending may, upon the representation of any party thereto, or of any person interested, appoint a suitable person to appear and act therein as guardian ad litem or next friend of such minor, mentally retarded person, autistic person, or person under disability or not ascertained or not in being; and a judgment, order or decree in such proceedings, made after such appointment, should be conclusive upon all persons for whom such guardian ad litem or next friend was appointed.

(b) The reasonable expenses of such guardian ad litem or next friend, including compensation and counsel fees, shall be determined by the court and paid as it may order, either out of the estate or by the plaintiff, petitioner or the commonwealth. If such expenses are to be paid by the plaintiff or petitioner execution therefor may issue in the name of the guardian ad litem or next friend.

(c) Nothing in this code shall affect the power of a court to appoint a guardian or conservator to defend the interests of a minor impleaded in such court, or interested in a suit or matter there pending, nor the power of such court to appoint or allow a person, as next friend for a minor, to commence, prosecute or defend a suit in his behalf.

(d) If it appears in a probate or appointment proceeding that a spouse, heir at law or devisee is an incapacitated or protected person or a minor, notice of all proceedings shall be given to the incapacitated or protected person or minor and to his guardian or conservator. Unless the spouse, heir or devisee is represented by someone other than the petitioner or is under guardianship or conservatorship, the court shall appoint a guardian ad litem who shall receive notice of all proceedings.

ARTICLE II
INTESTACY, WILLS, AND DONATIVE TRANSFERS
PART 1
INTESTATE SUCCESSION

Section 2-101. [Intestate Estate.]

(a) Any part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs as prescribed in this part, except as modified by the decedent's will.

(b) A decedent by will may expressly exclude or limit the right of an individual or class to succeed to property of the decedent passing by intestate succession. If that individual or a member of that class survives the decedent, the share of the decedent's intestate estate to which that individual or class would have succeeded passes as if that individual or each member of that class had disclaimed the intestate share.

Section 2-102. [Share of Spouse.]

The intestate share of a decedent's surviving spouse is:

(1) the entire intestate estate if:

(i) no descendant or parent of the decedent survives the decedent; or

(ii) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

(2) the first \$200,000, plus $\frac{3}{4}$ of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

(3) the first \$100,000 plus $\frac{1}{2}$ of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has 1 or more surviving descendants who are not descendants of the decedent;

(4) the first \$100,000 plus $\frac{1}{2}$ of any balance of the intestate estate, if 1 or more of the decedent's surviving descendants are not descendants of the surviving spouse.

Section 2-103. [Share of Heirs Other Than Surviving Spouse.]

Any part of the intestate estate not passing to the decedent's surviving spouse under section 2-102, or the entire intestate estate if there is no surviving spouse, passes in the following order to the individuals designated below who survive the decedent:

(1) to the decedent's descendants per capita at each generation;

(2) if there is no surviving descendant, to the decedent's parents equally if both survive, or to the surviving parent;

(3) if there is no surviving descendant or parent, to the descendants of the decedent's parents or either of them per capita at each generation;

(4) if there is no surviving descendant, parent, or descendant of a parent, then equally to the decedent's next of kin in equal degree; but if there are 2 or more descendants of deceased ancestors in equal degree claiming through different ancestors, those claiming through the nearest ancestor shall be preferred to those claiming through an ancestor more

remote. Degrees of kindred shall be computed according to the rules of civil law.

Section 2-104. [Reserved.]

Section 2-105. [No Taker.]

If there is no taker under the provisions of this article, the intestate estate passes to the commonwealth; provided, however, if such intestate is a veteran who died while a member of the Soldiers' Home in Massachusetts or the Soldiers' Home in Holyoke, the intestate estate shall inure to the benefit of the legacy fund or legacy account of the soldiers' home of which the intestate was a member.

Section 2-106.(a)[Representation.]

In this section:

(1) "Deceased descendant", "deceased parent", or "deceased ancestor", a descendant, parent, or ancestor who predeceased the decedent.

(2) "Surviving descendant", a descendant who survived the decedent.

(b) If, under section 2-103(1), a decedent's intestate estate or a part thereof passes "per capita at each generation" to the decedent's descendants, the estate or part thereof is divided into as many equal shares as there are (i) surviving descendants in the generation nearest to the decedent that contains 1 or more surviving descendants, and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants in the nearest generation and their surviving descendants had predeceased the decedent.

(c) If, under section 2-103(3), a decedent's intestate estate or a part thereof passes "per capita at each generation" to the descendants of the decedent's deceased parents or either of them, the estate or part thereof is divided into as many equal shares as there are (i) surviving descendants in the generation nearest the deceased parents or either of them that contains 1 or more surviving descendants, and (ii) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants in the nearest generation and their surviving descendants had predeceased the decedent.

Section 2-107. [Kindred of Half Blood.]

Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

Section 2-108. [Afterborn Heirs.]

An individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

Section 2-109. [Advancements.]

(a) If an individual dies intestate as to all or a portion of the estate, property the decedent gave during the decedent's lifetime to an individual who, at the decedent's death,

is an heir is treated as an advancement against the heir's intestate share only if (i) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift is an advancement or (ii) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift is to be taken into account in computing the division and distribution of the decedent's intestate estate.

(b) If the value of an advancement is expressed in the conveyance, in the contemporaneous writing, or in the acknowledgment, such value shall be adopted in the division and distribution of the intestate estate; otherwise it shall be determined according to the value when the property was given.

(c) Property which is advanced by an intestate shall be considered as part of the intestate's estate in the division and distribution of such estate, and shall be taken by the heir who received the advance toward the heir's share of the intestate estate; but the heir shall not be required to restore any part thereof, although it exceeds the intestate share. A surviving spouse shall be entitled only to a share in the residue after deducting the value of the advancement.

(d) If a child or other lineal descendant of the intestate who has received an advancement dies before the intestate, leaving descendants who receive a share of the intestate's estate, the advancement shall be considered as part of the intestate's estate in the division and distribution of such estate, and the value thereof shall be taken in equal shares by the representatives of the person who received the advancement toward their share of the intestate estate, as if the advancement had been made directly to them.

(e) The probate court in which the estate of a decedent is settled may hear and determine all questions of advancements arising relative to such estate.

Section 2-110. [Debts to Decedent.]

A debt owed to a decedent is not charged against the intestate share of any individual except the debtor. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's descendants.

Section 2-111. [Alienage.]

No individual is disqualified to take as an heir because the individual or another individual through whom the individual claims is or has been an alien.

Section 2-112. [Dower and Curtesy Abolished.]

The estates of dower and curtesy are abolished.

Section 2-113. [Individuals Related to Decedent Through Two Lines.]

An individual who is related to the decedent through 2 lines of relationship is entitled to only a single share based on the relationship that would entitle the individual to the larger share.

Section 2-114. [Parent and Child Relationship.]

(a) Except as provided in subsection (b), for purposes of intestate succession by, through, or from a person, an individual is the child of his natural parents, regardless of their marital status. The parent and child relationship may be established under applicable state law.

(b) An adopted individual is the child of his adopting parent or parents and not of his natural parents, but adoption of a child by the spouse of either natural parent has no effect on the right of the child or a descendant of the child to inherit from or through either natural parent.

PART 2

Sections 2-201 to 2-299. [Reserved]

PART 3

SPOUSE AND CHILDREN UNPROVIDED FOR IN WILLS

Section 2-301. [Entitlement of Spouse; Premarital Will.]

(a) If a testator's surviving spouse married the testator after the testator executed a will, the surviving spouse is entitled to receive, as an intestate share, no less than the value of the share of the estate the spouse would have received if the testator had died intestate as to that portion of the testator's estate, if any, that neither is devised to a child of the testator who is born before the testator married the surviving spouse and who is not a child of the surviving spouse nor is devised to a descendant of such a child or passes under section 2-603 or 2-604 to such a child or to a descendant of such a child, unless:

(1) it appears from the will that the will was made in contemplation of the testator's marriage to the surviving spouse;

(2) the will expresses the intention that it is to be effective notwithstanding any subsequent marriage; or

(3) the testator provided for the spouse by transfer outside the will and any intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

(b) In satisfying the share provided by this section, devises made by the will to the testator's surviving spouse, if any, are applied first, and other devises, other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse or a devise or substitute gift under section 2-603 or 2-604 to a descendant of such a child, abate as provided in section 3-902.

Section 2-302. [Omitted Children.]

(a) Except as provided in subsection (b), if a testator fails to provide in a will for any children born or adopted after the execution of the will, the omitted after-born or after-adopted child receives a share in the estate as follows:

(1) If the testator had no child living when the will was executed, an omitted after-born or after-adopted child receives a share in the estate equal in value to that which the child would have received had the testator died intestate, unless the will devised all or substantially all the estate to the other parent of the omitted child and that other parent survives the testator and is entitled to take under the will.

(2) If the testator had 1 or more children living when the will was executed, and the will devised property or an interest in property to 1 or more of the then-living children, an

omitted after-born or after-adopted child is entitled to share in the testator's estate as follows:

(i) The portion of the testator's estate in which the omitted after-born or after-adopted child is entitled to share is limited to devises made to the testator's then-living children under the will.

(ii) The omitted after-born or after-adopted child is entitled to receive the share of the testator's estate, as limited in subparagraph (i), that the child would have received had the testator included all omitted after-born and after-adopted children with the children to whom devises were made under the will and had given an equal share of the estate to each child.

(iii) To the extent feasible, the interest granted an omitted after-born or after-adopted child under this section shall be of the same character, whether equitable or legal, present or future, as that devised to the testator's then-living children under the will.

(iv) In satisfying a share provided by this paragraph, devises to the testator's children who were living when the will was executed abate ratably. In abating the devises of the then-living children, the court shall preserve to the maximum extent possible the character of the testamentary plan adopted by the testator.

(b) Neither subsection (a)(1) nor subsection (a)(2) applies if:

(1) It appears from the will that the omission was intentional; or

(2) The testator provided for the omitted after-born or after-adopted child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's statements or is reasonably inferred from the amount of the transfer or other evidence.

(c) If at the time of execution of the will the testator fails to provide in the will for a living child solely because the testator believes the child to be dead, the child is entitled to a share in the estate as if the child were an omitted after-born or after-adopted child.

(d) In satisfying a share provided by subsection (a)(1), devises made by the will abate under section 3-902.

(e) No such omitted child shall take any share in real property unless a claim is filed in the registry of probate by or on behalf of such child within 1 year after the death of the decedent.

PART 4

EXEMPT PROPERTY AND ALLOWANCES

Section 2-401. [Applicable Law.]

This part applies to the estate of a decedent who dies domiciled in the commonwealth. Rights to exempt property, and discretionary family allowance for a decedent who dies not domiciled in the commonwealth are governed by the law of the decedent's domicile at death.

Section 2-402. [Reserved.]

Section 2-403. [Exempt Property.]

(a) The decedent's surviving spouse is entitled from the estate to a value at date of

death, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the decedent's children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the \$10,000 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all unsecured claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of the discretionary family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided, by intestate succession, or by way of elective share.

(b) The decedent's surviving spouse may remain in the house of the decedent for not more than 6 months next succeeding the date of death without being chargeable for rent.

Section 2-404. [Discretionary Family Allowance.]

(a) In addition to the right to exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration, which allowance may not continue for longer than 1 year if the estate is inadequate to discharge allowed claims. This discretionary family allowance may be paid as a lump sum or in periodic installments. It is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse, the discretionary family allowance may be made partially to the child or the child's guardian or other person having the child's care and custody, and partially to the spouse, as their needs may appear. The discretionary family allowance is exempt from and has priority over all unsecured claims.

(b) The discretionary family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession or by way of elective share. The death of any person entitled to a discretionary family allowance terminates the right to allowances not yet paid.

Section 2-405. [Source, Determination, and Documentation.]

If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to exempt property. Subject to this restriction, the surviving spouse, guardians of minor children, or children who are adults may select property of the estate as exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as exempt property. The personal representative may determine the discretionary family allowance in

a lump sum not exceeding \$18,000 or periodic installments not exceeding \$1,500 per month for 1 year, and may disburse funds of the estate in payment of the discretionary family allowance payable in cash. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a discretionary family allowance other than that which the personal representative determined or could have determined.

PART 5

WILLS, WILL CONTRACTS, AND CUSTODY AND DEPOSIT OF WILLS

Section 2-501. [Who May Make Will.]

An individual 18 or more years of age who is of sound mind may make a will.

Section 2-502. [Execution of Wills.]

(a) Except as provided in subsection (b) and in sections 2-506 and 2-513, a will shall be:

(1) in writing;

(2) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction; and

(3) signed by at least 2 individuals, each of whom witnessed either the signing of the will as described in paragraph (2) or the testator's acknowledgment of that signature or acknowledgment of the will.

(b) Intent that the document constitute the testator's will can be established by extrinsic evidence.

Section 2-503. [Reserved.]

Section 2-504. [Self-Proved Will.]

(a) A will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

I, _____, the testator, sign my name to this instrument this _____ day of _____, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

We, _____, _____, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as [his] [her] will and that [he] [she] signs it willingly (or willingly directs another to sign for [him] [her]),

and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness

Witness

The State of _____
County of _____

Subscribed, sworn to and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____, and _____, witness, this _____ day of _____.

(Seal)

(Signed) _____
(Official capacity of officer)

(b) An attested will may be made self-proved at any time after its execution by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state in which the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in substantially the following form:

The State of _____
County of _____

We, _____, _____, and _____, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as the testator's will and that [he] [she] had signed willingly (or willingly directed another to sign for [him] [her]), and that [he] [she] executed it as [his] [her] free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of [his] [her] knowledge the testator was at that time 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to and acknowledged before me by _____, the testator,
and subscribed and sworn to before me by _____, and _____, witnesses,
this _____ day of _____.
(Seal)

(Signed) _____
(Official capacity of officer)

(c) A signature affixed to a self-proving affidavit attached to a will is considered a signature affixed to the will, if necessary to prove the will's due execution.

Section 2-505. [Who May Witness.]

(a) An individual generally competent to be a witness may act as a witness to a will.

(b) The signing of a will by an interested witness shall not invalidate the will or any provision of it except that a devise to a witness or a spouse of such witness shall be void unless there are 2 other subscribing witnesses to the will who are not similarly benefited thereunder or the interested witness establishes that the bequest was not inserted, and the will was not signed, as a result of fraud or undue influence by the witness.

Section 2-506. [Choice of Law as to Execution.]

A written will is valid if executed in compliance with section 2-502 or if its execution complies with the law at the time of execution of the place where the will is executed, or of the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode, or is a national.

Section 2-507. [Revocation by Writing or by Act.]

(a) A will or any part thereof is revoked:

(1) by executing a subsequent will that revokes the previous will or part expressly or by inconsistency; or

(2) by performing a revocatory act on the will, if the testator performed the act with the intent and for the purpose of revoking the will or part or if another individual performed the act in the testator's conscious presence and by the testator's direction. For purposes of this paragraph, "revocatory act on the will" includes burning, tearing, canceling, obliterating, or destroying the will or any part of it.

(b) If a subsequent will does not expressly revoke a previous will, the execution of the subsequent will wholly revokes the previous will by inconsistency if the testator intended the subsequent will to replace rather than supplement the previous will.

(c) The testator is presumed to have intended a subsequent will to replace rather than supplement a previous will if the subsequent will makes a complete disposition of the testator's estate. If this presumption arises and is not rebutted, the previous will is revoked; only the subsequent will is operative on the testator's death.

(d) The testator is presumed to have intended a subsequent will to supplement rather than replace a previous will if the subsequent will does not make a complete disposition of the testator's estate. If this presumption arises and is not rebutted, the subsequent will revokes the previous will only to the extent the subsequent will is inconsistent with the pre-

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vious will; each will is fully operative on the testator's death to the extent they are not inconsistent.

Section 2-508. [Revocation by Change of Circumstances.]

Except as provided in sections 2-301, 2-803 and 2-804, a change of circumstances shall not revoke a will or any part of it.

Section 2-509. [Revival of Revoked Will.]

(a) If a subsequent will that wholly revoked a previous will is thereafter revoked by a revocatory act under section 2-507(a)(2), the previous will remains revoked unless it is revived. The previous will is revived if it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator intended the previous will to take effect as executed.

(b) If a subsequent will that partly revoked a previous will is thereafter revoked by a revocatory act under section 2-507(a)(2), a revoked part of the previous will is revived unless it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator did not intend the revoked part to take effect as executed.

(c) If a subsequent will that revoked a previous will in whole or in part is thereafter revoked by another, later, will, the previous will remains revoked in whole or in part, unless it or its revoked part is revived. The previous will or its revoked part is revived to the extent it appears from the terms of the later will that the testator intended the previous will to take effect.

Section 2-510. [Incorporation by Reference.]

A writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

Section 2-511. [Testamentary Additions to Trusts.]

(a) A will may validly devise property to the trustee of a trust established or to be established (i) during the testator's lifetime by the testator, by the testator and some other person, or by some other person, including a funded or unfunded life insurance trust, although the settler has reserved any or all rights of ownership of the insurance contracts, or (ii) at the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, or concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(b) Unless the testator's will provides otherwise, property devised to a trust described in subsection (a) is not held under a testamentary trust of the testator, but it becomes a part of the trust to which it is devised, and shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including

any amendments thereto made before or after the testator's death.

(c) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise to lapse.

Section 2-512. [Events of Independent Significance.]

A will may dispose of property by reference to acts and events that have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of another individual's will is such an event.

Section 2-513. [Separate Writing Identifying Devise of Certain Types of Tangible Property.]

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing shall be signed by the testator and shall describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.

Section 2-514. [Contracts Concerning Succession.]

A contract to make or not to make a will or devise, or to revoke or not to revoke a will or devise, or to die intestate, if executed after the effective date of this article, may be established only by (i) provisions of a will stating material provisions of the contract, (ii) an express reference in a will to a contract and extrinsic evidence proving the terms of the contract, or (iii) a writing signed by the decedent evidencing the contract. The execution of a joint will or mutual wills shall not create a presumption of a contract not to revoke the will or wills.

Section 2-515. [Deposit of Will With Court in Testator's Lifetime.]

A will may be deposited by the testator or the testator's agent with any court for safekeeping, under rules of the court. The will shall be sealed and kept confidential. During the testator's lifetime, a deposited will shall be delivered only to the testator or to a person authorized in writing signed by the testator to receive the will. A guardian of the estate or conservator may be allowed to examine a deposited will of a protected testator under procedures designed to maintain the confidential character of the document to the extent possible, and to ensure that it will be resealed and kept on deposit after the examination. Upon being informed of the testator's death, the court shall notify any person designated to receive the will and deliver it to that person on request; or the court may deliver the will to the appropriate court.

Section 2-516. [Duty of Custodian of Will; Liability.]

After the death of a testator a person having custody of a will of the testator shall deliver it within thirty days after notice of the death to a person able to secure its probate and

if none is known, to an appropriate court. A person who willfully fails to deliver a will is liable to any person aggrieved for any damages that may be sustained by the failure. A person who willfully refuses or fails to deliver a will after being ordered by the court in a proceeding brought for the purpose of compelling delivery is subject to penalty for contempt of court.

Section 2-517. [Penalty Clause for Contest.]

A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is enforceable.

PART 6

RULES OF CONSTRUCTION APPLICABLE ONLY TO WILLS

Section 2-601. [Scope.]

In the absence of a finding of a contrary intention shown by the terms of the will, the rules of construction in this part control the construction of a will.

Section 2-602. [Will May Pass All Property and After-Acquired Property.]

Property owned by the testator at death and any acquired by the testator's estate thereafter passes under the will unless a different intention appears.

Section 2-603. [Anti-Lapse; Deceased Devisee; Class Gifts.]

If a devisee who is a grandparent or a lineal descendant of a grandparent is dead at the time of execution of the will, fails to survive the testator, or is treated as if he predeceased the testator, the issue of the deceased devisee who survive the testator take in place of the deceased devisee and if they are all of the same degree of kinship to the devisee they take equally, but if of unequal degree than those of more remote degree take by representation. A person who would have been a devisee under a class gift if he had survived the testator is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the will.

Section 2-604. [Failure of Testamentary Provision.]

(a) Except as provided in section 2-603, a devise, other than a residuary devise, that fails for any reason becomes a part of the residue.

(b) Except as provided in section 2-603, if the residue is devised to 2 or more persons, the share of a residuary devisee that fails for any reason passes to the other residuary devisee, or to other residuary devisees in proportion to the interest of each in the remaining part of the residue.

Section 2-605. [Increase in Devisee Securities; Accessions.]

(a) If a testator executes a will that devises securities and the testator then owned securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) securities of the same organization acquired by reason of action initiated by the organization or any successor, related, or acquiring organization, excluding any acquired by

exercise of purchase options;

(2) securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization; or

(3) securities of the same organization acquired as a result of a plan of reinvestment.

(b) Distributions in cash before death with respect to a described security are not part of the devise.

Section 2-606. [Nonademption of Specific Devises; Unpaid Proceeds of Sale, Condemnation, or Insurance; Sale by Conservator or Agent.]

(a) A specific devisee has a right to the specifically devised property in the testator's estate at death and:

(1) any balance of the purchase price, together with any security agreement, owing from a purchaser to the testator at death by reason of sale of the property;

(2) any amount of a condemnation award for the taking of the property unpaid at death;

(3) any proceeds unpaid at death on fire or casualty insurance on or other recovery for injury to the property; and

(4) property owned by the testator at death and acquired as a result of foreclosure, or obtained in lieu of foreclosure, of the security interest for a specifically devised obligation.

(b) If specifically devised property is sold or mortgaged by a guardian of the estate conservator or by an agent acting within the authority of a durable power of attorney for an incapacitated principal, or if a condemnation award, insurance proceeds, or recovery for injury to the property are paid to a conservator or to an agent acting within the authority of a durable power of attorney for an incapacitated principal, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(c) The right of a specific devisee under subsection (b) is reduced by any right the devisee has under subsection (a).

(d) For the purposes of the references in subsection (b) to a conservator, subsection (b) shall not apply if after the sale, mortgage, condemnation, casualty, or recovery, it was adjudicated that the testator's incapacity ceased and the testator survived the adjudication by 1 year.

(e) For the purposes of the references in subsection (b) to an agent acting within the authority of a durable power of attorney for an incapacitated principal, (i) "incapacitated principal" means a principal who is an incapacitated person, (ii) no adjudication of incapacity before death is necessary, and (iii) the acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal.

Section 2-607. [Nonexoneration.]

A specific devise passes subject to any mortgage interest existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

Section 2-608. [Exercise of Power of Appointment.]

(a) In the absence of a requirement that a power of appointment be exercised by a reference, or by an express or specific reference, to the power, a general residuary clause in a will, or a will making general disposition of all of the testator's property, expresses an intention to exercise a power of appointment held by the testator only if (i) the power is a general power and the creating instrument does not contain an effective gift if the power is not exercised or (ii) the testator's will manifests an intention to include the property subject to the power.

(b) Unless a contrary intent is manifested in the terms of an instrument creating or limiting a power of appointment, it shall be presumed that the person so creating or limiting such power intended to authorize the donee thereof, when exercising said power, not only to create absolute interests but also to create less than absolute legal and equitable interests, including interests in trust for the benefit of objects of said power even though the trustees thereof may not be objects of said power and including new powers of appointment, general or more limited, in objects of said power, even though the objects of the new powers may include one or more that are not objects of said power.

Section 2-609. [Ademption by Satisfaction.]

(a) Property a testator gave in the testator's lifetime to a person is treated as a satisfaction of a devise in whole or in part, only if (i) the will provides for deduction of the gift, (ii) the testator declared in a contemporaneous writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise, or (iii) the devisee acknowledged in writing that the gift is in satisfaction of the devise or that its value is to be deducted from the value of the devise.

(b) For purposes of partial satisfaction, property given during lifetime shall be valued as expressed in the will or in the contemporaneous writing; if it is not so valued, such property shall be valued as of the time the devisee came into possession or enjoyment of the property or at the testator's death, whichever occurs first.

(c) If the devisee fails to survive the testator, the gift is treated as a full or partial satisfaction of the devise, as appropriate, in applying sections 2-603 and 2-604, unless the testator's contemporaneous writing provides otherwise.

Section 2-610. [Annuities.]

(a) If an annuity, or the use, rent, income or interest of property, real or personal, is given by will or by trust instrument for the benefit of a person for life or until the happening of a contingency, such person shall be entitled to receive and enjoy the same from and after the death of the deceased, unless it is otherwise provided in such will or trust instrument.

PART 7

RULES OF CONSTRUCTION APPLICABLE TO DONATIVE DISPOSITIONS IN WILLS AND OTHER GOVERNING INSTRUMENTS

Section 2-701. [Scope.]

In the absence of a finding of a contrary intention shown by the terms of the will, the

rules of construction in this part control the construction of a governing instrument. The rules of construction in this part apply to a governing instrument of any type, except as the application of a particular section is limited by its terms to a specific type or types of donative disposition or governing instrument.

Section 2-702. [Requirement of Survival.]

(a) For the purposes of this code, except for purposes of part 3 of article VI [Uniform TOD Security Registration Act] and except as provided in subsection (d), an individual who is not established to have survived an event, including the death of another individual, is deemed to have predeceased the event.

(b) Except as provided in subsection (d) and except for a security registered in beneficiary form (TOD) under part 3 of article VI, Uniform TOD Security Registration Act, for purposes of a donative provision of a governing instrument, an individual who is not established to have survived an event, including the death of another individual, is deemed to have predeceased the event.

(c) Except as provided in subsection (d), if (i) it is not established that 1 of 2 co-owners with right of survivorship survived the other co-owner, $\frac{1}{2}$ of the property passes as if 1 had survived, and $\frac{1}{2}$ as if the other had survived and (ii) there are more than 2 co-owners and it is not established that at least 1 of them survived the others, the property passes in the proportion that one bears to the whole number of co-owners. For the purposes of this subsection, "co-owners with right of survivorship" includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitles 1 or more to the whole of the property or account on the death of the other or others.

(d) This section shall not apply if:

(1) the governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;

(2) the governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event by a specified period;

(3) the application of this section to multiple governing instruments would result in an unintended failure or duplication of a disposition.

(e)(1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument who, under this section, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this section. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this section.

(2) Written notice of a claimed lack of entitlement under paragraph (1) shall be mailed to the payor's or other third party's main office or home by registered or certified mail,

return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(f)(1) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 2-703. [Choice of Law as to Meaning and Effect of Donative Dispositions.]

The meaning and legal effect of a donative disposition is determined by the local law of the state selected by the transferor in the governing instrument, unless the application of that law is contrary to the provisions relating to the elective share described in part 2, the provisions relating to exempt property and allowances described in part 4, or any other public policy of the commonwealth otherwise applicable to the disposition.

Section 2-704. [Taxes on QTIPS.]

A direction in a will or instrument of trust to pay taxes caused by, resulting from, or imposed by reason of the death of the testator or donor, as the case may be, out of the decedent's probate estate or trust estate or other property, shall not include, unless the will or instrument of trust or a provision of such tax laws specifically provides otherwise, taxes levied or assessed under the tax laws of the United States or of the commonwealth or of any foreign state or commonwealth on any qualified terminable interest property in which the decedent had a qualifying income interest for life.

Section 2-705. [Class Gifts Construed to Accord with Intestate Succession.]

(a) Adopted individuals and individuals born out of wedlock, and their respective descendants if appropriate to the class, are included in class gifts and other terms of relationship in accordance with the rules for intestate succession. Terms of relationship that do not differentiate relationships by blood from those by affinity, such as “uncles”, “aunts”, “nieces”, or “nephews”, are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as “brothers”, “sisters”, “nieces”, or “nephews”, are construed to include both types of relationships.

(b) In addition to the requirements of subsection (a), in construing a donative disposition by a transferor who is not the adopting parent, an adopted individual is not considered the child of the adopting parent unless the adoption took place while the person adopted was a minor.

Section 2-706. [Life Insurance; Retirement Plan; Account With POD Designation; Transfer-on-Death Registration; Deceased Beneficiary.]

(a) In this section:

(1) “Alternative beneficiary designation”, a beneficiary designation that is expressly created by the governing instrument and, under the terms of the governing instrument, can take effect instead of another beneficiary designation on the happening of 1 or more events, including survival of the decedent or failure to survive the decedent, whether an event is expressed in condition-precedent, condition-subsequent, or any other form.

(2) “Beneficiary”, the beneficiary of a beneficiary designation and includes (i) a class member if the beneficiary designation is in the form of a class gift and (ii) an individual or class member who was deceased at the time the beneficiary designation was executed as well as an individual or class member who was then living but who failed to survive the decedent.

(3) “Beneficiary designation”, includes an alternative beneficiary designation and a beneficiary designation in the form of a class gift.

(4) “Class member”, includes an individual who fails to survive the decedent but who would have taken under a beneficiary designation in the form of a class gift had he or she survived the decedent.

(5) “Surviving beneficiary” or “surviving descendant”, a beneficiary or a descendant who did not predecease the decedent.

(b) If a beneficiary fails to survive the decedent and is a grandparent or a descendant of a grandparent, the following apply:

(1) If the beneficiary designation is not in the form of a class gift and the deceased beneficiary leaves surviving descendants, a substitute gift is created in the beneficiary's surviving descendants. They take by representation the property to which the beneficiary would have been entitled had the beneficiary survived the decedent.

(2) If the beneficiary designation is in the form of a class gift, other than a beneficiary designation to “issue”, “descendants”, “heirs of the body”, “heirs”, “next of kin”, “relatives”,

or "family", or a class described by language of similar import, a substitute gift is created in the deceased beneficiary or beneficiaries' surviving descendants. The property to which the beneficiaries would have been entitled had all of them survived the decedent passes to the surviving beneficiaries and the surviving descendants of the deceased beneficiaries. Each surviving beneficiary takes the share to which the surviving beneficiary would have been entitled had the deceased beneficiaries survived the decedent. Each deceased beneficiary's surviving descendants who are substituted for the deceased beneficiary take by representation the share to which the deceased beneficiary would have been entitled had the deceased beneficiary survived the decedent. For the purposes of this paragraph, "deceased beneficiary" is a class member who failed to survive the decedent and left 1 or more surviving descendants.

(c)(1) A payor is protected from liability in making payments under the terms of the beneficiary designation until the payor has received written notice of a claim to a substitute gift under this section. Payment made before the receipt of written notice of a claim to a substitute gift under this section discharges the payor, but not the recipient, from all claims for the amounts paid. A payor is liable for a payment made after the payor has received written notice of the claim. A recipient is liable for a payment received, whether or not written notice of the claim is given.

(2) The written notice of the claim shall be mailed to the payor's main office or home by registered or certified mail, return receipt requested, or served upon the payor in the same manner as a summons in a civil action. Upon receipt of written notice of the claim, a payor may pay any amount owed by it to the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds and, upon its determination under this section, shall order disbursement in accordance with the determination. Payment made to the court discharges the payor from all claims for the amounts paid.

(d)(1) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property

or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 2-707. [Survivorship With Respect to Future Interests Under Terms of Trust; Substitute Takers.]

(a) In this section:

(1) "Alternative future interest", an expressly created future interest that can take effect in possession or enjoyment instead of another future interest on the happening of 1 or more events, including survival of an event or failure to survive an event, whether an event is expressed in condition-precedent, condition-subsequent, or any other form. A residuary clause in a will shall not create an alternative future interest with respect to a future interest created in a nonresiduary devise in the will, whether or not the will specifically provides that lapsed or failed devises are to pass under the residuary clause.

(2) "Beneficiary", the beneficiary of a future interest and includes a class member if the future interest is in the form of a class gift.

(3) "Class member", includes an individual who fails to survive the distribution date but who would have taken under a future interest in the form of a class gift had the individual survived the distribution date.

(4) "Distribution date", with respect to a future interest, is the time when the future interest is to take effect in possession or enjoyment. The distribution date need not occur at the beginning or end of a calendar day, but can occur at a time during the course of a day.

(5) "Future interest", includes an alternative future interest and a future interest in the form of a class gift.

(6) "Future interest under the terms of a trust", a future interest that was created by a transfer creating a trust or to an existing trust or by an exercise of a power of appointment to an existing trust, directing the continuance of an existing trust, designating a beneficiary of an existing trust, or creating a trust.

(7) "Surviving beneficiary" or "surviving descendant", a beneficiary or a descendant who did not predecease the distribution date.

(b) If an instrument is silent on the requirement of survivorship, a future interest under the terms of a trust is contingent on the beneficiary's surviving the distribution date. In that case, if a beneficiary of a future interest under the terms of a trust fails to survive the distribution date, the following apply:

(1) If the future interest is not in the form of a class gift and the deceased beneficiary leaves surviving descendants, a substitute gift is created in the beneficiary's surviving descendants. They take by representation the property to which the beneficiary would have been entitled had the beneficiary survived the distribution date.

(2) If the future interest is in the form of a class gift, other than a future interest to "issue", "descendants", "heirs of the body", "heirs", "next of kin", "relatives", or "family", or a class described by language of similar import, a substitute gift is created in the deceased beneficiary or beneficiaries' surviving descendants. The property to which the beneficiaries

would have been entitled had all of them survived the distribution date passes to the surviving beneficiaries and the surviving descendants of the deceased beneficiaries. Each surviving beneficiary takes the share to which the surviving beneficiary would have been entitled had the deceased beneficiaries survived the distribution date. Each deceased beneficiary's surviving descendants who are substituted for the deceased beneficiary take by representation the share to which the deceased beneficiary would have been entitled had the deceased beneficiary survived the distribution date. For the purposes of this paragraph, "deceased beneficiary" means a class member who failed to survive the distribution date and left 1 or more surviving descendants.

(c) If, after the application of subsections (b), there is no surviving taker, the property passes in the following order:

(1) if the trust was created in a nonresiduary devise in the transferor's will or in a codicil to the transferor's will, the property passes under the residuary clause in the transferor's will; for purposes of this section, the residuary clause is treated as creating a future interest under the terms of a trust.

(2) if no taker is produced by the application of paragraph (1), the property passes to the transferor's heirs under section 2-711.

Section 2-708. [Class Gifts to "Descendants", "Issue", or "Heirs of the Body"; Form of Distribution If None Specified.]

If a class gift in favor of "descendants", "issue", or "heirs of the body" does not specify the manner in which the property is to be distributed among the class members, the property is distributed among the class members who are living when the interest is to take effect in possession or enjoyment, in such shares as they would receive, under the applicable law of intestate succession, if the designated ancestor had then died intestate owning the subject matter of the class gift.

Section 2-709. [Representation; Per Capita at Each Generation; Per Stirpes.]

(a) In this section:

(1) "Deceased child" or "deceased descendant", a child or a descendant who predeceased the distribution date.

(2) "Distribution date", with respect to an interest, is the time when the interest is to take effect in possession or enjoyment. The distribution date need not occur at the beginning or end of a calendar day, but can occur at a time during the course of a day.

(3) "Surviving ancestor", "surviving child", or "surviving descendant", an ancestor, a child, or a descendant who did not predecease the distribution date.

(b) If an applicable statute or a governing instrument calls for property to be distributed "per capita at each generation", the property is divided into as many equal shares as there are (i) surviving descendants in the generation nearest to the designated ancestor which contains 1 or more surviving descendants (ii) and deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the

surviving descendants who were allocated a share and their surviving descendants had predeceased the distribution date.

(c) If a governing instrument calls for property to be distributed "by representation" or "per stirpes", the property is divided into as many equal shares as there are (i) surviving children of the designated ancestor and (ii) deceased children who left surviving descendants. Each surviving child is allocated 1 share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.

(d) For the purposes of subsections (b) and (c), an individual who is deceased and left no surviving descendant is disregarded, and an individual who leaves a surviving ancestor who is a descendant of the designated ancestor is not entitled to a share.

Section 2-710. [Worthier Title Doctrine Abolished.]

The doctrine of worthier title shall not exist in the commonwealth either as a rule of law or as a rule of construction. Language in a governing instrument describing the beneficiaries of a donative disposition as the transferor's "heirs", "heirs at law", "next of kin", "distributes", "relatives", or "family", or language of similar import, shall not create or presumptively create a reversionary interest in the transferor.

Section 2-711. [Future Interests in "Heirs" and Like.]

If an applicable statute or a governing instrument calls for a future distribution to or creates a future interest in a designated individual's "heirs", "heirs at law", "next of kin", "relatives", or "family", or language of similar import, the property passes to those persons, including the commonwealth under section 2-105, and in such shares as would succeed to the designated individual's intestate estate under the intestate succession law of the designated individual's domicile if the designated individual died when the donative disposition is to take effect in possession or enjoyment. If the designated individual's surviving spouse is living but is remarried at the time the interest is to take effect in possession or enjoyment, the surviving spouse is not an heir of the designated individual.

PART 8

GENERAL PROVISIONS CONCERNING PROBATE AND NONPROBATE TRANSFERS

Section 2-801. [Disclaimer of Property Interests.]

(a) The following words as used in this section shall have the following meanings, unless otherwise expressly provided or the context otherwise requires:-

"Beneficiary", any person to whom, and any estate, trust, corporation or other legal entity to which, an interest in property would pass in any manner described in subsection (b), except for the execution and filing of a disclaimer in accordance with the provisions of this chapter.

An "interest in property" which may be disclaimed shall include:

1. any legal or equitable interest or estate, whether present, future or contingent, in

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any real or personal property, or in any fractional part, share, or portion thereof, or in any specific asset or assets thereof;

2. any power to appoint, consume, apply, or expend property or any other right, power, or privilege, relating thereto;

3. any fractional part, share or portion of any interest described in clause 1 or 2.

(b) Unless barred by the provisions of subsection (h), a beneficiary may disclaim any interest in property which, except for the execution and filing of a disclaimer in accordance with the provisions of this section, pass to the beneficiary:

1. By intestate succession, devise, legacy, bequest, exercise or nonexercise of a power of appointment exercisable by will, or testamentary exercise or nonexercise of a power of appointment exercisable by either deed of trust or will; as beneficiary of a testamentary trust, beneficiary of a testamentary gift to a nontestamentary trust, or donee of a power of appointment created by will; by succession in any manner described in this clause to a disclaimed interest; or in any other manner not specified above under a testamentary instrument or by operation of any statute or rule of law governing devolution or disposition of property upon or after a person's death.

2. As donee, grantee, beneficiary of an intervivos trust, beneficiary of an insurance or annuity contract, donee of a power of appointment created by a nontestamentary instrument, or as surviving joint tenant or tenant by the entirety, except that a surviving joint tenant or tenant by the entirety may not disclaim that portion of an interest in joint property or property held by the entirety which is allocable to amounts contributed by him to the interest in such property; through exercise or nonexercise of a power of appointment exercisable by deed of trust or will; under any deed, assignment, or other non-testamentary instrument of conveyance or transfer; by succession in any manner described in this clause to a disclaimed interest; or in any other manner not specified above under a non-testamentary instrument or by operation of any statute or rule of law.

Disclaimer may be made for a beneficiary under a legal disability by the duly appointed guardian or conservator of such beneficiary, and for a deceased beneficiary by the legal representative of such beneficiary's estate; provided, in any case, however, that the probate court having jurisdiction of the estate of such beneficiary shall have decreed, upon complaint filed by such guardian, conservator, or legal representative, that such disclaimer is in the best interests of those interested in the estate of such beneficiary and not detrimental to the best interests of the beneficiary or the estate of such beneficiary, and that such guardian, conservator, or legal representative is authorized to execute and file such disclaimer on behalf of such beneficiary in accordance with the provisions of this chapter.

(c) A disclaimer shall be executed and filed pursuant to the provisions of this section at any time after the creation of the interest in property being disclaimed, but in any event not later than nine months after the event determining that the beneficiary is finally ascertained as the beneficiary of such interest and that such interest is indefeasibly vested and in the case of a beneficiary who is a surviving joint tenant or tenant by the entirety, a disclaimer shall

be executed and filed in any event not later than nine months after the death of the other joint tenant or tenants or tenant by the entirety; provided, that any court having jurisdiction of the property, an interest in which is being disclaimed, may, upon petition filed by the beneficiary, the duly appointed guardian or conservator of a beneficiary under a legal disability, or the legal representative of a deceased beneficiary's estate, permit an extension of time to execute and file a disclaimer, for such further period of time as the court in its discretion deems advisable.

(d) A disclaimer shall be in writing, shall describe the interest in property being disclaimed, shall declare the disclaimer and the extent thereof, shall be clear and unequivocal, and shall be signed by the beneficiary, the duly appointed guardian or conservator of a beneficiary under a legal disability, or the legal representative of a deceased beneficiary's estate.

(e) The original of the disclaimer or an attested copy thereof, if filing is required to be made with more than 1 probate court, shall be filed with the probate court, or probate courts, if any, wherein a duly appointed fiduciary, if any, having custody or control of the property, an interest in which is being disclaimed, is required to file periodic accounts.

If the property, an interest in which is being disclaimed, is real property, the disclaimer shall be acknowledged in the manner provided for deeds of real property. The disclaimer shall not be valid as against any person, except the beneficiary, the heirs and devisees of the beneficiary, and any person, estate, trust, corporation or other legal entity having actual notice of the disclaimer, unless the original thereof or an attested copy thereof if the original is required to be filed with a probate court, is recorded in the registry of deeds for the county or district in which the real property is situated or, in the case of registered real property, is filed and registered in the office of the assistant recorder for the registry district in which the real property is located.

A copy of the disclaimer shall be served by delivering in hand or by mailing by certified mail to the last known address of the person or persons or other legal entity or entities having custody or possession of the property, an interest in which is being disclaimed. Failure to comply with these requirements of service shall not affect the validity of the disclaimer.

(f) No person or other legal entity having custody or possession of the property, an interest in which is being or has been disclaimed, shall be liable for any distribution or other disposition made prior to the delivery to him or it of a copy of the disclaimer, pursuant to the requirements of subsection (e); and no such person or other legal entity shall be liable for any good faith distribution or other disposition made in reliance upon a disclaimer, the form of which is in accordance with the requirements of subsection (d), and a copy of which has been delivered to him or it pursuant to the requirements of subsection (e).

If a disclaimer certifies, with particularity, that none of the contingencies specified in subsection (h), which would result in waiver or bar of the beneficiary's right to disclaim, are applicable, any person or other legal entity having custody or possession of the property,

and any third party purchaser of the property, an interest in which is being or has been disclaimed, shall be entitled to rely without further inquiry upon the aforesaid certifications.

(g) A disclaimer complying with all the applicable requirements of this section shall be effective according to its terms, and shall be irrevocable, upon execution in accordance with the provisions of subsection (d), and filing in accordance with the provisions of subsection (e).

If the interest in property being disclaimed is a power to appoint, consume, apply, or expend property, as described in clause 2 of the second paragraph of subsection (a), or any fractional part, share, or portion thereof, such interest shall be extinguished.

Except as provided in the preceding paragraph, and unless such a result would substantially impair the provisions or intent of any instrument, statute or rule of law relating to the interest in property being disclaimed, such interest shall pass in the same manner as if the beneficiary had died immediately preceding the event determining that he, she or it is the beneficiary of such interest and that such interest is indefeasibly vested.

The interest in property being disclaimed shall never vest in the beneficiary.

Any person or other legal entity having custody or possession of the property, an interest in which is being disclaimed, may file a complaint for instruction or complaint for declaratory judgment seeking a determination of the effect of a disclaimer, in

1. A probate court, if any, having jurisdiction of such property; or

2. If no probate court has jurisdiction of such property, any other court having jurisdiction of such property.

(h) The right to disclaim an interest in property shall be barred by:-

1. assignment, conveyance, encumbrance, pledge, transfer or other disposition of such interest, or any contract therefor, by the beneficiary or sale or other disposition of such interest pursuant to judicial process made before the beneficiary has disclaimed such interest as herein provided;

2. insolvency of the beneficiary at the time of attempted disclaimer. For purposes of this paragraph only, sections 1 to 4, inclusive, and sections 8 to 13, inclusive, of chapter 109A shall be applicable as if the disclaimer were a conveyance;

3. a written waiver of the right to disclaim such interest pursuant to the provisions of this section, signed by the beneficiary, the duly appointed guardian or conservator of a beneficiary under a legal disability, or the legal representative of a deceased beneficiary's estate;

4. acceptance of such interest by the beneficiary; if the beneficiary, having knowledge of the existence of such interest, receives without objection a benefit from such interest, such receipt shall be deemed to constitute acceptance of such interest.

The assignment, conveyance, encumbrance, pledge, transfer or other disposition or any contract therefor, sale or other disposition pursuant to judicial process, written waiver of the right to disclaim, or acceptance of a part of an interest in property shall not bar the right to disclaim any other part of such interest.

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(i) The right to disclaim pursuant to the provisions of this section shall exist irrespective of any limitation in the nature of an express or implied spendthrift provision or other similar restraint on alienation imposed by any instrument, statute, rule of law or otherwise on the interest in property being disclaimed.

(j) Except for the provisions of subsection (h), this section shall not abridge the right of any person to disclaim, waive, release, renounce, or abandon any interest in property under section 2-201 or any other statute or rule of law.

Section 2-802. [Effect of Divorce, Annulment, and Decree of Separation.]

(a) An individual who is divorced from the decedent is not a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death. A judgment of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(b) For purposes of parts 1 to 4, inclusive, of this article, and of section 3-203, a surviving spouse shall not include:

(1) an individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in the commonwealth, unless subsequently they participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife;

(2) an individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual; or

(3) an individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

Section 2-803. [Effect of Homicide on Intestate Succession, Wills, Trusts, Joint Assets, Life Insurance, and Beneficiary Designation.]

(a) In this section:

(1) "Disposition or appointment of property", includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(2) "Governing instrument", a governing instrument executed by the decedent.

(3) "Revocable", with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer, whether or not the decedent was then empowered to designate the decedent in place of the killer the decedent then had capacity to exercise the power.

(b) An individual who feloniously and intentionally kills the decedent forfeits all benefits under this article with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the intestate share.

(c) The felonious and intentional killing of the decedent:

(1) revokes any revocable (i) disposition or appointment of property made by the decedent to the killer in a governing instrument, (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer, and (iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including as personal representative, executor, trustee, or agent; and

(2) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(d) A severance under subsection (c)(2) shall not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(e) Provisions of a governing instrument that are not revoked by this section are given effect as if the killer disclaimed all revoked provisions or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(f) A wrongful acquisition of property or interest by a killer not covered by this section shall be treated in accordance with the principle that a killer cannot profit from the wrong.

(g) After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent's killer for purposes of this section. In the absence of a conviction, the court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. If the court determines that, under that standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes that individual as the decedent's killer for purposes of this section.

(h)(1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by an intentional and felonious killing, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(2) Written notice of a claimed forfeiture or revocation under paragraph (1) shall be mailed to the payor's or other third party's main office or home by registered or certified mail,

return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the probate and family court located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(i)(1) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 2-804. [Revocation of Probate and Nonprobate Transfers by Divorce; No Revocation by Other Changes of Circumstances.]

(a) In this section:

(1) "Disposition or appointment of property", includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(2) "Divorce or annulment", any divorce or annulment, or any dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 2-802. A judgment of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(3) "Divorced individual", includes an individual whose marriage has been annulled.

(4) "Governing instrument", a governing instrument executed by the divorced individual before the divorce or annulment of the individual's marriage to the individual's former spouse.

(5) "Relative of the divorced individual's former spouse", an individual who is related to the divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(6) "Revocable", with respect to a disposition, appointment, provision, or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the former spouse or former spouse's relative, whether or not the divorced individual was then empowered to designate himself in place of the former spouse or in place of the former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.

(b) Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage:

(1) revokes any revocable (i) disposition or appointment of property made by a divorced individual to the individual's former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse, (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse, and (iii) nomination in a governing instrument, nominating a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian; and

(2) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming the interests of the former spouses into tenancies in common.

(c) A severance under subsection (b)(2) shall not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(d) Provisions of a governing instrument that are not revoked by this section are given effect as if the former spouse and relatives of the former spouse disclaimed the revoked provisions or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

(e) Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

(f) No change of circumstances other than as described in this section and in section 2-803 effects a revocation.

(g)(1) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the divorce, annulment, or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(2) Written notice of the divorce, annulment, or remarriage under subsection (g)(2) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(h)(1) A person who purchases property from a former spouse, relative of a former spouse, or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse, or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a former spouse, relative of a former spouse, or other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a former spouse, relative of the former spouse, or any other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

PART 9
STATUTORY RULE AGAINST PERPETUITIES

Section 2-901. [Statutory Rule Against Perpetuities.]

(a) A nonvested property interest is invalid unless:

(1) when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) the interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

(1) when the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) the power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection (a)(1), (b)(1), or (c)(1), the possibility that a child will be born to an individual after the individual's death is disregarded.

(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument (i) seeks to disallow the vesting or termination of any interest or trust beyond, (ii) seeks to postpone the vesting or termination of any interest or trust until, or (iii) seeks to operate in effect in any similar fashion upon, the later of (A) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (B) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

Section 2-902. [When Nonvested Property Interest or Power of Attorney Appointment Created.]

(a) Except as provided in subsections (b) and (c) and in section 2-905(a), the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(b) For purposes of this part, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of (i) a nonvested

property interest or (ii) a property interest subject to a power of appointment described in section 2-901(b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(c) For purposes of this part, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

Section 2-903. [Reformation.]

Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the 90 years allowed by section 2-901(a)(2), 2-901(b)(2), or 2-901(c)(2) if:

(1) a nonvested property interest or a power of appointment becomes invalid under section 2-901 (statutory rule against perpetuities);

(2) a class gift is not but might become invalid under section 2-901 (statutory rule against perpetuities) and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

(3) a nonvested property interest that is not validated by section 2-901(a)(1) can vest but not within 90 years after its creation.

Section 2-904. [Exclusions from Statutory Rule Against Perpetuities.]

Section 2-901 shall not apply to:

(1) a nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of (i) a premarital or postmarital agreement, (ii) a separation or divorce settlement, (iii) a spouse's election, (iv) a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties, (v) a contract to make or not to revoke a will or trust, (vi) a contract to exercise or not to exercise a power of appointment, (vii) a transfer in satisfaction of a duty of support, or (viii) a reciprocal transfer;

(2) a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

(3) a power to appoint a fiduciary;

(4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) a nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(6) a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for 1 or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants

or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; or

(7) a property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of the commonwealth.

Section 2-905. [Prospective Application.]

(a) Except as extended by subsection (b), this part applies to a nonvested property interest or a power of appointment that is created on or after the effective date of this part. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) If a nonvested property interest or a power of appointment was created before the effective date of this part and is determined in a judicial proceeding, commenced on or after the effective date of this part, to violate the commonwealth's rule against perpetuities as that rule existed before the effective date of this part, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

Section 2-906. [Supersession.] This part supersedes the rule of the common law known as the rule against perpetuities.

**ARTICLE III
PROBATE OF WILLS AND ADMINISTRATION
PART 1
GENERAL PROVISIONS**

Section 3-101. [Devolution of Estate at Death; Restrictions.]

The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to property are subject to the restrictions and limitations contained in this chapter to facilitate the prompt settlement of estates. Upon the death of a person, the decedent's real and personal property devolves to the persons to whom it is devised by the decedent's last will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estate, or in the absence of testamentary disposition, to the decedent's heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to allowances and exempt property, to rights of creditors, elective share of the surviving spouse, and to administration.

Section 3-102. [Necessity of Order of Probate for Will.]

Except as provided in section 3-1201, to be effective to prove the transfer of any property or to nominate an executor, a will shall be declared to be valid by an order of in-

formal probate by a magistrate or an adjudication of probate by the court, except that a duly executed and unrevoked will which has not been probated may be admitted as evidence of a devise if (1) no court proceeding concerning the succession or administration of the estate has occurred, and (2) either the devisee or the devisee's successors and assigns possessed the property devised in accordance with the provisions of the will, or the property devised was not possessed or claimed by anyone by virtue of the decedent's title during the time period for testacy proceedings.

Section 3-103. [Necessity of Appointment for Administration.]

Except as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a personal representative of a decedent, a person shall be appointed by order of the court or a magistrate, qualify and be issued letters. Administration of an estate is commenced by the issuance of letters.

Section 3-104. [Claims Against Decedent; Necessity of Administration.]

No proceeding to enforce a claim against the estate of a decedent or a decedent's successors may be revived or commenced before the appointment of a personal representative. After the appointment and until distribution, all proceedings and actions to enforce a claim against the estate are governed by the procedure prescribed by this article. After distribution a creditor whose claim has not been barred may recover from the distributees as provided in section 3-1004 or from a former personal representative individually liable as provided in section 3-1005. This section has no application to a proceeding by a secured creditor of the decedent to enforce a right to the security except as to any deficiency judgment which might be sought therein.

Section 3-105. [Proceedings Affecting Devolution and Administration.]

Persons interested in decedents' estates may petition the magistrate for determination in the informal proceedings provided in this article, and may petition the court for orders in formal proceedings within the court's jurisdiction including but not limited to those described in this article.

Section 3-106. [Proceedings Within the Exclusive Jurisdiction of Court; Service; Jurisdiction Over Persons.]

In proceedings within the exclusive jurisdiction of the court where notice is required by this chapter or by rule, and in proceedings to construe probated wills or determine heirs which concern estates that have not been and cannot now be open for administration, interested persons may be bound by the orders of the court in respect to property in or subject to the laws of the commonwealth by notice in conformity with section 1-401. An order is binding as to all who are given notice of the proceeding though less than all interested persons are notified.

Section 3-107. [Scope of Proceedings; Proceedings Independent; Exception.]

Unless supervised administration as described in part 5 is involved, (1) each proceeding before the court or a magistrate is independent of any other proceeding involving the same estate; (2) petitions for formal orders of the court may combine various requests for relief in a single proceeding if the orders sought may be finally granted without delay. Except as required for proceedings which are particularly described by other sections of this

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article, no petition is defective because it fails to embrace all matters which might then be the subject of a final order; (3) proceedings for probate of wills or adjudications of no will may be combined with proceedings for appointment of personal representatives; and (4) a proceeding for appointment of a personal representative is concluded by an order making or declining the appointment.

Section 3-108. [Probate, Testacy and Appointment Proceedings; Ultimate Time Limit.]

No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than 3 years after the decedent's death, except (1) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; (2) appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person at any time within 3 years after the death of the person can be established; and (3) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or 3 years from the decedent's death; and (4) if no proceeding concerning the succession or administration of the estate has occurred within 3 years after decedent's death, a formal testacy proceeding may be commenced at any time thereafter for the sole purpose of establishing a devise of property which the devisee or the devisee's successors and assigns possessed in accordance with the will or property which was not possessed or claimed by anyone by virtue of the decedent's title during the 3-year period, and the order of the court shall be limited to that property. These limitations shall not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under (1) or (2) above, the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this chapter which relate to the date of death.

Section 3-109. [Statutes of Limitation on Decedent's Cause of Action.]

No statute of limitation running on a cause of action belonging to a decedent which had not been barred as of the date of death, shall apply to bar a cause of action surviving the decedent's death sooner than 4 months after death. A cause of action which, but for this section, would have been barred less than 4 months after death, is barred after 4 months unless tolled.

PART 2 VENUE FOR PROBATE AND ADMINISTRATION; PRIORITY TO ADMINISTER

Section 3-201. [Venue for First and Subsequent Estate Proceedings; Location of

Property.]

(a) Venue for the first informal or formal testacy or appointment proceedings after a decedent's death is:

(1) in the county where the decedent was domiciled at the time of death; or

(2) if the decedent was not domiciled in the commonwealth, in any county where property of the decedent was located at the time of death.

(b) Venue for all subsequent proceedings within the exclusive jurisdiction of the court is in the place where the initial proceeding occurred, unless the initial proceeding has been transferred as provided in section 1-303 or (c) of this section.

(c) If the first proceeding was informal, on application of an interested person and after notice to the proponent in the first proceeding, the court, upon finding that venue is elsewhere, may transfer the proceeding and the file to the other court.

(d) For the purpose of aiding determinations concerning location of assets which may be relevant in cases involving non-domiciliaries, a debt, other than one evidenced by investment or commercial paper or other instrument in favor of a non-domiciliary is located where the debtor resides or, if the debtor is a person other than an individual, at the place where it has its principal office. Commercial paper, investment paper and other instruments are located where the instrument is. An interest in property held in trust is located where the trustee may be sued.

Section 3-202. [Appointment or Testacy Proceedings; Conflicting Claim of Domicile in Another State.]

If conflicting claims as to the domicile of a decedent are made in a formal testacy or appointment proceeding commenced in the commonwealth, and in a testacy or appointment proceeding after notice pending at the same time in another state, the court of the commonwealth shall stay, dismiss, or permit suitable amendment in, the proceeding here unless it is determined that the local proceeding was commenced before the proceeding elsewhere. The determination of domicile in the proceeding first commenced shall be accepted as determinative in the proceeding in the commonwealth.

Section 3-203. [Priority Among Persons Seeking Appointment as Personal Representative.]

(a) Whether the proceedings are formal or informal, persons have priority for appointment in the following order:

(1) the person with priority as determined by a probated will including a person nominated by a power conferred in a will;

(2) the surviving spouse of the decedent who is a devisee of the decedent;

(3) other devisees of the decedent;

(4) the surviving spouse of the decedent;

(5) other heirs of the decedent;

(6) if there is no known spouse or next of kin, a public administrator appointed pursuant to chapter 194.

(b) An objection to an appointment can be made only in formal proceedings. In case of objection the priorities stated in (a) apply except that

(1) if the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, the court, on petition of creditors, may appoint any qualified person;

(2) in case of objection to appointment of a person other than one whose priority is determined by will by an heir or devisee appearing to have a substantial interest in the estate, the court may appoint a person who is acceptable to the heirs and devisees or, in default of agreement any suitable person.

(c) A person entitled to letters under (2) through (5) of (a) above, may nominate a qualified person to act as personal representative. Any person may renounce the right to nominate or to an appointment by appropriate writing filed with the court. When 2 or more persons share a priority, those of them who do not renounce shall concur in nominating another to act for them, or in applying for appointment.

(d) Conservators of the estates of protected persons, or if there is no conservator, any guardian except a guardian ad litem of a minor or incapacitated person, may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the protected person or ward would have if qualified for appointment.

(e) Appointment of one who does not have priority, including priority resulting from renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Before appointing one without priority, the court shall determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment, and that administration is necessary.

(f) No person is qualified to serve as a personal representative:

(1) who is under the age of 18;

(2) whose appointment the court finds in formal proceedings to be contrary to the best interests of the estate.

(g) A personal representative appointed by a court of the decedent's domicile has priority over all other persons except where the decedent's will nominates different persons to be personal representative in the commonwealth and in the state of domicile. The domiciliary personal representative may nominate another, who shall have the same priority as the domiciliary personal representative.

(h) This section governs priority for appointment of a successor personal representative but shall not apply to the selection of a special personal representative.

Section 3-204. [Reserved.]

Section 3-205. [Judge or Register as Personal Representative.]

If a judge or register desires to be appointed personal representative of the estate of his spouse, child or parent who at the time of their decease was domiciled in his county, such appointment may be made and all subsequent proceedings relative to the estate may be had in the court of any adjoining county, and the register thereof shall forthwith transmit to the register of the county where the decedent was domiciled, a true and attested copy of all papers relating thereto filed and entered on the docket, which shall be recorded by the register

to whom they are transmitted.

PART 3

INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

Section 3-301. [Informal Probate or Appointment Proceedings; Petition; Contents.]

(a) Petitions for informal probate or informal appointment shall be directed to the court, and verified by the petitioner to be accurate and complete to the best of the petitioner's knowledge and belief as to the following information:

(1) Every petition for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

- (i) a statement of the interest of the petitioner;
- (ii) the name, date of death, age and address of the decedent at the time of death, and the names and addresses of the spouse, children, heirs and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;
- (iii) a statement identifying any heir or surviving spouse who may be an incapacitated person;

(iv) if the decedent was not domiciled in the commonwealth at the time of death, a statement showing venue;

(v) a statement identifying and indicating the address of any personal representative of the decedent appointed in the commonwealth or elsewhere whose appointment has not been terminated;

(vi) a statement that a copy of the petition and the death certificate have been sent to the division of medical assistance by certified mail; and

(vii) a statement that the time limit for informal probate or appointment as provided in this article has not expired either because 3 years or less have passed since the decedent's death, or, if more than 3 years from death have passed, circumstances as described by section 3-108 authorizing tardy probate or appointment have occurred.

(2) A petition for informal probate of a will shall state the following in addition to the statements required by (1):

(i) that the original of the decedent's last will is in the possession of the court, or accompanies the petition, or that an authenticated copy of a will probated in another jurisdiction accompanies the petition;

(ii) that the petitioner, to the best of the petitioner's knowledge, believes the will to have been validly executed;

(iii) that after the exercise of reasonable diligence, the petitioner is unaware of any instrument revoking the will, and that the petitioner believes that the instrument which is the subject of the petition is the decedent's last will.

(iv) a statement that a death certificate issued by a public officer is in the possession of the court, or accompanies the petition.

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(3) A petition for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending petition for probate. The petition for appointment shall adopt the statements in the petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(4) A petition for informal appointment of a personal representative in intestacy shall state in addition to the statements required by (1):

(i) that after the exercise of reasonable diligence, the petitioner is unaware of any unrevoked testamentary instrument relating to property having a situs in the commonwealth under section 1-301, or, a statement why any such instrument of which the petitioner may be aware is not being probated;

(ii) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 3-203.

(iii) a statement that a death certificate issued by a public officer is in the possession of the court, or accompanies the petition.

(5) A petition for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the petition is granted, and describe the priority of the petitioner.

(6) A petition for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the petitioner.

(b) By verifying a petition for informal probate, or informal appointment, the petitioner submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the petition, or for perjury, that may be instituted against the petitioner.

Section 3-302. [Informal Probate; Duty of Magistrate; Effect of Informal Probate.]

Upon receipt of a petition requesting informal probate of a will, the court or a magistrate, upon making the findings required by section 3-303 shall issue a written statement of informal probate if at least 7 days have elapsed since the decedent's death. Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding. No defect in the petition or procedure relating thereto which leads to informal probate of a will renders the probate void.

Section 3-303. [Informal Probate; Proof and Findings Required.]

(a) In an informal proceeding for original probate of a will, the court or a magistrate shall determine whether:

(1) the petition is complete;

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(2) the petitioner has made oath or affirmation that the statements contained in the petition are true to the best of the petitioner's knowledge and belief;

(3) the petitioner appears from the petition to be an interested person as defined in section 1-201(24);

(4) on the basis of the statements in the petition, venue is proper;

(5) an original, duly executed and apparently unrevoked will is in the court's possession;

(6) on the basis of the statements in the petition any notice required by section 3-306 has been given and that the petition is not within section 3-304;

(7) it appears from the petition that the time limit for original probate has not expired;

(8) on the basis of statements in the petition, the spouse and heirs are not incapacitated persons or minors; or if they are incapacitated persons or minors they are represented by guardians or conservators; and

(9) a death certificate issued by a public officer is in the court's possession.

(b) The petition shall be denied if it indicates that a personal representative has been appointed in another county of the commonwealth or except as provided in subsection (d) below, if it appears that this or another will of the decedent has been the subject of a previous probate order.

(c) A will which appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 2-502 have been met shall be probated without further proof. In other cases, a magistrate may assume execution if the will appears to have been properly executed.

(d) Informal probate of a will which has been previously probated in another state or country may be granted at any time upon written petition by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.

(e) A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection (a) above, may be probated in the commonwealth upon receipt by the court of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

Section 3-304. [Informal Probate; Unavailable in Certain Cases.]

Petitions for informal probate which relate to 1 or more of a known series of testamentary instruments, other than a will and 1 or more codicils thereto, the latest of which does not expressly revoke the earlier, shall be declined.

Section 3-305. [Informal Probate; Magistrate Not Satisfied.]

(a) If the magistrate is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of sections 3-303 and 3-304 or any other reason, the magistrate may decline the petition. A declination of informal probate is not an adjudication and shall not preclude formal probate proceedings.

Section 3-306. [Informal Probate; Notice Requirements.]

(a) The petitioner shall give written notice seven days prior to petitioning for informal probate or appointment by delivery or by mail: (1) to all heirs and devisees; (2) to any person having a prior or equal right to appointment not waived in writing and filed with the court; and (3) to any personal representative of the decedent whose appointment has not been terminated. The notice shall be delivered or sent by ordinary mail to each of the heirs and devisees. A certificate that such notice has been given, setting forth the names and addresses of those to whom notice has been given shall be prima facie evidence thereof. No other prior notice of an informal probate or appointment proceeding is required.

(b) The petitioner shall publish a notice once in a newspaper designated by the register of probate having general circulation in the county where the proceeding is pending, the publication of which is to be not more than thirty days after informal probate or appointment. The court or magistrate for good cause shown may provide for a different method or time of giving notice.

(c) The notice shall include the name and address of the petitioner and personal representative, indicate that it is provided to persons who have or may have some interest in the estate being administered, indicate whether bond with or without surety will be filed, and describe the court where papers relating to the estate are on file. The notice shall state that the estate is being administered under informal procedure by the personal representative under the Massachusetts uniform probate code without supervision by the court, that inventory and accounts are not required to be filed with the court, but that interested parties are entitled to notice regarding the administration from the personal representative and can petition the court in any matter relating to the estate, including distribution of assets and expenses of administration. The notice shall state that interested parties are entitled to petition the court to institute formal proceedings and to obtain orders terminating or restricting the powers of personal representatives appointed under informal procedure.

(d) If it appears from the petition that there is no spouse or heir of the decedent or that any devisee is a charity, the petitioner shall give notice to the attorney general of the commonwealth.

(e) If it appears from the petition that a spouse, heir or devisee is a minor or an incapacitated person, the petitioner shall give notice to that person and that person's guardian or conservator.

(f) The duty shall not extend to require notice to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate. The petitioner's failure to give this notice is a breach of duty to the persons concerned but shall not affect the validity of the probate, appointment, powers or other duties. A petitioner may inform other persons of the petition by delivery or ordinary first class mail.

Section 3-307. [Informal Appointment Proceedings; Delay in Order; Duty of Magistrate; Effect of Appointment.]

(a) Upon receipt of a petition for informal appointment of a personal representative other than a special personal representative as provided in section 3-614, if at least 7 days have elapsed since the decedent's death, the court or a magistrate, after making the findings

required by section 3-308, shall appoint the petitioner subject to qualification and acceptance; provided, that if the decedent was a non-resident, the court or a magistrate shall delay the order of appointment until 30 days have elapsed since death unless the personal representative appointed at the decedent's domicile is the petitioner, or unless the decedent's will directs that the decedent's estate be subject to the laws of the commonwealth.

(b) The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 3-608 through 3-612, but is not subject to retroactive vacation.

Section 3-308. [Informal Appointment Proceedings; Proof and Findings Required.]

(a) In informal appointment proceedings, the court or a magistrate shall determine whether:

(1) the petition for informal appointment of a personal representative is complete;
(2) the petitioner has made oath or affirmation that the statements contained in the petition are true to the best of the petitioner's knowledge and belief;

(3) the petitioner appears from the petition to be an interested person as defined in section 1-201(24);

(4) on the basis of the statements in the petition, venue is proper;

(5) any will to which the requested appointment relates has been formally or informally probated; but this requirement shall not apply to the appointment of a special personal representative;

(6) any notice required by section 3-306 has been given; and

(7) from the statements in the petition, the person whose appointment is sought has priority entitling that person to the appointment;

(8) on the basis of the statements in the petition, the spouse and heirs are not incapacitated persons or minors; or if any are incapacitated persons or minors they are represented by guardians or conservators; and

(9) a death certificate issued by a public officer is in the court's possession.

(b) Unless section 3-612 controls, the petition shall be denied if it indicates that: a personal representative who has not filed a written statement of resignation has been appointed in this or another county of the commonwealth; unless the petitioner is the domiciliary personal representative or the domiciliary representative's nominee, the decedent was not domiciled in the commonwealth; and a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile; or that other requirements of this section have not been met.

Section 3-309. [Informal Appointment Proceedings; Magistrate Not Satisfied.]

If the magistrate is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of sections 3-307 and 3-308, or for any other reason, the magistrate may decline the petition. A declination of informal appointment is not an adjudication and shall not preclude appointment in formal proceedings.

Section 3-310. [Reserved.]

Section 3-311. [Informal Appointment Unavailable in Certain Cases.]

If a petition for informal appointment indicates the existence of a possible unrevoked testamentary instrument which may relate to property subject to the laws of the commonwealth, and which is not filed for probate in this court, the magistrate shall decline the petition.

PART 4

FORMAL TESTACY AND APPOINTMENT PROCEEDINGS

Section 3-401. [Formal Testacy Proceedings; Nature; When Commenced.]

A formal testacy proceeding is litigation to determine whether a decedent left a valid will. A formal testacy proceeding may be commenced by an interested person filing a petition as described in section 3-402(a) in which that person requests that the court enter an order probating a will, or a petition to set aside an informal probate of a will or to prevent informal probate of a will which is the subject of a pending petition, or a petition in accordance with section 3-402(b) for an order that the decedent died intestate.

A petition may seek formal probate of a will without regard to whether the same or a conflicting will has been informally probated. A formal testacy proceeding may, but need not, involve a request for appointment of a personal representative.

During the pendency of a formal testacy proceeding, the magistrate shall not act upon any petition for informal probate of any will of the decedent or any petition for informal appointment of a personal representative of the decedent.

Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, a previously appointed personal representative, after receipt of notice of the commencement of a formal probate proceeding, shall refrain from exercising the power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding also may request an order restraining the acting personal representative from exercising any of the powers of office and requesting the appointment of a special personal representative. In the absence of a request, or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

Section 3-402. [Formal Testacy or Appointment Proceedings; Petition; Contents.]

(a) Petitions for formal probate of a will, or for adjudication of intestacy with or without request for appointment of a personal representative, shall be directed to the court, request a judicial order and contain further statements as indicated in this section. A petition for formal probate of a will

(1) requests an order as to the testacy of the decedent in relation to a particular instrument which may or may not have been informally probated and determining the heirs,

(2) contains the statements required for informal petitions as stated in section 3-301(a)(1), the statements required by subparagraphs (ii) and (iii) of section 3-301(a)(2), and

(3) states whether the original of the last will of the decedent is in the possession of the court or accompanies the petition.

If the original will is neither in the possession of the court nor accompanies the petition and no authenticated copy of a will probated in another jurisdiction accompanies the petition, the petition also shall state the contents of the will, and indicate that it is lost, destroyed, or otherwise unavailable.

(b) If a death certificate issued by a public officer is not filed with the petition, the court may direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the alleged decedent in any manner that may seem advisable.

(c) A petition for adjudication of intestacy and appointment of a personal representative in intestacy shall request a judicial finding and order that the decedent left no will and determining the heirs, contain the statements required by clauses (1) and (4) of section 3-301(a) and indicate whether supervised administration is sought. A petition may request an order determining intestacy and heirs without requesting the appointment of a personal representative, in which case, the statements required by subparagraph (ii) of section 3-301(a)(4) above may be omitted.

Section 3-403. [Formal Testacy Proceedings; Notice of Hearing on Petition.]

(a) Upon commencement of a formal testacy proceeding, notice shall be given in the manner prescribed by section 1-401 by the petitioner to the persons herein enumerated.

(b) Notice shall be given to the following persons: the surviving spouse, children, and other heirs of the decedent, the devisees and executors named in any will that is being, or has been, probated, or offered for informal or formal probate in the county, or that is known by the petitioner to have been probated, or offered for informal or formal probate elsewhere, and any personal representative of the decedent whose appointment has not been terminated. Notice may be given to other persons. In addition, the petitioner shall give notice by publication to all unknown persons and to all known persons whose addresses are unknown who have any interest in the matters being litigated.

(c) The notice shall include the name and address of the petitioner and personal representative, indicate that it is being sent to persons who have or may have some interest in the estate being administered, indicate whether bond with or without surety will be filed, and describe the court where papers relating to the estate are on file. The notice shall state that the estate is being administered under formal procedure by the personal representative under the Massachusetts Uniform Probate Code without supervision by the court, that inventory and accounts are not required to be filed with the court, but that recipients are entitled to notice regarding the administration from the personal representative and can petition the court in any matter relating to the estate, including distribution of assets and expenses of administration.

(d) If it appears from the petition that there is no spouse or heir of the decedent or that any devisee is a charity, the petitioner shall give notice to the attorney general.

(e) If it appears from the petition that a spouse, heir or devisee is a minor or an incapacitated person, the petitioner shall give notice to that person and that person's guardian or conservator.

(f) The duty shall not extend to require notice to persons who have been adjudicated in a prior formal testacy proceeding to have no interest in the estate. The petitioner's failure to give this notice is a breach of duty to the persons concerned but shall not affect the validity of the probate, appointment, powers or other duties. A petitioner may inform other persons of the petition by delivery or ordinary first class mail.

Section 3-404. [Reserved.]

Section 3-405. [Formal Testacy Proceedings; Uncontested Cases; Hearings and Proof.]

If evidence concerning execution of the will is necessary, the affidavit or testimony of 1 of any attesting witnesses to the instrument is sufficient. If the affidavit or testimony of an attesting witness is not available, execution of the will may be proved by other evidence or affidavit.

Section 3-406. [Formal Testacy Proceedings; Contested Cases; Testimony of Attesting Witnesses.]

(a) If evidence concerning execution of an attested will which is not self-proved is necessary in contested cases, the testimony of at least 1 of the attesting witnesses, if within the commonwealth, competent and able to testify, is required. Due execution of a will may be proved by other evidence.

(b) If the will is self-proved, compliance with signature and other requirements of execution shall be presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and affidavits annexed or attached thereto, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

Section 3-407. [Reserved.]

Section 3-408. [Formal Testacy Proceedings; Will Construction; Effect of Final Order in Another Jurisdiction.]

A final order of a court of another state determining testacy, the validity or construction of a will, made in a proceeding involving notice to and an opportunity for contest by all interested persons shall be accepted as determinative by the courts of the commonwealth if it includes, or is based upon, a finding that the decedent was domiciled at death in the state where the order was made.

Section 3-409. [Formal Testacy Proceedings; Order; Foreign Will.]

After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, if the court finds that the testator is dead, venue is proper and that the proceeding was commenced within the limitation prescribed by section 3-108, it shall determine the decedent's domicile at death, the heirs and the status of testacy. Any will found to be valid and unrevoked shall be formally probated. Termination of any previous

informal appointment of a personal representative, which may be appropriate in view of the relief requested and findings, shall be governed by section 3-612. The petition shall be dismissed or appropriate amendment allowed if the court is not satisfied that the alleged decedent is dead. A will from a place which does not provide for probate of a will after death, may be proved for probate in the commonwealth by a duly authenticated certificate of its legal custodian that the copy introduced is a true copy and that the will has become effective under the law of the other place.

Section 3-410. [Formal Testacy Proceedings; Probate of More Than One Instrument.]

If 2 or more instruments are offered for probate before a final order is entered in a formal testacy proceeding, more than 1 instrument may be probated if neither expressly revokes the other or contains provisions which work a total revocation by implication. If more than 1 instrument is probated, the order shall indicate what provisions control in respect to the nomination of an executor, if any. The order may, but need not, indicate how any provisions of a particular instrument are affected by the other instrument. After a final order in a formal testacy proceeding has been entered, no petition for probate of any other instrument of the decedent may be entertained, except incident to a petition to vacate a previous probate order and subject to the time limits of section 3-412.

Section 3-411. [Formal Testacy Proceedings; Partial Intestacy.]

If it becomes evident in the course of a formal testacy proceeding that, though one or more instruments are entitled to be probated, the decedent's estate is or may be partially intestate, the court shall enter an order to that effect.

Section 3-412. [Formal Testacy Proceedings; Effect of Order; Vacation.]

Subject to appeal and subject to vacation as provided herein and in section 3-413, a formal testacy order under sections 3-409 to 3-411, including an order that the decedent left no valid will and determining heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will, and to the determination of heirs, except that:

(1) The court shall entertain a petition for vacation of its order and probate of another will of the decedent if it is shown that the proponents of the later-offered will were unaware of its existence at the time of the earlier proceeding or were unaware of the earlier proceeding and were given no notice thereof, except by publication.

(2) If intestacy of all or part of the estate has been ordered, the determination of heirs of the decedent may be reconsidered if it is shown that 1 or more persons were omitted from the determination and it is also shown that the persons were unaware of their relationship to the decedent, were unaware of the death or were given no notice of any proceeding concerning the estate, except by publication.

(3) A petition for vacation under either clause (1) or clause (2) shall be filed prior to the earlier of the following time limits:

(i) If a personal representative has been appointed for the estate, the time of entry of any order approving final distribution of the estate, or, if the estate is closed by statement, 6 months after the filing of the closing statement.

(ii) Whether or not a personal representative has been appointed for the estate of the decedent, the time prescribed by section 3-108 when it is no longer possible to initiate an original proceeding to probate a will of the decedent.

(iii) Twelve months after the entry of the order sought to be vacated.

(4) The order originally rendered in the testacy proceeding may be vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order redetermining heirs.

(5) If the alleged decedent is not dead, the alleged decedent may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

Section 3-413. [Formal Testacy Proceedings; Vacation of Order For Other Cause.]

For good cause shown, an order in a formal testacy proceeding may be vacated within the time allowed for appeal.

Section 3-414. [Formal Proceedings Concerning Appointment of Personal Representative.]

(a) A formal proceeding for adjudication regarding the priority or qualification of one who is a petitioner for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by section 3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by section 3-301(a)(1) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(b) After notice as prescribed in section 3-403 to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under section 3-203, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under section 3-611.

PART 5
SUPERVISED ADMINISTRATION

Section 3-501. [Supervised Administration; Nature of Proceeding.]

Supervised administration is a single in rem proceeding to secure complete administration and settlement of a decedent's estate under the continuing authority of the court which extends until entry of an order approving distribution of the estate and discharging the personal representative or other order terminating the proceeding. A supervised personal representative is responsible to the court, as well as to the interested parties, and is subject to directions concerning the estate made by the court on its own motion or on the motion of any interested party. Except as otherwise provided in this Part, or as otherwise ordered by the court, a supervised personal representative has the same duties and powers as a personal representative who is not supervised.

Section 3-502. [Supervised Administration; Petition; Order.]

A petition for supervised administration may be filed by any interested person or by a personal representative at any time or the prayer for supervised administration may be joined with a petition in a testacy or appointment proceeding. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised administration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration, even though the request for supervised administration may be denied. After notice to interested persons, the court shall order supervised administration of a decedent's estate: (1) if the decedent's will directs supervised administration, it shall be ordered unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration; (2) if the decedent's will directs unsupervised administration, supervised administration shall be ordered only upon a finding that it is necessary for protection of persons interested in the estate; or (3) in other cases if the court finds that supervised administration is necessary under the circumstances.

Section 3-503. [Supervised Administration; Effect on Other Proceedings.]

(a) The pendency of a proceeding for supervised administration of a decedent's estate stays action on any informal petition then pending or thereafter filed.

(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 3-401.

(c) After receiving notice of the filing of a petition for supervised administration, a personal representative who has been appointed previously shall not exercise the power to distribute any estate. The filing of the petition shall not affect other powers and duties unless

the court restricts the exercise of any of them pending full hearing on the petition.

Section 3-504. [Supervised Administration; Powers of Personal Representative.]

Unless restricted by the court, a supervised personal representative has, without interim orders approving exercise of a power, all powers of personal representatives under this code, but the personal representative shall not exercise power to make any distribution of the estate without prior order of the court. Any other restriction on the power of a personal representative which may be ordered by the court shall be endorsed on the personal representative's letters of appointment and, unless so endorsed, is ineffective as to persons dealing in good faith with the personal representative.

Section 3-505. [Supervised Administration; Interim Orders; Distribution and Closing Orders.]

Unless otherwise ordered by the court, supervised administration shall be terminated by order in accordance with time restrictions, notices and contents of orders prescribed for proceedings under section 3-1001. Interim orders approving or directing partial distributions or granting other relief may be issued by the court at any time during the pendency of a supervised administration on the petition of the personal representative or any interested person. Unless otherwise required by order, notice of interim orders in supervised administration need be given only to interested persons who request notice of all orders entered in the proceeding.

PART 6

PERSONAL REPRESENTATIVE; APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY

Section 3-601. [Qualification.]

Prior to receiving letters, a personal representative shall accept appointment and qualify by filing a bond with the appointing court.

Section 3-602. [Acceptance of Appointment; Consent to Jurisdiction.]

By accepting appointment, a personal representative submits personally to the jurisdiction of any court of the commonwealth in any proceeding relating to the estate that may be instituted by any interested person. Notice of any proceeding in the probate and family court shall be delivered to the personal representative, or mailed by ordinary first class mail at the address listed in the petition for appointment or as thereafter reported to the court and to the address as then known to the petitioner. Service in a proceeding in any other court shall be delivered in accordance with the rules of that court.

Section 3-603. [Bond Without Sureties.]

(a) Sureties shall be required on the bond of a personal representative unless: (i) the will directs that there be no bond or waives the requirement of surety thereon; (ii) all of the heirs, if no will has been probated, or all of the devisees named in a will file a written waiver of sureties; (iii) the personal representative is a bank or trust company qualified to do trust business or exercise trust powers in this state; or (iv) the court concludes that sureties are not in the best interests of the estate. In any formal proceeding the court, on its own motion, may

require sureties or additional sureties.

(b) No surety shall be required upon bonds filed by national banks or trust companies located in the commonwealth and duly permitted to act in a fiduciary capacity as personal representative or trustee, except that the court appointing such bank or trust company as a personal representative, other than as trustee, may upon application of any interested person require the bank or trust company so appointed to give such security, in addition to any lien or security provided by the laws of the United States, as the court may consider proper, and upon failure of such bank or trust company to give the security required may revoke such appointment and remove such bank or trust company.

Section 3-604. [Bond With Sureties; Procedure; Reduction.]

(a) If a bond is required and the provisions of the will or order do not specify the amount, unless stated in the petition, the person qualifying shall file a statement under oath with the court indicating the best estimate of the value of the personal estate of the decedent and shall file a bond with the court in an amount equal to the estimate. The court may permit the amount of the bond to be reduced by the value of assets of the estate deposited with a domestic financial institution in a manner that prevents their unauthorized disposition. On petition of the personal representative or another interested person the court may increase or reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different surety.

(b) In this section, "financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, credit union and any corporation authorized to do business as a banking company under chapter 172A.

Section 3-605. [Demand For Sureties by Interested Person.]

Any person apparently having an interest in the estate worth in excess of \$5000, or any creditor having a claim in excess of \$5000, may make a written demand that a personal representative give bond. The demand shall be filed with the court and a copy mailed to the personal representative, if appointment and qualification have occurred. Thereupon, bond shall be required, but the requirement ceases if the person demanding bond ceases to be interested in the estate, or if the bond is excused as provided in section 3-604. After receiving notice and until the provision of sureties or cessation of the requirement of sureties, the personal representative shall refrain from exercising any powers of office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of sureties by providing suitable sureties within 30 days after receipt of notice shall be cause for removal and appointment of a successor personal representative.

Section 3-606. [Terms and Conditions of Bonds.]

(a) The following requirements and provisions shall apply to any bond required by this part:

(1) Bonds shall name the first justice of the court making the appointment and his successors as obligee for the benefit of the persons interested in the estate and shall be con-

ditioned upon the faithful discharge by the fiduciary of all duties according to law.

(2) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the personal representative and with each other. The address of sureties shall be stated in the bond.

(3) By executing an approved bond of a personal representative, the surety consents to the jurisdiction of the court which issued letters to the primary obligor in any proceedings pertaining to the fiduciary duties of the personal representative and naming the surety as a party. Notice of any proceeding shall be delivered to the surety or mailed to the surety by registered or certified mail at the address as listed with the court where the bond is filed and to the address as then known to the petitioner.

(4) On petition of a successor personal representative, any other personal representative of the same decedent, or any interested person, a proceeding in the court may be initiated against a surety for breach of the obligation of the bond of the personal representative.

(5) The bond of the personal representative shall not be void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(6) If a new bond is required, the sureties on the prior bond shall be liable for all breaches of the conditions thereof committed before the new bond is approved and filed.

(7) In no event shall any surety be liable for any claim or cause of action arising out of or in any way connected with acts or omissions of the personal representative occurring prior to the appointment of such person as personal representative. As provided in section 7-304, this section shall also apply to bonds of trustees.

(b) No action or proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred by adjudication or limitation.

Section 3-607. [Order Restraining Personal Representative.]

(a) On complaint in equity of any person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement, or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the petitioner or of some other interested person. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing within 10 days unless the parties otherwise agree. Notice as the court directs shall be given to the personal representative and the attorney of record, if any, and to any other parties named a defendant in the petition.

Section 3-608. [Termination of Appointment; General.]

Termination of appointment of a personal representative occurs as indicated in sections 3-609 to 3-612, inclusive. Termination ends the right and power pertaining to the office of personal representative as conferred by this code or any will, except that a personal

representative, at any time prior to distribution or until restrained or enjoined by court order, may perform acts necessary to protect the estate and may deliver the assets to a successor representative. Termination shall not discharge a personal representative from liability for transactions or omissions occurring before termination, or relieve the personal representative of the duty to preserve assets subject to the personal representative's control, to account therefor and to deliver the assets. Termination shall not affect the jurisdiction of the court over the personal representative, but shall terminate the authority to represent the estate in any pending or future proceeding.

Section 3-609. [Termination of Appointment; Death or Disability.]

The death of a personal representative or the appointment of a guardian or conservator for the estate of a personal representative, terminates his appointment. Until appointment and qualification of a successor or special personal representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, shall have the duty to protect the estate possessed and being administered by the decedent or ward at the time the appointment terminates, the power to perform acts necessary for protection of the estate and shall account for and deliver the estate assets to a successor or special personal representative upon appointment and qualification.

Section 3-610. [Reserved.]

Section 3-611. [Termination of Appointment by Removal; Cause; Procedure.]

(a) A person interested in the estate may petition for removal of a personal representative for cause at any time. Notice shall be given in the manner prescribed by section 1-401 by the petitioner to the personal representative, and to other persons as the court may order. The court may suspend the personal representative's authority in any manner during the pendency of the proceeding. If removal is ordered, the court also shall direct by order the disposition of the assets remaining in the name of, or under the control of, the personal representative being removed.

(b) Cause for removal exists if it is shown that a personal representative, or the person seeking appointment, intentionally misrepresented material facts in the proceedings leading to appointment, or that the personal representative has disregarded an order of the court, has become incapable of discharging the duties of the office, or has mismanaged the estate or failed to perform any duty pertaining to the office. Unless the decedent's will directs otherwise, a personal representative appointed at the decedent's domicile, incident to securing his appointment or his nominee as ancillary personal representative, may obtain removal of another who was appointed personal representative in the commonwealth to administer local assets.

Section 3-612. [Termination of Appointment; Change of Testacy Status.]

Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by formal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, shall not terminate

the appointment of the personal representative although the personal representative's powers may be reduced as provided in section 3-401. Termination shall occur upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within 30 days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative, upon request, may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.

Section 3-613. [Successor Personal Representative.]

Parts 3 and 4 of this article govern proceedings for appointment of a personal representative to succeed one whose appointment has been terminated. After appointment and qualification, a successor personal representative may be substituted in all actions and proceedings to which the former personal representative was a party, and no notice, process or claim which was given or served upon the former personal representative need be given to or served upon the successor in order to preserve any position or right the person giving the notice or filing the claim may thereby have obtained or preserved with reference to the former personal representative. Except as otherwise ordered by the court, the successor personal representative shall have the powers and duties in respect to the continued administration which the former personal representative would have had if the appointment had not been terminated.

Section 3-614. [Special Representative; Appointment.]

A special personal representative may be appointed in a proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice. A special personal representative shall continue to act during appeal of his appointment unless the court orders otherwise.

Section 3-615. [Special Representative; Who May Be Appointed.]

Any suitable person may be appointed special personal representative.

Section 3-616. [Reserved.]

Section 3-617. [Special Representative; Formal Proceedings; Power and Duties.]

(a) A special personal representative appointed by order of the court in any formal proceeding has the power of a general personal representative except as limited by section 3-715(b) and in the appointment and duties as prescribed in the order. The appointment may be for a period of up to 90 days except in extraordinary circumstances, in which case the court may order an appointment for a longer period. The court may, for good cause shown, extend the appointment for additional period, of up to 90 days.

(b) A special personal representative shall have authority to distribute only pursuant to part 7 of article III, and pursuant to specific orders of the court.

Section 3-618. [Termination of Appointment; Special Representative.]

The appointment of a special representative terminates in accordance with the provisions of the order of appointment or on the appointment of a general personal representative. In other cases, the appointment of a special personal representative is subject to termination as provided in sections 3-608 to 3-611, inclusive.

PART 7

DUTIES AND POWERS OF PERSONAL REPRESENTATIVES

Section 3-701. [Time of Accrual of Duties and Powers.]

The duties and powers of a personal representative commence upon appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named executor in a will may carry out written instructions of the decedent relating to the decedent's body, funeral and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others if the acts would have been proper for a personal representative.

Section 3-702. [Priority Among Different Letters.]

A person to whom general letters are issued first has exclusive authority under the letters until the appointment is terminated or modified. If, through error, general letters are afterwards issued to another, the first appointed representative may recover any property of the estate in the hands of the representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

Section 3-703. [General Duties; Relation and Liability to Persons Interested in Estate; Standing to Sue.]

(a) A personal representative is a fiduciary who shall observe the standards of care applicable to trustees as described by chapter 203C. A personal representative shall have the duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and this code, and as expeditiously and efficiently as is consistent with the best interests of the estate. The personal representative shall use the authority conferred by this code, by the terms of the will, if any, and by any order in proceedings to which the personal representative is party for the best interests of successors to the estate.

(b) Subject to other obligations of administration, an informally probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative, whether issued in informal or formal proceedings, is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending testacy proceeding, a proceeding to vacate an order entered in an earlier testacy proceeding, a formal proceeding questioning appointment or fitness to continue, or a supervised administration proceeding. Nothing in this section shall affect the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants, the surviving spouse, any minor and dependent children and any pretermitted child of the decedent as described else-

where in this code.

(c) Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in the commonwealth at death has the same standing to sue and be sued in the courts of the commonwealth and the courts of any other jurisdiction as the decedent had immediately prior to death.

Section 3-704. [Personal Representative to Proceed Without Court Order; Exception.]

A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but the personal representative may invoke the jurisdiction of the court, in proceedings authorized by this code, to resolve questions concerning the estate or its administration.

Section 3-705. [Reserved.]

Section 3-706. [Duty of Personal Representative; Inventory and Appraisalment.]

Within 3 months after appointment, a personal representative, who is not a successor to another representative who has previously discharged this duty, shall prepare an inventory of property owned by the decedent at the time of death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall file with the court or mail to all interested persons whose addresses are reasonably available a copy of the inventory. The personal representative may also file the original of the inventory with the court.

Section 3-707. [Employment of Appraisers.]

The personal representative may employ 1 or more qualified and disinterested appraisers to assist in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate.

Section 3-708. [Reserved]

Section 3-709. [Duty of Personal Representative; Possession of Estate.]

(a) Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any real property or tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property will be necessary for purposes of administration. The request by a personal representative for delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in the personal representative's possession. The personal representative may maintain an action to recover possession of property or to determine the title thereto.

(b) Whoever injuriously intermeddles with any personal property of a deceased person, without being thereto authorized by law, shall be liable as a personal representative in his own wrong to the person aggrieved.

(c) A personal representative in his own wrong shall be liable to the rightful personal representative for the full value of the personal property of the deceased taken by him and for all damages caused to the estate by his acts; and he or she shall not be allowed to retain or deduct any part of such estate, except for funeral expenses or debts of the deceased or other charges actually paid by him and which the rightful personal representative might have been compelled to pay.

Section 3-710. [Power to Avoid Transfers.]

The property liable for the payment of unsecured debts of a decedent includes all property transferred by the decedent by any means which is in law void or voidable as against creditors, and subject to prior liens, the right to recover this property, so far as necessary for the payment of unsecured debts of the decedent, is exclusively in the personal representative.

Section 3-711. [Reserved.]

Section 3-712. [Improper Exercise of Power; Breach of Fiduciary Duty.]

If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in sections 3-713 and 3-714.

Section 3-713. [Sale, Encumbrance or Transaction Involving Conflict of Interest; Voidable; Exceptions.]

Any sale or encumbrance to the personal representative, the personal representative's spouse, agent or attorney, or any corporation or trust in which the personal representative has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the personal representative, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless

(1) the will or a contract entered into by the decedent expressly authorized the transaction or transactions in general; or

(2) the transaction is approved by the court after notice to interested persons.

Section 3-714. [Persons Dealing with Personal Representative; Protection.]

A person who in good faith either assists a personal representative or deals with a personal representative for value is protected as if the personal representative properly exercised power. The fact that a person knowingly deals with a personal representative shall not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except for restrictions on powers of supervised personal representatives which are endorsed on letters as provided in section 3-504, no provision in any will or order of court purporting to limit the power of a personal representative is effective except as to persons with actual knowledge thereof. A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. The protection here expressed

extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is not by substitution for that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

Section 3-715. [Transactions Authorized for Personal Representatives; Exceptions.]

(a) Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 3-902, a personal representative other than a special personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(i) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(ii) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of tangible and intangible personal property for cash or on credit, at public or private sale; and manage, develop, improve, exchange, change the character of, or abandon an estate asset;

(7) make repairs or alterations in buildings or other structures, demolish any improvements, structures, raze existing or erect new party walls or buildings;

(8) subdivide, develop or dedicate land to public use; adjust boundaries; or adjust differences in valuation by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss and liability and the personal representative against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge or other lien upon property of another person, the personal representative may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay taxes, assessments, compensation of a personal representative other than a special personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ 1 or more agents to perform any act of administration, whether or not discretionary;

(22) defend and prosecute claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of duties;

(23) sell, or lease any personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;

(24) continue any unincorporated business or venture in which the decedent was en-

gaged at the time of death (i) in the same business form for a period of not more than 4 months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will, (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of death;

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this code.

(b) Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 3-902, a special personal representative acting reasonably for the benefit of the interested persons, may properly exercise only those powers set forth in subsections (1), (2), (3), (5), (7), (12), (15), (18), (19), (20), (21), (22), (24) and (26) of paragraph (a).

Section 3-716. [Powers and Duties of Successor Personal Representative.]

A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but shall not exercise any power expressly made personal to the executor named in the will.

Section 3-717. [Co-representatives; When Joint Action Required.]

If 2 or more persons are appointed co-representatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction shall not apply when any co-representative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a co-representative has been delegated to act for the others. Persons dealing with a co-representative if actually unaware that another has been appointed to serve or if advised by the personal representative with whom they deal that the personal representative has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the person with whom they dealt had been the sole personal representative.

Section 3-718. [Powers of Surviving Personal Representative.]

Unless the terms of the will otherwise provide, every power exercisable by personal co-representatives may be exercised by the 1 or more remaining after the appointment of 1 or more is terminated, and if 1 of 2 or more nominated as co-representatives is not appointed, those appointed may exercise all the powers incident to the office.

Section 3-719. [Compensation of Personal Representative.]

A personal representative is entitled to reasonable compensation for services. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, the personal representative may renounce the provision before qualifying and be entitled to reasonable compensation. A personal representative also may renounce the right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

Section 3-720. [Expenses in Estate Litigation.]

If any personal representative or person nominated as personal representative defends or prosecutes any proceeding in good faith, whether successful or not that personal representative or person is entitled to receive from the estate necessary expenses and disbursements including reasonable attorneys' fees incurred.

Section 3-721. [Reserved]

PART 8 CREDITORS' CLAIMS

Section 3-801. [Reserved]

Section 3-802. [Statutes of Limitations.]

Unless an estate is insolvent, the personal representative, with the consent of all successors whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim barred by a statute of limitations at the time of the decedent's death may be allowed or paid.

Only those successors who would be affected thereby shall agree to a waiver of a defense of limitations available to an estate.

Section 3-803. [Limitations on Presentation of Claims.]

(a) Except as provided in this chapter, a personal representative shall not be held to answer to an action by a creditor of the deceased unless such action is commenced within 1 year after the date of death of the deceased and unless, before the expiration of such period, the process in such action has been served by delivery in hand upon such personal representative or service thereof accepted by him or a notice stating the name of the estate, the name and address of the creditor, the amount of the claim and the court in which the action has been brought has been filed with the register.

(b) A trustee of a trust, the assets of which are subject as a matter of substantive law to being reached by creditors of the deceased shall not be held to answer to an action by a creditor of the deceased unless such action is commenced against such trustee or against the personal representative of the deceased within the time and in the manner provided in subsection (a). Such trustee shall have immunity from personal liability to a creditor or the deceased in the same manner as a personal representative has, pursuant to section 3-807.

(c) A claim described in subsections (a) or (b) which is barred by statute of the decedent's domicile before the limitation in the commonwealth is barred in the commonwealth.

(d) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) an action for personal injuries or death, if commenced more than one year after the date of death of the deceased, brought against the personal representative, provided that such action is commenced within three years next after the cause of action accrues, and provided further that any judgment recovered in any action so brought may be satisfied only from the proceeds of a policy of insurance or bond, if any, and not from the general assets of the estate.

(3) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.

(e) If the supreme judicial court, upon a complaint in equity filed by a creditor whose claim has not been prosecuted within the time limited by subsections (a) or (b), deems that justice and equity require it and that such creditor is not chargeable with culpable neglect in not prosecuting his claim within the time so limited, it may give him judgment for the amount of his claim against the estate of the deceased person, provided forthwith upon the filing of the complaint a notice such as provided in subsection (a) has been filed in the proper registry of probate; but such judgment shall not affect any payment or distribution made before the filing of such complaint and notice.

(f) If a deceased received medical assistance under chapter 118E when such deceased was 55 years of age or older or while an inpatient in a nursing facility or other medical institution, section 32 of chapter 118E shall govern the notice to be given to the division of medical assistance and such division's claim for recovery under section 31 of said chapter 118E if the division so chooses.

Section 3-804. [Manner of Commencement of Claims.]

(1) A personal representative shall not be held to answer to an action by a creditor of the deceased which is commenced within any other or additional period of limitation for bringing such action provided by or under this chapter unless before the expiration of such period the process in such action has been served by delivery in hand upon the personal representative or service thereof accepted by the personal representative or a notice as aforesaid has been filed with the register.

(2) Claims against a decedent's estate shall be commenced by a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of his claim against the estate, but the commencement of the proceeding shall occur within the time limited for presenting the claim. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of his death.

(3) A special personal representative shall be liable to an action by a creditor of the deceased brought within the period of limitation provided in section 3-803; provided, however, that any such action shall be stayed by the court in which it is brought until such time

as a general personal representative has been appointed and said general personal representative has been substituted for said special personal representative as the party defendant.

Section 3-805. [Classification of Claims.]

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) costs and expenses of administration;
- (2) reasonable funeral expenses;
- (3) debts and taxes with preference under federal law;
- (4) reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent;
- (5) debts and taxes with preference under other laws of the commonwealth;
- (6) debts due to the division of medical assistance;
- (7) all other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Section 3-806. [Allowance of Claims.]

(a) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(b) Unless otherwise provided in any judgment in another court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing with the date of judgment unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

Section 3-807. [Payment of Claims.]

(a) Upon the expiration of the time limitation provided in section 3-803 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for family allowances, for claims already presented that have not yet been allowed or whose allowance has been appealed, and for unbarred claims that may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid may secure an order directing the personal representative to pay the claim to the extent funds of the estate are available to pay it.

(b) If a personal representative finds that the estate of the deceased will probably be insufficient for the payment of his debts the personal representative shall represent the estate to be insolvent to the court, and shall, pursuant to court order, after notice to all persons interested, divide and pay over what remains in the personal representative's hands among the creditors who prove their debts. No action shall be maintained against a personal representative after an estate has been represented insolvent, unless for a claim entitled to a preference which would not be affected by the insolvency of the estate or unless the assets

prove more than sufficient to pay all the debts allowed. If the estate is represented insolvent while an action is pending for a claim which is not entitled to such preference, the action may be stayed without costs until it appears whether the estate is insolvent, and if it is not insolvent, the plaintiff may prosecute the action as if no such representation had been made.

(c) If a personal representative shall not within 6 months after the date of death of the deceased have had notice of demands against the estate of the deceased sufficient to warrant him to represent such estate to be insolvent, he or she may, after the expiration of said 6 months, pay the debts due from the estate and shall not be personally liable to any creditor in consequence for such payments made before notice of such creditor's demand; and if such a personal representative shall be in doubt as to the validity of any debt which, if valid, the personal representative would have a right to pay under this section, the personal representative may, with the approval of the court, after notice to all persons interested, pay such debt or so much thereof as the court may authorize.

(d) If a personal representative pays under subsection (c), before notice of the demand of any other creditor, the whole of the estate and effects of the deceased, the personal representative shall not be required in consequence of such notice to represent the estate insolvent, but in an action against the personal representative shall be discharged upon proving such payments.

(e) If a personal representative pays, under subsection (c), so much of the estate and effects of the deceased that the remainder is insufficient to satisfy a demand of which the personal representative afterward has notice, the personal representative shall be liable on such last mentioned demand for only so much as may then remain. If 2 or more such demands are exhibited, which together exceed the amount of assets remaining in his hands, the personal representative may represent the estate insolvent, and shall, pursuant to court order, after notice to all persons interested, divide and pay over what remains in the personal representative's hands among the creditors who prove their debts; but the creditors of the deceased who have been previously paid shall not be liable to repay any part of the amount received by them.

(f) If it appears, upon the settlement of the account of a personal representative, that the whole estate and effects which have come to the personal representative's hands have been exhausted in paying the charges of administration and debts or claims entitled by law to a preference over the common creditors of the deceased, such settlement shall be a bar to an action brought against the personal representative by a creditor who is not entitled to such preference, although the estate has not been represented insolvent.

(g) The personal representative at any time may pay any just claim that has not been barred, with or without formal presentation, but, except as provided in subsections (c), (d), (e) and (f), is personally liable to any other claimant whose claim is allowed and who is injured by its payment if:

(1) payment was made before the expiration of the time limit stated in subsection (a) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) payment was made, due to negligence or willful fault of the personal representative, in such manner as to deprive the injured claimant of priority.

Section 3-808. [Individual Liability of Personal Representative.]

(a) Unless otherwise provided in the contract, a personal representative is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his representative capacity and identify the estate in the contract.

(b) A personal representative is individually liable only if he or she is personally at fault for (1) obligations arising from ownership or control of the estate or (2) for torts committed in the course of administration of the estate.

(c) Claims based on contracts entered into by a personal representative in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the personal representative in his fiduciary capacity, whether or not the personal representative is individually liable therefor.

(d) Issues of liability as between the estate and the personal representative individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

Section 3-809. [Secured Claims.]

Payment of a secured claim is upon the basis of the amount allowed if the creditor surrenders his security; otherwise payment is upon the basis of 1 of the following:

(1) if the creditor exhausts his security before receiving payment, unless precluded by other law, upon the amount of the claim allowed less the fair value of the security; or

(2) if the creditor does not have the right to exhaust his security or has not done so, upon the amount of the claim allowed less the value of the security determined by converting it into money according to the terms of the agreement pursuant to which the security was delivered to the creditor, or by the creditor and personal representative by agreement, arbitration, compromise or litigation.

Section 3-810. [Claims Not Due and Contingent or Unliquidated Claims.]

(a) If a claim which will become due at a future time or a contingent or unliquidated claim becomes due or certain before the distribution of the estate, and if the claim has been allowed or established by a proceeding, it is paid in the same manner as presently due and absolute claims of the same class.

(b) In other cases the personal representative or, on petition of the personal representative or the claimant in a special proceeding for the purpose, the court may provide for payment as follows:

(1) if the claimant consents, he may be paid the present or agreed value of the claim, taking any uncertainty into account;

(2) arrangement for future payment, or possible payment, on the happening of the contingency or on liquidation may be made by creating a trust, giving a mortgage, obtaining a bond or security from a distributee, or otherwise.

Section 3-811. [Counterclaims.]

In paying a claim the personal representative may deduct any counterclaim which the estate has against the claimant. In determining a claim against an estate a court shall reduce the amount allowed by the amount of any counterclaims and, if the counterclaims exceed the claim, render a judgment against the claimant in the amount of the excess. A counterclaim, liquidated or unliquidated, may arise from a transaction other than that upon which the claim is based. A counterclaim may give rise to relief exceeding in amount or different in kind from that sought in the claim.

Section 3-812. [Execution and Levies Prohibited.]

No execution may issue upon nor may any levy be made against any property of the estate under any judgment against a decedent or a personal representative, but this section shall not be construed to prevent the enforcement of mortgages, pledges or liens upon real or personal property in an appropriate proceeding.

Section 3-813. [Compromise of Claims.]

When a claim against the estate has been presented in any manner, the personal representative may, if it appears for the best interest of the estate, compromise the claim, whether due or not due, absolute or contingent, liquidated or unliquidated.

Section 3-814. [Encumbered Assets.]

If any assets of the estate are encumbered by mortgage, pledge, lien, or other security interest, the personal representative may pay the encumbrance or any part thereof, renew or extend any obligation secured by the encumbrance or convey or transfer the assets to the creditor in satisfaction of his lien, in whole or in part, whether or not the holder of the encumbrance has presented a claim, if it appears to be for the best interest of the estate. Payment of an encumbrance shall not increase the share of the distributee entitled to the encumbered assets unless the distributee is entitled to exoneration.

Section 3-815. [Administration in More Than One State; Duty of Personal Representative.]

(a) All assets of estates being administered in the commonwealth are subject to all claims, allowances and charges existing or established against the personal representative wherever appointed.

(b) If the estate either in the commonwealth or as a whole is insufficient to cover all family exemptions and allowances (determined by the law of the decedent's domicile), prior charges and claims, each claimant whose claim has been allowed either in the commonwealth or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim, after satisfaction of the exemptions, allowances and charges. If a preference or security in regard to a claim is allowed in another jurisdiction but not in the commonwealth, the creditor so benefited is to receive dividends from local assets only upon the balance of his claim after deducting the amount of the benefit.

(c) In case the family exemptions and allowances, prior charges and claims of the entire estate exceed the total value of the portions of the estate being administered separately

and the commonwealth is not the state of the decedent's last domicile, the claims allowed in the commonwealth shall be paid their proportionate share of total assets if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in the commonwealth the amount to which they are entitled, local assets shall be marshalled so that each claim allowed in the commonwealth is paid its proportion as far as possible, after taking into account all dividends on claims allowed in the commonwealth from assets in other jurisdictions.

Section 3-816. [Final Distribution to Domiciliary Representative.]

The estate of a non-resident decedent being administered by a personal representative appointed in the commonwealth shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the benefit of the successors of the decedent unless (1) by virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified pursuant to the local law of the commonwealth without reference to the local law of the decedent's domicile; (2) the personal representative of the commonwealth, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative; or (3) the court orders otherwise in a proceeding for a closing order under section 3-1001 or incident to the closing of a supervised administration. In other cases, distribution of the estate of a decedent shall be made in accordance with the other parts of this article.

PART 9

SPECIAL PROVISIONS RELATING TO DISTRIBUTION

Section 3-901. [Successors' Rights if No Administration.]

In the absence of administration, the heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Devisees may establish title by the probated will to devised property. Persons entitled to property by family allowance, exemption or intestacy may establish title thereto by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption.

Section 3-902. [Distribution; Order in Which Assets Appropriated; Abatement.]

(a) Except as provided in subsection (b) and except as provided in connection with the share of the surviving spouse who elects to take an elective share, shares of distributees abate, without any preference or priority as between real and personal property, in the following order: (1) property passing by intestacy; (2) residuary devises; (3) general devises; (4) specific devises. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification

is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in subsection (a), the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Section 3-903. [Right of Retainer.]

The amount of a non-contingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to him in a direct proceeding for recovery of the debt.

Section 3-904. [Interest on General Pecuniary Devise.]

The rate of interest upon general pecuniary devises or pecuniary distribution under a trust instrument, unless otherwise provided in the will or trust instrument, shall be such as the supreme judicial court may by general rules establish, and in absence of any such rules the rate shall be 4 per cent per annum. Unless otherwise provided in the will or trust instrument, interest shall be payable from the date of the expiration of the period within which creditors may bring actions against a personal representative as provided in section 3-803.

Section 3-905. [Reserved]

Section 3-906. [Distribution in Kind; Valuation; Method.]

(a) Except as restricted or otherwise provided for by will or order of the court, a personal representative may distribute assets of the estate in kind or partly in cash and partly in kind and pro rata or not pro rata at then current values as between distributees.

(b) After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

Section 3-907. [Distribution in Kind; Evidence.]

If distribution in kind is made, the personal representative shall execute an instrument or deed of distribution assigning, transferring or releasing the assets to the distributee as evidence of the distributee's title to the property.

Section 3-908. [Distribution; Right or Title of Distributee.]

Proof that a distributee has received an instrument or deed of distribution of assets in kind, or payment in distribution, from a personal representative, is conclusive evidence

that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

Section 3-909. [Improper Distribution; Liability of Distributee.]

Unless the distribution or payment no longer can be questioned because of adjudication, estoppel, or limitation, a distributee of property improperly distributed or paid, or a claimant who was improperly paid, is liable to return the property improperly received and its income since distribution if he has the property. If he does not have the property, then he is liable to return the value as of the date of disposition of the property improperly received and its income and gain received by him.

Section 3-910. [Reserved.]

Section 3-911. [Reserved.]

Section 3-912. [Private Agreements Among Successors to Decedent Binding on Personal Representative.]

Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

Section 3-913. [Distributions to Trustee.]

(a) If a trust instrument does not excuse the trustee from giving bond, before distributing to a trustee a personal representative may petition the appropriate court to require that the trustee post bond with sureties if the personal representative apprehends that distribution might jeopardize the interests of persons who are not able to protect themselves, and the personal representative may withhold distribution until the court has acted.

(b) No inference of negligence on the part of the personal representative shall be drawn from his failure to exercise the authority conferred by subsection (a).

Section 3-914. [Disposition of Unclaimed Assets.]

(a) If a personal representative has money which the personal representative considers it advisable to deposit in a savings bank, or in savings accounts in a trust company, or in paid-up shares and accounts of and in a co-operative bank, or with which the personal representative considers it advisable to purchase shares or make deposits in a credit union located in the commonwealth or to purchase share accounts of a federal savings and loan association located in the commonwealth, in the name of the judge of probate, for the benefit

of any person, the personal representative may apply to the court by which he or she was appointed for leave so to do, and the court may in its discretion, without notice, direct such money to be so deposited. When the deposit is made the deposit book or certificates of the bank shall be filed in court. When the person entitled to such money satisfies the court of his right to receive it, the court shall by decree direct that it be transferred to him.

(b)(1) If a personal representative holds property the disposition of which depends upon the death of an absentee whose death has not been determined under paragraph (1), (2) or (3) of section 1-107, on or after the day 5 years after the date of the absentee's disappearance the personal representative, or any person who would be interested in the property were the absentee dead, may petition the court having jurisdiction of the estate for an order that the property be disposed of to the persons to whom and in the shares or proportions in which it would be distributed if the absentee had died on the day 5 years after the date of the absentee's disappearance.

(2) The court may direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the absentee in any manner that may seem advisable, including any or all of the following methods:

(i) by inserting in 1 or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the absentee;

(ii) by notifying law enforceable officials, public welfare agencies and registers of deaths in appropriate locations of the disappearance of the absentee;

(iii) by engaging the services of an investigator.

The costs of any search so directed shall be paid from estate property.

(3) After any such report directed by the court under paragraph (2) above has been completed to the satisfaction of the court, notice of the hearing on the petition shall be given as provided in section 1-401.

(4) If after the hearing the court finds that the facts warrant a presumption of death under paragraph (4) of section 1-107, it shall enter an appropriate order of disposition of the trust property and any undistributed net income.

Section 3-915. [Distribution to Person Under Disability.]

(a) A personal representative may discharge his obligation to distribute to any person under legal disability by distributing in a manner expressly provided in the will.

(b) Unless contrary to an express provision in the will, the personal representative may discharge an obligation to distribute to a minor or person under other disability as authorized by chapter two hundred one A or any other statute. If the personal representative knows that a guardian of the estate or conservator has been appointed or that a proceeding for appointment of a guardian of the estate or conservator is pending, the personal representative is authorized to distribute only to the guardian of the estate or conservator.

(c) If the heir or devisee is under disability other than minority, the personal representative is authorized to distribute to:

(1) an attorney in fact who has authority under a power of attorney to receive property for that person; or

(2) the spouse, parent or other close relative with whom the person under disability resides if the distribution is of amounts not exceeding \$10,000 a year, or property not exceeding \$10,000 in value, unless the court authorizes a larger amount or greater value.

Persons receiving money or property for the disabled person are obligated to apply the money or property to the support of that person, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the support of the disabled person. Excess sums shall be preserved for future support of the disabled person. The personal representative shall not be responsible for the proper application of money or property distributed pursuant to this subsection.

Section 3-916. [Apportionment of Estate Taxes.]

(a) For purposes of this section:

(1) "Estate", the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to the commonwealth;

(2) "Fiduciary", personal representative or trustee.

(3) "Person", any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(4) "Person interested in the estate", any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, guardian, conservator, and trustee;

(5) "State", any state, territory, or possession of the United States, the District of Columbia, and the commonwealth of Puerto Rico;

(6) "Tax", the federal and Massachusetts estate tax and the additional inheritance tax imposed by the commonwealth and interest and penalties imposed in addition to the tax;

(b) Except as provided in subsection (i) and, unless the will otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will directs a method of apportionment of tax different from the method described in this code, the method described in the will controls.

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d)(1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this chapter.

(2) If property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e)(1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar purpose is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) hereof, and to that extent no apportionment is made against the property. The sentence immediately preceding shall not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent United States tax law, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the 3 months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the 3 months' period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is *prima facie* correct.

(i) If the liabilities of persons interested in the estate as prescribed by this act differ from those which result under the federal estate tax law, the liabilities imposed by the federal law will control and the balance of this section shall apply as if the resulting liabilities had been prescribed herein.

(j) If any portion of the property with respect to which such tax is levied or assessed is property in which the decedent has a qualifying income interest for life within the meaning of section 3A of chapter 65C or section 2044 of the Internal Revenue Code of 1986, as amended or any statutes of similar import, such portion of the net amount of the tax so levied or assessed, including, in the case of the Massachusetts estate tax, any tax imposed under the provision of subsection (b) of section 2 of said chapter 65C, shall, except as otherwise provided or directed by the decedent's will, be charged to and paid from the corpus of such property as equals the amount by which the total net amount of such tax levied or assessed exceeds the total net amount of such tax as would have been levied or assessed if the value of such property which is included in the measure of such tax had not been so included. The amount so charged shall not be apportioned between temporary and remainder estates.

(k) A direction in a will or instrument of trust to pay taxes caused by, resulting from,

or imposed by reason of the death of the testator or donor, as the case may be, out of the decedent's probate estate or trust estate or other property, shall not include, unless the will or instrument of trust or a provision of such tax laws specifically provides otherwise, taxes levied or assessed under the tax laws of the United States or of the commonwealth or of any foreign state or commonwealth (i) on generation-skipping transfers or (ii) on any qualified terminable interest property in which the decedent had a qualifying income interest for life.

Section 3-917.[Partial Distribution.]

If the court finds that partial distribution of the property of an estate in process of settlement can, without detriment to such estate, be made to the persons entitled thereto, the court may, subject to the rights of creditors and after notice, order such partial distribution to be made.

**PART 10
CLOSING ESTATES**

Section 3-1001. [Formal Proceedings Terminating Administration; Testate or Intestate; Order of General Protection.]

(a) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after 1 year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account, compel or approve an accounting or distribution or both, to construe any will, determine heirs or adjudicate the final settlement and distribution of the estate. Unless the petition is assented to by all interested parties, notice shall be given in the manner prescribed by section 1-401 by the petitioner to all interested persons.

(b) After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person. Such discharge shall forever exonerate the personal representative and his sureties from all liability under such decree unless his account is impeached for fraud or manifest error.

(c) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the

new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Section 3-1002. [Reserved]

Section 3-1003. [Closing Estates; By Sworn Statement of Personal Representative.]

(a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than 6 months after the date of original appointment of a general personal representative for the estate, a verified statement stating that the personal representatives or a previous personal representative, has:

(1) determined that the time limited for presentation of creditors' claims has expired;

(2) fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims that were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or state in detail other arrangements that have been made to accommodate outstanding liabilities; and

(3) sent a copy of the statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected thereby.

(b) If no proceedings involving the personal representative are pending in the court 1 year after the closing statement is filed, the personal representative's closing statement may not be challenged, except for fraud or manifest error.

Section 3-1004. [Liability of Distributees to Claimants.]

After assets of an estate have been distributed and subject to Section 3-1006, an undischarged claim not barred may be prosecuted in a proceeding against 1 or more distributees as an improper distribution in accordance with section 3-909.

Section 3-1005. [Limitations on Proceedings Against Personal Representative.]

Unless previously barred by adjudication and except as provided in the closing statement, the rights of successors and of creditors whose claims have not otherwise been barred against the personal representative for breach of fiduciary duty are barred unless a proceeding to assert the same is commenced within 6 months after the filing of the closing statement. The rights thus barred do not include rights to recover from a personal representative for fraud, misrepresentation, or inadequate disclosure related to the settlement of the decedent's estate.

Section 3-1006. [Limitations on Actions and Proceedings Against Distributees.]

Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of a claimant

to recover from a distributee who is liable to pay the claim, and the right of an heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or its value from any distributee is forever barred at the later of 3 years after the decedent's death or 1 year after the time of its distribution thereof, but all claims of creditors of the decedent are barred 1 year after the decedent's death. This section shall not bar an action to recover property or value received as a result of fraud.

Section 3-1007. [Reserved]

Section 3-1008. [Reserved]

PART 11

COMPROMISE OF CONTROVERSIES

Section 3-1101. [Effect of Approval of Agreements Involving Trusts, Inalienable Interests, or Interests of Third Persons.]

A compromise of any controversy as to admission to probate of any instrument offered for formal probate as the will of a decedent, as to the administration or distribution of an estate, or as to an accounting therefore, or as to any matter relating to said estate, or as to the construction of a will or trust created by a written instrument, or as to the fiduciary's power and authority thereunder, or as to any controversy growing out of said will or instrument that may arise between the fiduciary and any other person or the guardian or conservator of any person interested under said will or instrument or in said estate, or between claimants or the guardians or conservators of claimants to said estate, to which arbitration or compromise, in the form of an agreement in writing, such personal representative, guardian, conservator, receiver, commissioner or other fiduciary officer or trustee, and all other persons in being and of full age and not under guardianship, and the guardian or conservator, if any, of all other persons who claim a vested interest in said estate, whose interests will, in the opinion of the court, be affected by the proposed arbitration or compromise, shall be parties, if approved in a formal proceeding in the court for that purpose, is binding on all the parties thereto including those unborn, unascertained or who could not be located. An approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise shall not impair the rights of creditors or of taxing authorities who are not parties to it.

Section 3-1102. [Procedure for Securing Court Approval of Compromise.]

The procedure for securing court approval of a compromise is as follows:

(1) The terms of the compromise shall be set forth in an agreement in writing which shall be executed by all competent persons and parents or guardians acting for any minor child having beneficial interests or having claims which will or may be affected by the compromise. Execution is not required by any person whose identity cannot be ascertained or whose whereabouts is unknown and cannot reasonably be ascertained.

(2) Any interested person, including the personal representative or a trustee, then may submit the agreement to the court for its approval and for execution by the personal representative, the trustee of every affected trust, and other fiduciaries and representatives.

(3) After notice as prescribed by section 1-401 to all interested persons or their representatives, including the personal representative of the estate and all affected trustees of trusts, the court, if it finds that the contest or controversy is in good faith and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries subject to its jurisdiction to execute the agreement. Minor children represented only by their parents or guardians may be bound only if their parents or guardians join with other competent persons in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate is in accordance with the terms of the agreement.

Section 3-1103. [Non-Resident Beneficiaries; Payment of Trust Fund to Foreign Trustee]

If all living parties interested as beneficiaries in a trust created by a will allowed in the commonwealth reside outside thereof, the court having jurisdiction of the trust may, on petition of parties in interest or of the personal representative or trustee, if it considers it just and expedient, authorize the personal representative or trustee to pay the fund to a trustee appointed by the proper court in any other state or country, if all living beneficiaries and the personal representative or trustee signify their consent, and the court is satisfied that the laws of such other state or country secure the due performance of said trust; and upon such payment, shown to the satisfaction of said court, the personal representative or trustee appointed here may be discharged from further responsibility by decree of said court.

PART 12

COLLECTION OF PERSONAL PROPERTY BY VOLUNTARY ADMINISTRATION PROCEDURE FOR SMALL ESTATES

Section 3-1201. [Collection of Personal Property by Affidavit.]

If an inhabitant of the commonwealth dies leaving an estate consisting entirely of personal property the total value of which may include a motor vehicle of which the decedent was the owner, and other personal property not exceeding \$25,000 in value, any interested person may, after the expiration of 30 days from the death of the decedent, provided no petition for appointment of a personal representative has been filed with the court of the county in which the decedent resided, file with said court upon a form prescribed by the court a statement, verified by oath, or affirmation containing: (a) the name and residential address of the petitioner, (b) the name, residence and date of death of the deceased, (c) the relationship of the petitioner to the deceased, (d) a schedule showing every asset of the estate known to the petitioner and the estimated value of each such asset, (e) a statement that the petitioner has undertaken to act as voluntary personal representative of the estate of the deceased and will administer the same according to law, and apply the proceeds thereof in conformity with this section, (f) the names and addresses of surviving joint owners of property with the deceased, known to the petitioner, (g) the names and addresses known to the petitioner of the persons who would take under the provisions of part 1 of article II of this

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chapter in the case of intestacy, and (h) the names and addresses known to the petitioner of the persons who would take under the provisions of the will, if any. The original of any will shall be filed with the above statement.

Upon presentation of such statement, accompanied by a certificate of the death of the deceased by a public officer and payment of a fee as may be specified in section 40 of chapter 262, the register shall docket these documents as a part of the permanent records of the court. Upon payment of a fee as prescribed in said section 40 of chapter 262, the register shall, if no other probate proceeding for administration of such estate is pending in said court, issue an attested copy of a statement duly filed under this section.

Notwithstanding any general or special or law to the contrary, a voluntary personal representative shall certify on the statement that copies of such statement and death certificate have been sent to the division of medical assistance by certified mail. If the decedent received medical assistance under chapter 118E (1) when age 65 or older or (2) at any time on or after March 22, 1991, regardless of age, while an inpatient in a nursing facility or other medical institution, the provisions of section 32 of said chapter 118E shall apply except (1) the period for said department to present a claim under subsection (b)(1) of said section 32 of said chapter 118E shall be within 4 months of the date the register docketed the statement and (2) interest on allowed claims under subsection (c) of said section 32 of said chapter 118E shall commence 4 months plus 60 days after said date. This paragraph shall apply to estates of decedents dying on or after September 1, 1992.

Upon the presentation of a copy of such a statement duly attested by the register, the tender of a proper receipt in writing and the surrender of any policy, passbook, note, certificate or other evidentiary instrument, a voluntary personal representative may, as the legal representative of the deceased and his estate, receive payment of any debt or obligation in the nature of a debt, or delivery of any chattel or asset, scheduled in such statement. Payments and deliveries made under this section shall discharge liability of the debtor, obligor or deliverer to all persons with respect to such debt, chattel, obligation or other asset unless, at the time of such payment or delivery, a written demand has been made upon said debtor, obligor or deliverer by a duly appointed personal representative.

A voluntary personal representative may sell any chattel so received and negotiate or assign any chose in action to convert the same to cash in a reasonable amount.

A voluntary personal representative shall, as far as possible out of the assets which come into his hands, first discharge the necessary expenses of the funeral and last sickness of the deceased and the necessary expenses of administration without fee for his services, and then pay the debts of the deceased in the order specified in section 3-805 and any other debts of the estate, and then distribute the balance, if any, in accordance with part 1 of article II of this chapter.

A voluntary personal representative shall be liable as a personal representative in his own wrong to all persons aggrieved by his administration of the estate, and, if letters testamentary or letters of administration are at any time granted, shall be liable as such a personal representative to the rightful personal representative.

For the purpose of paragraph (6) of section 113A of chapter 175 and section 2 of chapter 90, a voluntary personal representative shall be deemed to be the personal representative of the estate of the decedent until a personal representative is appointed.

Upon payment of the proper fee, the register may issue a certificate of appointment to such voluntary personal representative, with a copy of the statement annexed thereto.

Section 3-1202. [Effect of Affidavit.]

The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to section 3-1201 is discharged and released to the same extent as if he dealt with a personal representative of the decedent. He or she is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom a statement is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Section 3-1203. [Small Estates; Summary Administration Procedure.]

If it appears that the value of the entire estate, less liens and encumbrances, does not exceed family allowances, exempt property, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in section 3-1204.

Section 3-1204. [Small Estates; Closing by Sworn Statement of Personal Representative.]

(a) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 3-1203 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed family allowances, exempt property, costs and expenses of administration, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the last illness of the decedent;

(2) the personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto; and

(3) the personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected.

(b) If no actions or proceedings involving the personal representative are pending in the court 1 year after the closing statement is filed, the appointment of the personal representative terminates.

(c) A closing statement filed under this section has the same effect as one filed under section 3-1003.

ARTICLE IV FOREIGN FIDUCIARIES

PART 1 DEFINITIONS

Section 4-101. [Definitions.]

In this Article:

(1) "Domiciliary foreign guardian or foreign conservator", a foreign guardian or foreign conservator currently qualified and acting under appointment by a court of another jurisdiction in which the protected person is currently domiciled.

(2) "Domiciliary foreign personal representative", a foreign personal representative under the law of the jurisdiction of a decedent's domicile.

(3) "Foreign guardian or foreign conservator", a guardian or conservator who was appointed by a court of another jurisdiction to administer the estate of a minor or other protected person.

(4) "Local administration", administration by a personal representative appointed in the commonwealth pursuant to appointment proceedings described in article III.

(5) "Local guardian or conservator", a guardian or conservator appointed in the commonwealth pursuant to appointment proceedings described in article V, but excluding one who is merely a guardian ad litem.

(6) "Local personal representative", includes any personal representative appointed in the commonwealth pursuant to appointment proceedings described in article III and excludes foreign personal representatives who acquire the power of a local personal representative pursuant to section 4-205.

(7) "Nonresident protected person", a protected person who is currently domiciled in another jurisdiction.

(8) "Protected person", a minor or other person whose estate in the commonwealth or in any other jurisdiction is currently administered by a guardian or conservator appointed by a court.

(9) "Resident creditor", a person domiciled in, or doing business in the commonwealth, who is, or could be, a claimant against an estate of a non-resident decedent or a nonresident protected person.

PART 2
POWERS OF FOREIGN PERSONAL REPRESENTATIVES

Section 4-201. [Payment of Debt and Delivery of Property to Domiciliary Foreign Personal Representative Without Local Administration.]

(a) At any time after the expiration of 60 days from the death of a nonresident decedent, any person indebted to the estate of the nonresident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the nonresident decedent, or holding personal property subject to a general power of appointment exercised by the will of a nonresident decedent duly admitted to probate in a foreign jurisdiction, may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign personal representative of the nonresident decedent upon being presented with proof of appointment and an affidavit made by or on behalf of the representative stating:

- (1) the date of the death of the nonresident decedent,
- (2) that no local administration, or application or petition therefor, is pending in this state,
- (3) that the domiciliary foreign personal representative is entitled to payment or delivery.

(b) Payment or delivery may be made to a foreign personal representative of a nonresident decedent appointed in a jurisdiction which was not the domicile of the decedent upon similar proof of appointment and affidavit, if such affidavit also states that there is no domiciliary foreign personal representative and no proceedings are pending for appointment of a personal representative in any court in the jurisdiction of the decedent's domicile and that the foreign personal representative is the personal representative appointed in the appointment proceeding first commenced.

(c) If such nonresident decedent owned tangible personal property located in the commonwealth at the time of death, or at any time during the twelve months preceding death had a permanent or temporary place of abode in the commonwealth, a foreign personal representative of the decedent shall not accept payment or delivery pursuant to this section earlier than one month after filing proof of his authority in accordance with section 4-204 with a copy to the commissioner of revenue.

(d) Any person indebted to a nonresident protected person who has not been domiciled in the commonwealth at any time within the preceding year, or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to such nonresident protected person may pay the debt or deliver the personal property or the instrument to the domiciliary foreign guardian or conservator upon being presented with proof of his appointment and an affidavit made by or on behalf of the guardian or conservator stating:

(1) that the protected person is not and has not been domiciled in the commonwealth at any time within the preceding year,

(2) that no local guardian or conservator has been appointed for the protected person and no application or petition therefor is pending in the commonwealth, and

(3) that the foreign guardian or conservator has duly qualified, is currently acting and is entitled to payment or delivery.

(e) Payment or delivery may be made to a foreign guardian or conservator of a nonresident protected person appointed in a jurisdiction which is not the current domicile of the protected person upon similar proof of appointment and affidavit, if such affidavit also states:

(1) that there is no domiciliary foreign guardian or conservator and no proceedings are pending for appointment of a guardian or conservator in any court of the jurisdiction of the protected person's domicile, and

(2) that either the protected person was domiciled in the jurisdiction in which the foreign guardian or conservator was appointed at the time of his appointment, or that the foreign guardian or conservator is the guardian or conservator appointed in the appointment proceeding first commenced.

Section 4-202. [Payment or Delivery Discharges.]

Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative or local guardian or conservator.

Section 4-203. [Resident Creditor Notice.]

Payment or delivery under section 4-201 may not be made if a resident creditor of the nonresident decedent or nonresident protected person has notified the debtor of the nonresident decedent or nonresident protected person or the person having possession of the personal property belonging to or appointed by the nonresident decedent or belonging to the nonresident protected person that the debt should not be paid nor the property delivered to the foreign personal representative, guardian or conservator.

Section 4-204. [Proof of Authority-Bond.]

If no local administration or application or petition therefor is pending in the commonwealth, a domiciliary foreign personal representative may file with a court in the commonwealth in a county in which property belonging to the decedent is located, authenticated copies of the domiciliary appointment and of any official bond given.

Section 4-205. [Powers.]

A domiciliary foreign personal representative who has complied with section 4-204 may exercise as to personal property in the commonwealth all powers of a local personal representative acting in a similar representative capacity and may maintain actions and proceedings in the commonwealth subject to any conditions imposed upon nonresident parties generally.

Section 4-206. [Power of Representatives in Transition.]

The power of a foreign personal representative under section 4-201 or 4-205 shall be exercised only if there is no administration or application therefor pending in the commonwealth. An application or petition for local administration of the estate terminates the power of the domiciliary foreign personal representative to act under section 4-205, but the court may allow the domiciliary foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for the foreign personal representative in any action or proceedings in the commonwealth.

The power of a foreign guardian or conservator under section 4-201 shall be exercised only if no local guardian or conservator has been appointed and no application therefor is pending in the commonwealth. No person who, before receiving actual notice of such appointment or application, has changed position in reliance upon the powers of a foreign guardian or conservator shall be prejudiced by reason of the appointment of a local guardian or conservator or an application therefor.

Section 4-207. [Ancillary and Other Local Administrations; Provisions Governing.]

In respect to a nonresident decedent, the provisions of article III of this code govern (1) proceedings, if any, in a court of the commonwealth for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (2) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration.

PART 3**JURISDICTION OVER FOREIGN REPRESENTATIVES****Section 4-301. [Jurisdiction by Act of Foreign Personal Representative.]**

A foreign personal representative submits personally to the jurisdiction of the courts of the commonwealth by (1) filing authenticated copies of his appointment as provided in section 4-204, (2) receiving payment of money or taking delivery of personal property under section 4-201, or (3) doing any act as a personal representative in the commonwealth which would have given the commonwealth jurisdiction over the foreign personal representative as an individual. Jurisdiction under (2) is limited to the money or value of personal property collected.

A foreign guardian or conservator shall submit to the jurisdiction of the courts of the commonwealth by acting under clauses (2) and (3) of the preceding paragraph.

Section 4-302. [Jurisdiction by Act of Decedent.]

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In addition to jurisdiction conferred by section 4-301, a foreign personal representative is subject to the jurisdiction of the courts of the commonwealth to the same extent that the decedent was subject to jurisdiction immediately prior to death.

Section 4-302A. [Proceedings to Determine Property Rights.]

In any proceeding in the commonwealth to determine rights in real or personal property in the commonwealth or administered by a fiduciary in the commonwealth or under a will admitted to probate in the commonwealth:

(a) The interest of a nonresident decedent whose estate is not under local administration may be represented by any foreign personal representative of a decedent named a party to the proceeding and served in the manner provided in section 4-303 or by other lawful means;

(b) The interest of a nonresident protected person named a party to the proceeding for whom there is no local guardian or conservator may be represented by a foreign guardian or conservator served in the manner provided in section 4-303 or by other lawful means. The authority of a foreign personal representative or of a foreign guardian or conservator under this section shall include authority to be a party to an agreement of compromise in respect of the rights of the decedent or the protected person in such property. The procedures authorized in this section are in addition to and not in limitation of all other applicable procedures.

Section 4-303. [Service on Foreign Personal Representative.]

(a) In addition to and not in limitation of other provisions of law, service of process may be made upon the foreign personal representative, guardian or conservator by registered or certified mail, addressed to the last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of the commonwealth on either the foreign personal representative or the decedent immediately prior to death.

(b) If service is made upon a foreign personal representative, guardian or conservator as provided in subsection (a), the foreign personal representative shall be allowed at least 30 days within which to appear or respond.

PART 4 CONCLUSIVENESS OF JUDGMENTS

Section 4-401. [Effect of Adjudication For or Against Personal Representative.]

An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate of a non resident decedent is as binding on the local personal representative as if the local personal representative were a party to the adjudication.

ARTICLE V
PROTECTION OF PERSONS UNDER DISABILITY AND THEIR PROPERTY

Part 1
GENERAL PROVISIONS AND DEFINITIONS

Section 5-101. [Definitions and Inclusions.]

As used in parts 1 to 4, inclusive, of this article:

(1) "Claims", in respect to a protected person, includes liabilities of the protected person, whether arising in contract, tort, or otherwise, and liabilities of the estate which arise at or after the appointment of a conservator, including expenses of administration.

(2) "Conservator", a person who is appointed by a court to manage the estate of a protected person and includes a limited conservator, temporary conservator and special conservator.

(3) "Court", the probate and family court department of the trial court and includes the district court and juvenile court departments of the trial court in proceedings relating to the appointment of guardians of minors when the subject of the proceeding is a minor and there is proceeding before such district or juvenile court.

(4) "Disability", cause for a protective order as described in section 5-401.

(5) "Estate", includes the property of the person whose affairs are subject to this article.

(6) "Guardian", a person who has qualified as a guardian of a minor or incapacitated person pursuant to court appointment and includes a limited guardian, special guardian and temporary guardian, but excludes one who is merely a guardian ad litem.

(7) "Guardian ad litem", a person or organization appointed under sections 1-404 and 5-106 of this code.

(8) "Health care proxy", a health care proxy executed pursuant to chapter 201D, a durable power of attorney for health care executed prior to the enactment of chapter 201D and similar instruments for appointment of health care agents executed in accordance with the laws of other jurisdictions.

(9) "Incapacitated person", an individual who for reasons other than advanced age or minority, has a clinically diagnosed condition that results in an inability to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care, even with appropriate technological assistance.

(10) "Lease", includes an oil, gas, or other mineral lease.

(11) "Letters", includes certificate of guardianship and certificate of conservatorship.

(12) "Mentally retarded person", an individual who has a substantial limitation in present functioning beginning before age 18, manifested by significantly subaverage intellectual functioning existing concurrently with related limitations in 2 or more of the following applicable adaptive skills areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functioning academics, leisure, and

work.

(13) "Minor", a person who is under 18 years of age.

(14) "Mortgage", any conveyance, agreement, or arrangement in which property is used as collateral.

(15) "Nursing facility", an institution or a distinct part of an institution which is primarily engaged in providing to residents:

(A) skilled nursing care and related services for residents who require medical or nursing care,

(B) rehabilitation services for the rehabilitation of injured, disabled or sick persons, or

(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services above the level of room and board which can be made available to them only through institutional facilities, and is not primarily a mental health facility or mental retardation facility.

(16) "Organization", includes a corporation, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, government, governmental subdivision or agency, or any other legal entity.

(17) "Parent", a natural or adoptive parent other than a parent whose parental rights have been terminated or a parent who has signed a voluntary surrender.

(18) "Person", an individual or an organization.

(19) "Petition", a written request to the court for an order after notice.

(20) "Proceeding", includes action at law and suit in equity.

(21) "Property", includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(22) "Protected person", a minor or other person for whom a conservator has been appointed or other protective order has been made as provided in sections 5-407 and 5-408.

(23) "Protective proceeding", a proceeding under the provisions of part 4 of this article.

(24) "Security", includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase any of the foregoing.

(25) "Ward", a person for whom a guardian has been appointed solely because of minority.

Section 5-102. [Facility of Payment or Delivery.]

(a) Any person under a duty to pay or deliver money or personal property to a minor may perform the duty, in amounts not exceeding \$5,000 a year, by paying or delivering the money or property to:

(1) the minor;
(2) any person having the care and custody of the minor with whom the minor resides;

(3) a guardian of the minor;
(4) a custodian under the uniform transfers to minors act or a custodial trustee under the uniform custodial trust act; or

(5) a financial institution as a deposit in a state or federally insured interest bearing account or certificate in the sole name of the minor with notice of the deposit to the minor.

(b) If the person making payment or delivery knows that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending, the person may make payment or delivery only to the conservator.

(c) Persons receiving money or property for a minor under subsection (a)(2) are obligated to apply the money to the support, care, education, health or welfare of the minor, but may not pay themselves except by way of reimbursement for out-of-pocket expenses for necessary goods and services. Any excess sums shall be preserved for future support, care, education, health or welfare of the minor and any balance not so used and any property received for the minor shall be turned over to the minor when majority is attained.

(d) A person who pays or delivers money or property in accordance with this section is not responsible for the proper application thereof.

Section 5-103. [Delegation of Powers by Parent or Guardian.]

(a) A parent or parents of a minor, other than a parent or parents whose parental rights have been terminated or a parent who has signed a voluntary surrender, or a guardian or guardians of a minor or incapacitated person may appoint a temporary agent for a period not exceeding 60 days, and may delegate to such agent any power that the parent or guardian has regarding the care, custody or property of the minor child, ward or incapacitated person, except the power to consent to marriage or adoption of a minor; provided, however, that no parent or guardian shall appoint a temporary agent when a court has ordered that the minor child be placed in the custody of a person other than the parent or guardian.

(b) Any delegation under this section shall be by a writing signed by, or at the direction of, the parent(s) or guardian(s) and attested by at least 2 witnesses 18 years of age or older, neither of whom is the temporary agent together with the written acceptance of the temporary agent.

(c) A parent or guardian may not appoint a temporary agent of a minor if the minor has another living parent whose whereabouts are known and who is willing and able to provide care and custody for the minor unless the nonappointing parent consents to the appointment in writing. A parent may not appoint a temporary agent if the appointing parent's parental rights have been terminated or a parent who has signed a voluntary surrender.

(d) Any delegation under this section may be revoked or amended by the appointing parent(s) or guardian(s) and delivered to all interested persons. The authority of the temporary agent may be limited or altered by the court.

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Section 5-104. [Reserved]

Section 5-105. [Venue.]

(a) Provided that the court has jurisdiction:

(1) venue for a guardianship proceeding for a minor is in the court at the place where the minor resides at the time the proceedings are commenced, or, in the case of a nomination of a guardian by the will of a parent or guardian, in the court of the county in which the will was or could be probated except venue for a guardianship proceeding for a minor in district court or juvenile court shall be in the court where the underlying proceeding was filed;

(2) venue for a guardianship proceeding for an incapacitated person is in the court at the place where the incapacitated person resides at the time the proceedings are commenced, or, in the case of a nomination of by the will of a parent or spouse, in the court of the county in which the will was or could be probated. If the incapacitated person has been admitted to a facility referred to in chapter one hundred eleven, section 70E pursuant to an order of a court of competent jurisdiction, venue is also in the county in which that facility is located; and

(3) venue for a protective proceeding is in the court at the place where the person to be protected resides at the time the proceedings are commenced, whether or not a guardian has been appointed in another place or, if the person to be protected does not reside in the commonwealth, in the court at the place where property of the person is located.

(b) If a proceeding under this code is brought in more than one place in the commonwealth, the court at the place in which a proceeding is first brought has the exclusive right to proceed unless that court determines that venue is properly in another court or that the interests of justice otherwise require that the proceeding be transferred.

Section 5-106. [Appointment of Counsel; Guardian ad Litem.]

(a) After filing of a petition for appointment of a guardian, conservator or other protective order, if the ward, incapacitated person or person to be protected or someone on his behalf requests appointment of counsel; or if the court determines at any time in the proceeding that the interests of the ward, incapacitated person or person to be protected are or may be inadequately represented, the court shall appoint an attorney to represent the person, giving consideration to the choice of the person if 14 or more years of age. If the ward, incapacitated person or person to be protected has adequate resources, his counsel shall be compensated from the estate, unless the court shall order that such compensation be paid by the petitioner. Counsel for any indigent ward, incapacitated person or person to be protected shall be compensated by the commonwealth. This section shall not be interpreted to abridge or limit the right of any ward, incapacitated person or person to be protected to retain counsel of his own choice and to prosecute or defend a petition under this article.

(b) The court may appoint as guardian ad litem, an individual or any public or charitable agency to investigate the condition of the ward, incapacitated person or person to be protected and make appropriate recommendations to the court.

(c) The incapacitated person or person to be protected is entitled to be present at any

hearing in person. A ward, if 14 or more years of age, is entitled to be present at any hearing in person unless the court, upon written findings, determines that the best interest of the ward will not be served thereby. The person is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including any physician or other qualified person and any guardian ad litem. The issue may be determined at a closed hearing if the person or counsel for the person so requests.

(d) Any person may apply for permission to provide information in the proceeding and the court may grant the request, with or without hearing, upon determining that the best interest of the person to be protected will be served thereby. The court may attach appropriate conditions to the permission.

Section 5-107. [Protection of Minors]

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 minor, incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the minor, 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 minor, incapacitated or ill person; or (ii) is currently being investigated or has charges pending for neglect of the minor, incapacitated or ill person.

**PART 2
GUARDIANS OF MINORS**

Section 5-201. [Appointment and Status of Guardian of Minor.]

A person may become a guardian of a minor by appointment by parent or guardian or upon appointment by the court. The guardianship status continues until terminated, without regard to the location from time to time of the guardian or minor ward. The district or juvenile court may appoint guardians of minors if the person who is the subject of the petition is a minor and there is a proceeding before such district or juvenile court and shall have continuing jurisdiction over resignation, removal, reporting, and other proceedings related to the guardianship.

Section 5-202. [Parental or Guardian Appointment of Guardian for Minor.]

(a) A parent, by will or other writing signed by the parent and attested by at least 2 witnesses, may appoint a guardian for any minor child the parent has or may have in the future, may revoke or amend the appointment, and may specify any desired limitations on the powers to be granted to the guardian.

(b) A guardian, by will or other writing signed by the guardian and attested by at least 2 witnesses, may appoint a guardian for any minor child for whom the guardian serves, may revoke or amend the appointment, and may specify any desired limitations on the powers to be granted to the guardian.

(c) Upon petition of an appointing parent or guardian, upon finding that the appointing parent or guardian will likely become unable to care for the minor within 2 years or less, and after notice as provided in section 5-206(b), the court, before the appointment becomes effective, may confirm the parent's or guardian's selection of a guardian and terminate the rights of others under section 5-203.

(d) Subject to section 5-203, the appointment of a guardian becomes effective on the first to occur of the appointing parent's or guardian's death, an adjudication that the parent or guardian is an incapacitated person, or a written determination by a physician who has examined the parent or guardian that the parent or guardian is no longer able to care for the minor unless the minor is in the care or custody of a person other than a parent pursuant to sections 24, 25, 26 and 39G of chapter 119, chapter 201; or section 3 of chapter 210.

(e) Within 30 days after the appointment becomes effective, a guardian shall:

(1) file a notice of acceptance of appointment and a copy of the will or other nominating instrument with the court of the county in which the will was or could be probated or, in the case of another nominating instrument, with the court of the county in which the minor resides; and

(2) unless the appointment was previously confirmed by the court, petition the court for confirmation of the appointment, giving notice in the manner provided in section 5-206(b).

(f) The parental appointment of a guardian shall not supersede the parental rights of either parent. If both parents are dead or have been adjudged incapacitated persons, an appointment by the last parent who dies or was adjudged incapacitated has priority.

(g) The powers of a guardian who timely complies with the requirements of subsection (e) relate back to give acts by the guardian which are of benefit to the minor and which occurred on or after the date the guardian was eligible to file an acceptance of office the same effect as those which occurred after the filing.

(h) The authority of a guardian appointed under this section terminates upon the first to occur of the appointment of a guardian by the court, the revocation of the appointment by the appointing parent or guardian, or the filing of an objection pursuant to section 5-203.

Section 5-203. [Objection by Minor Fourteen or Older to Parental Appointment.]

Except where the court has previously confirmed a nominee under section 5-202(c),

(i) a minor 14 or more years of age who is the subject of a parental appointment,

(ii) the other parent, if that parent's parental rights have not been terminated, or

(iii) a person other than a parent having care or custody of the minor or with whom the minor has resided during the 60 preceding days, excluding a foster parent may prevent the appointment or cause it to terminate by filing in the court in which the appointing instrument is filed a written objection to the appointment before it is accepted or within 30 days after receiving notice of its acceptance. An objection may be withdrawn. An objection shall not preclude appointment of the nominee by the court in a proper proceeding of the parental nominee or any other suitable person. The court may treat the filing of an objection as a petition for the appointment of a temporary guardian, and proceed accordingly.

Section 5-204. [Court Appointment of Guardian of Minor; Conditions for Appointment; Temporary Guardian.]

(a) The court may appoint a guardian for a minor if (i) the minor's parents are deceased or incapacitated, (ii) the parents consent, (iii) the parents' parental rights have been terminated, (iv) the parents have signed a voluntary surrender, or (v) the court finds the parents, jointly, or the surviving parent, to be unavailable or unfit to have custody. A guardian appointed pursuant to section 5-202 whose appointment has not been prevented or nullified under section 5-203 has priority over any guardian who may be appointed by the court, but the court may proceed with another appointment upon a finding that the parental nominee has failed to accept the appointment within 30 days after notice of the guardianship proceeding.

(b) While a petition for appointment of a guardian is pending, if a minor has no guardian, and the court finds that following the procedures of this article will likely result in substantial harm to the health, safety or welfare of the minor occurring prior to the return date, and no other person appears to have authority to act in the circumstances, on appropriate motion, the court may appoint a temporary guardian who may exercise those powers granted in the order. A motion for appointment of a temporary guardian shall state the nature of the circumstances requiring appointment, the particular harm sought to be avoided, and the actions which will be necessary by the temporary guardian to avoid the occurrence of the harm. Such motion shall be accompanied by an affidavit containing facts supporting the statements and requests in the motion. The appointment of a temporary guardian for a minor may occur even though the conditions described in subsection (a) have not been established. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order, the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(c) If an appointed guardian is not effectively performing duties and the court further finds that the welfare of the minor requires immediate action, it may appoint, with or without notice, a special guardian for the minor having the powers of a general guardian, except as limited in the letters of appointment. The authority of any guardian previously appointed is suspended as long as a special guardian has authority. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(d) The petitioner shall give written notice 7 days prior to any hearing for the appointment of a temporary guardian in hand to the minor if over the age of 14 years and by delivery or by mail to all persons named in the petition for appointment of guardian. A certificate that such notice has been given, setting forth the names and addresses of those to whom notice has been given, shall be prima facie evidence thereof.

(e) If the court determines that an immediate emergency situation exists which re-

quires the immediate appointment of a temporary guardian, it may shorten or waive the notice requirements in whole or in part and grant the motion, provided, however, that prior notice shall be given to the minor, if the minor is 14 or more years of age, as the court may order and post-appointment notice of any appointment is given to the minor and those named in the petition for appointment of guardian stating further that any such person may move to vacate the order of the court or request that the court take any other appropriate action on the matter, and on said motion to vacate. The court shall hear said motion as a de novo matter, as expeditiously as possible. A certificate stating that such notice has been given shall be filed with the court within 7 days following the appointment. Upon failure to file such certificate the court may on its own motion vacate said order.

(f) In the event that any person to whom notice is required is of parts unknown, such notice shall be delivered or mailed to that person's last known address, and the fact of such delivery or mailing shall be recited in the certificate of notice.

Section 5-205. [Reserved.]

Section 5-206. [Procedure for Court Appointment of Guardian of Minor.]

(a) A minor or any person interested in the welfare of the minor may petition for appointment of a guardian.

(b) After the filing of a petition, notice shall be given in the manner prescribed by section 1-401 by the petitioner to:

- (1) the minor, if the minor is 14 or more years of age and is not the petitioner;
- (2) any person who has been awarded care or custody of the minor by a court of competent jurisdiction, whom is alleged to have had the principal care or custody of the minor or with whom the minor has resided during the 60 days preceding the filing of the petition, excluding foster parents;

- (3) any living parent of the minor, excluding a parent whose parental rights have been terminated or a parent who has signed a voluntary surrender, or, if none, brothers and sisters, or, if none, heirs apparent or presumptive;

- (4) the spouse if the minor is married;

- (5) any person nominated as guardian by the minor if the minor has attained 14 years of age;

- (6) any parental or guardian appointee whose appointment has not been prevented or terminated under section 5-203;

- (7) any guardian or conservator currently acting for the minor in the commonwealth or elsewhere; and

- (8) the United States veterans administration or its successor if the minor is entitled to any benefit, estate or income paid or payable by or through said administration or its successors.

(c) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the conditions of section 5-204(a) have been met, and the welfare and best interest of the minor will be served by the requested appointment, it shall make the appointment and issue letters. In other cases, the court may

dismiss the proceedings or make any other disposition of the matter that will serve the best interest of the minor.

Section 5-207. [Court Appointment of Guardian of Minor; Qualifications; Priority of Minor's Nominee.]

(a) The court may appoint as guardian any person whose appointment would be in the best interest of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 or more years of age, unless the court finds the appointment contrary to the best interest of the minor.

(b) In the interest of developing self-reliance of a ward or for other good cause, the court, at the time of appointment or later, on its own motion or on motion of the minor ward or other interested person, may limit the powers of a guardian otherwise granted by this article and thereby create a limited guardianship. Any limitation on the statutory power of a guardian of a minor shall be endorsed on the guardian's letters or, in the case of a guardian by parental appointment, shall be reflected in letters that are issued at the time any limitation is imposed. Following the same procedure, additional powers may be granted or existing powers may be withdrawn.

Section 5-208. [Bond; Consent to Service by Acceptance of Appointment; Notice.]

(a) Prior to receiving letters, a guardian shall accept appointment by filing a bond conditioned upon faithful discharge of all duties of the trust according to law and containing a statement of acceptance of the duties of the office. By accepting a parental or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. The petitioner shall cause notice of any proceeding to be delivered or mailed to the guardian at the guardian's address listed in the court records and to the address then known to the petitioner.

(b) A surety shall be required on the bond of a guardian of a minor unless the court determines that it is in the best interest of the minor to waive the surety or to require additional sureties.

(c) The requirements and provisions of section 5-411 apply to guardians appointed under this part.

Section 5-209. [Powers, Duties, Rights and Immunities of Guardian of Minor; Limitations.]

(a) A guardian of a ward has the powers and responsibilities of a parent regarding the ward's support, care, education, health and welfare. A guardian shall act at all times in the ward's best interest and exercise reasonable care, diligence and prudence.

(b) In particular and without qualifying the foregoing, a guardian of a ward or incapacitated person shall:

(1) if consistent with the terms of any order by a court of competent jurisdiction take custody of the person of the ward or incapacitated person and establish his place of abode within or without the commonwealth;

(2) become or remain personally acquainted with the ward or incapacitated person and maintain sufficient contact with the person to know of his capacities, limitations, needs, opportunities, and physical and mental health;

(3) take reasonable care of the personal effects and commence protective proceedings if necessary to protect other property of the ward or incapacitated person;

(4) apply any available money of the ward or incapacitated person to his current needs for support, care, education health and welfare; provided that if any person has a legal duty to support a minor and has sufficient funds, the minor's funds are not to be used to discharge the legal obligation of support without prior order of the court unless the court determines that the minor's funds may be used for support;

(5) conserve any excess money of the person for his future needs, but if a conservator has been appointed for the estate of the ward or incapacitated person, the guardian, at least quarterly, shall pay to the conservator money of the ward or incapacitated person to be conserved for his future needs; and

(6) report the condition of the ward or protected person and of his estate that has been subject to the guardian's possession or control, as ordered by the court on petition of any person interested in the respondent's welfare or as required by court rule, but not less than annually.

(c) A guardian of a ward or incapacitated person may:

(1) apply for and receive money for the support of the ward or incapacitated person otherwise payable to his parent, guardian, or custodian for his support under the terms of any statutory benefit or insurance system or any private contract, devise, trust, conservatorship, or custodianship;

(2) if no conservator for the estate of the ward or incapacitated person has been appointed, institute proceedings, including administrative proceedings, or take other appropriate action to compel the performance by any person of a duty to support the ward or incapacitated person or to pay sums for his benefit;

(3) if consistent with the terms of any order by a court of competent jurisdiction and sections 5-306A and 5-309, consent to medical or other professional care, treatment, or advice for the ward or incapacitated person without liability by reason of the consent for injury to the ward or incapacitated person resulting from the negligence or acts of third persons unless a parent would have been liable in the circumstances;

(4) consent or refuse to consent to the marriage, divorce or adoption of the ward or incapacitated person;

(5) if reasonable under all of the circumstances, delegate to the ward or incapacitated person certain responsibilities for decisions affecting his well-being; and

(6) utilize the services of agencies and individuals to provide necessary and desirable social and protective services of different types appropriate to such person including, but not limited to, counseling services, advocacy services, legal services, and other aid as the guardian deems to be in the interest of such person.

(d) A guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board and clothing personally provided to the ward or incapacitated person, but only as approved by order of the court and only from the person's estate. If a conservator, other than the guardian or one who is affiliated with the guardian, has been appointed for the estate of the person, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without order of the court controlling the guardian.

(e) A guardian need not use the guardian's personal funds for the ward or incapacitated person's expenses. A guardian is not liable to a third person for acts of the respondent solely by reason of the relationship.

Section 5-210. [Termination of Appointment of Guardian; General.]

A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian or upon the minor's death, adoption, marriage, or attainment of majority, but termination shall not affect the guardian's liability for prior acts or the obligation to account for funds and assets of the ward. Resignation of a guardian shall not terminate the guardianship until it has been approved by the court. A parental appointment under an informally probated will is voided if the will is later denied probate in a formal proceeding.

Section 5-211. [Reserved.]

Section 5-212. [Resignation, Removal, and Other Post-appointment Proceedings.]

(a) Any person interested in the welfare of a ward or the ward, if 14 or more years of age, may petition for removal of a guardian on the ground that removal would be in the best interest of the ward or for any other order that is in the best interest of the ward. A guardian may petition for permission to resign. A petition for removal or for permission to resign may, but need not, include a request for appointment of a successor guardian.

(b) Notice of hearing on a petition for an order subsequent to appointment of a guardian shall be given to the ward, the guardian, the parents of the ward, provided that the parental rights have not been terminated or a voluntary surrender has not been signed, and any other person as ordered by the court.

(c) After notice and hearing on a petition for removal or for permission to resign, the court may terminate the guardianship and make any further order that may be appropriate, including appointment of a successor guardian.

PART 3 GUARDIANS OF INCAPACITATED PERSONS

Section 5-301. [Nomination of Guardian for Incapacitated Person by Will or Other Writing.]

(a) A parent, by will or other writing signed by the parent and attested by at least 2 witnesses, may nominate a guardian for an unmarried adult child who the parent believes is an incapacitated person, may revoke or amend the nomination, and may specify any desired limitations on the powers to be granted to the guardian.

(b) An individual by will or other writing signed by the individual and attested by at least 2 witnesses, may nominate a guardian for his spouse who the individual believes is an incapacitated person, may revoke or amend the nomination, and may specify any desired limitations on the powers to be granted to the guardian.

Section 5-302. [Reserved.]

Section 5-303. [Procedure for Court Appointment of a Guardian of an Incapacitated Person.]

(a) An incapacitated person or any person interested in the welfare of the person alleged to be incapacitated may petition for a determination of incapacity, in whole or in part, and the appointment of a guardian, limited or general.

(b) The petition shall set forth the petitioner's name, residence and address, relationship to the person alleged to be incapacitated, and interest in the appointment, and, to the extent known, set forth the following with respect to the person alleged to be incapacitated and the relief requested:

(1) the name and age of the person alleged to be incapacitated, his residence and the date residence was established;

(2) the address of the place it is proposed that the person alleged to be incapacitated will reside if the appointment is made;

(3) a brief description of the nature of the alleged incapacity, and whether:

(A) the person is alleged to be mentally retarded;

(B) the petitioner seeks court authorization to consent to treatment for which a substituted judgment determination may be required; or

(C) the petitioner seeks court authorization to admit the person alleged to be incapacitated to a nursing facility.

(4) the name and address of the proposed guardian, his relationship to the person alleged to be incapacitated, the reason why he or she should be selected, and the basis of the claim, if any, for priority for appointment;

(5) the name and address of the person's:

(A) spouse; and

(B) children, or if none, parents and brothers and sisters, or, if none, heirs apparent or presumptive and the ages of any who are minors, so far as known or ascertainable with reasonable diligence by the petitioner;

(6) the name and address of the person who has care or custody of the person alleged to be incapacitated or with whom the person has resided during the 60 days (exclusive of any period of hospitalization or institutionalization) preceding the filing of the petition;

(7) the name and address of any representative payee;

(8) the name and address of any person nominated as guardian by the person alleged to be incapacitated, and the name and address of any guardian or conservator currently acting for him in the commonwealth or elsewhere;

(9) the name and address of any agent designated under a durable power of attorney or health care proxy of which the person alleged to be incapacitated is the principal, if known

to the petitioner, and the petitioner shall attach a copy of any such power of attorney or health care proxy, if available;

(10) the reason why a guardianship is necessary, the type of guardianship requested, and if a general guardianship, the reason why limited guardianship is inappropriate, and if a limited guardianship, the powers to be granted to the limited guardian;

(11) a statement:

(A) that a medical certificate dated within 30 days of the filing of the petition or, in the case of a person alleged to be mentally retarded, a clinical team report dated within 180 days of the filing of the petition, is in the possession of the court or accompanies the petition; or

(B) of the nature of any circumstance which makes it impossible to obtain a medical certificate or clinical team report which shall be supported by affidavit or affidavits meeting the requirement set forth in Massachusetts Rule of Civil Procedure 4.1(h), in which case the court may waive or postpone the requirement of filing of a medical certificate or clinical team report; and

(12) a general statement of the property of the person alleged to be incapacitated with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts.

(c) Unless otherwise directed by the court, a medical certificate filed under this article shall be signed by a physician or licensed psychologist and shall contain:

(1) a description of the nature, type, and extent of the person's specific cognitive and functional limitations;

(2) an evaluation of the person's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(3) a prognosis for improvement and a recommendation as to the appropriate treatment or habilitation plan; and

(4) the date of any examination upon which the report is based.

(d) A person alleged to be mentally retarded shall be examined by a clinical team consisting of a physician, a licensed psychologist and a social worker, each of whom is experienced in the evaluation of mentally retarded persons, who shall report their conclusions to the Court.

(e) Reasonable expenses incurred in any examination conducted pursuant to this section shall be paid by the petitioner, the estate of the person alleged to be incapacitated, or by the commonwealth as the court may determine.

Section 5-304. [Notice in Guardianship or Conservatorship Proceeding.]

(a) In a proceeding for the appointment of a guardian or conservator or for protective order, and if notice is required in a proceeding for appointment of a temporary guardian or temporary conservator, notice shall be given by the petitioner to:

(1) the person alleged to be incapacitated or the person to be protected and his spouse and children, or, if none, parents, brothers and sisters, or, if none, heirs apparent or presumptive;

(2) any person who is serving as guardian, conservator, or who has the care or custody of the person or with whom the person has resided during the 60 days (exclusive of any period of hospitalization or institutionalization) preceding the filing of the petition;

(3) in case no other person is notified under paragraph (1), at least one of the nearest adult relatives, if any can be found;

(4) all other persons named in the petition;

(5) if the person is alleged to be mentally retarded, to the department of developmental services;

(6) the United States veteran's administration or its successor, if the person is entitled to any benefit, estate or income paid or payable by or through said administration or its successor; and

(7) any other person as directed by the court.

(b) Notice of hearing on a petition for an order subsequent to appointment of a guardian or conservator shall be given to the incapacitated person, person to be protected, the guardian, the conservator and any other person as ordered by the court.

(c) Notice shall be served personally on the person alleged to be incapacitated or the person to be protected. In all other cases, required notices shall be given as provided in section 1-401.

(d) A person alleged to be incapacitated or person to be protected may not waive notice.

Section 5-305. [Who May Be Guardian; Priorities.]

(a) Any qualified person may be appointed guardian of an incapacitated person.

(b) Unless lack of qualification or other good cause dictates the contrary, the court shall appoint a guardian in accordance with the incapacitated person's most recent nomination in a durable power of attorney.

(c) Except as provided in subsection (b), the following, if suitable, are entitled to consideration for appointment in the order listed:

(1) the spouse of the incapacitated person or a person nominated by will of a deceased spouse or by other writing signed by the spouse and attested by at least 2 witnesses;

(2) a parent of the incapacitated person, or a person nominated pursuant to section 5-301; and

(3) any person the court deems appropriate.

(d) With respect to persons having equal priority, the court shall select the one it deems best suited to serve. The court, acting in the best interest of the incapacitated person, may pass over a person having priority and appoint a person having a lower priority or no priority.

Section 5-306. [Findings; Order of Appointment.]

(a) The court shall exercise the authority conferred in this part so as to encourage the development of maximum self-reliance and independence of the incapacitated person and make appointive and other orders only to the extent necessitated by the incapacitated person's limitations or other conditions warranting the procedure.

(b) Upon hearing, the court may appoint a guardian as requested if it finds that:

(1) a qualified person seeks appointment;

(2) venue is proper;

(3) the required notices have been given;

(4) any required medical certificate is dated and the examination has taken place within 30 days prior to the hearing;

(5) any required clinical team report is dated and the examinations have taken place within 180 days prior to the filing of the petition;

(6) the person for whom a guardian is sought is an incapacitated person;

(7) the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person; and

(8) the person's needs cannot be met by less restrictive means, including use of appropriate technological assistance.

The court, on appropriate findings, may enter any appropriate order, or dismiss the proceedings.

(c) The court, at the time of appointment or later, on its own motion or on appropriate petition or motion of the incapacitated person or other interested person, may limit the powers of a guardian otherwise conferred by parts 1 to 4, inclusive, of this article and thereby create a limited guardianship. Any limitation on the statutory power of a guardian of an incapacitated person shall be endorsed on the guardian's letters. Following the same procedure, a limitation may be removed or modified and appropriate letters issued.

Section 5-306A. [Substituted Judgment.]

(a) No guardian, temporary guardian or special guardian of a minor or an incapacitated person shall have the authority to consent to treatment for which substituted judgment determination may be required, provided that the court shall authorize such treatment when it (i) specifically finds using the substituted judgment standard that the person, if not incapacitated, would consent to such treatment and (ii) specifically approves and authorizes a treatment plan and endorses said plan in its order or decree. The court shall not authorize such treatment plan except after a hearing for the purpose of which counsel shall be provided for any indigent minor or incapacitated person. Said hearing shall be held as soon as is practicable; provided, however, that if the petitioner requests a temporary order on the grounds that the welfare of the minor or person alleged to be incapacitated requires an immediate authorization of treatment, the court shall act on such request in accordance with the procedures set forth in section 5-308.

(b) The court may delegate to a guardian the authority to monitor the treatment process to ensure that a treatment plan is followed, provided a guardian is readily available for such purpose. Approval of a treatment plan shall not be withheld, however, because a guardian is not available to serve as monitor. In such circumstances, the court shall appoint a suitable person to monitor the treatment process to ensure that the treatment plan is followed. Reasonable expense incurred in such monitoring may be paid out of the estate of

such person, by the petitioner, or, subject to appropriation, by the commonwealth, as may be determined by the court.

(c) Each order authorizing a treatment plan pursuant to this section shall provide for periodic review at least annually to determine whether the incapacitated person's condition and circumstances have substantially changed such that, if competent, the incapacitated person would no longer consent to the treatment authorized therein. Each such order shall further provide for an expiration date beyond which the authority to provide treatment thereunder shall, if not extended by the court, terminate.

(d) An incapacitated person is required to attend any hearing relative to authority to consent to treatment for which a substituted judgment determination is required, unless the court finds that there exist extraordinary circumstances requiring the absence of the incapacitated person in which event the attendance of his counsel shall suffice; provided that the court may base its findings exclusively upon affidavits and other documentary evidence if it (1) determines after careful inquiry and upon representations of counsel, that there are no contested issues of fact and (2) includes in its findings the reason that oral testimony was not required.

(e) Any privilege established by section 135A of chapter 112 or by section 20B of chapter 233 relating to confidential communications shall not prohibit the filing of reports or affidavits, or the giving of testimony, pursuant to this part, for the purposes of obtaining treatment of a person alleged to be incapacitated; provided, however, that such person has been informed prior to making such communication that they may be used for such purpose and has waived the privilege.

Section 5-307. [Bond; Acceptance of Appointment; Consent to Jurisdiction.]

(a) Prior to receiving letters, a guardian shall accept appointment by filing a bond conditioned upon faithful discharge of all duties of the trust according to law and containing a statement of acceptance of the duties of the office. By accepting a parental or court appointment as guardian, a guardian submits personally to the jurisdiction of the court in any proceeding relating to the guardianship that may be instituted by any interested person. The petitioner shall cause notice of any proceeding to be delivered or mailed to the guardian at the guardian's address listed in the court records and to the address then known to the petitioner.

(b) A surety shall be required on the bond of a guardian of an incapacitated person unless the court determines that it is in the best interest of the incapacitated person to waive the surety or to require additional sureties. Language in a durable power of attorney or health care proxy waiving the guardian's bond shall be deemed to be a request for waiver of any necessity of sureties on a bond.

(c) The requirements and provisions of section 5-411 apply to guardians appointed under this part.

Section 5-308. [Emergency Orders; Temporary Guardians.]

(a) While a petition for appointment of a guardian is pending, if an incapacitated person has no guardian, and the court finds that following the procedures of this article will

likely result in immediate and substantial harm to the health, safety or welfare of the person alleged to be incapacitated occurring prior to the return date, and no other person appears to have authority to act in the circumstances, on appropriate motion the court may appoint a temporary guardian who may exercise only those powers granted in the order. A motion for appointment of a temporary guardian shall state the nature of the circumstances requiring appointment, the particular harm sought to be avoided, the actions which will be necessary by the temporary guardian to avoid the occurrence of the harm and the name and address of any agent designated under a health care proxy or durable power of attorney of which the person alleged to be incapacitated is the principal, and the petitioner shall attach a copy of any such health care proxy or durable power of attorney, if available. Such motion shall be accompanied by an affidavit containing facts supporting the statements and requests in the motion. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order, the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(b) If an appointed guardian is not effectively performing duties and the court further finds that the welfare of the incapacitated person requires immediate action, it may appoint, with or without notice, a special guardian for the incapacitated person having the powers of a general guardian, except as limited in the letters of appointment. The authority of any guardian previously appointed by the court is suspended as long as a special guardian has authority. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(c) The petitioner shall give written notice 7 days prior to any hearing for the appointment of a temporary guardian in hand to the person alleged to be incapacitated and by delivery or by mail to all persons named in the petition for appointment of guardian. A certificate that such notice has been given, setting forth the names and addresses of those to whom notice has been given, shall be prima facie evidence thereof.

(d) If the court determines that an immediate emergency situation exists which requires the immediate appointment of a temporary guardian, it may shorten or waive the notice requirements in whole or in part and grant the motion, provided, however, that prior notice shall be given to the person alleged to be incapacitated as the court may order and post appointment notice of any appointment is given to the person alleged to be incapacitated and those named in the petition for appointment of guardian stating further that any such person may move to vacate the order of the court or request that the court take any other appropriate action on the matter, and on said motion to vacate. The court shall hear said motion as a de novo matter, as expeditiously as possible. A certificate stating that such notice has been given shall be filed with the court within 7 days following the appointment. Upon failure to file such certificate the court may on its own motion vacate said order.

(e) In the event that any person to whom notice is required is of parts unknown, such notice shall be delivered or mailed to that person's last known address, and the fact of such delivery or mailing shall be recited in the certificate of notice.

(f) Appointment of a temporary guardian, with or without notice, is not a final determination of a person's incapacity.

(g) The court may remove a temporary guardian at any time. A temporary guardian shall make any report the court requires. In other respects the provisions of parts 1, 2, 3 and 4 of this article concerning guardians apply to temporary guardians.

Section 5-309. [Powers, Duties, Rights and Immunities of Guardians, Limitations.]

(a) Except as limited pursuant to section 5-306(c), a guardian of an incapacitated person shall make decisions regarding the incapacitated person's support, care, education, health and welfare, but a guardian is not personally liable for the incapacitated person's expenses and is not liable to third persons by reason of that relationship for acts of the incapacitated person. A guardian shall exercise authority only as necessitated by the incapacitated person's mental and adaptive limitations, and, to the extent possible, shall encourage the incapacitated person to participate in decisions, to act on his own behalf, and to develop or regain the capacity to manage personal affairs. A guardian, to the extent known, shall consider the expressed desires and personal values of the incapacitated person when making decisions, and shall otherwise act in the incapacitated person's best interest and exercise reasonable care, diligence, and prudence. A guardian shall immediately notify the court if the incapacitated person's condition has changed so that he or she is capable of exercising rights previously limited. In addition, a guardian has the duties, powers and responsibilities of a guardian of a minor as described in section 5-209(b), (c), (d) and (e).

(b) A guardian shall report in writing the condition of the incapacitated person and account for funds and other assets subject to the guardian's possession or control within 60 days following appointment, at least annually thereafter, and when otherwise ordered by the court. A report shall briefly state:

(1) the current mental, physical and social condition of the incapacitated person;

(2) the living arrangements for all addresses of the incapacitated person during the reporting period;

(3) the medical, educational, vocational and other services provided to the incapacitated person and the guardian's opinion as to the adequacy of the incapacitated person's care;

(4) a summary of the guardian's visits with and activities on the incapacitated person's behalf and the extent to which the incapacitated person participated in decision-making;

(5) if the incapacitated person is institutionalized, whether the guardian considers the current treatment or habilitation plan to be in the incapacitated person's best interests;

(6) plans regarding future care; and

(7) a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.

(c) The court shall establish a system for monitoring guardianships, including the filing and review of annual reports.

(d) The court may appoint a guardian ad litem pursuant to section 1-404 to review a report, to interview the incapacitated person or guardian, and to make such other investigation as the court may direct.

(e) A guardian, without authorization of the court, may not revoke a health care proxy of which the incapacitated person is the principal. If a health care proxy is in effect, absent an order of the court to the contrary, a health-care decision of the agent takes precedence over that of a guardian.

(f) No guardian shall be given the authority under this chapter to admit or commit an incapacitated person to a mental health facility or a mental retardation facility as defined in the regulations of the department of mental health.

(g) No guardian shall have the authority to admit an incapacitated person to a nursing facility except upon a specific finding by the court that such admission is in the incapacitated person's best interest.

Section 5-310. [Termination of Guardianship for Incapacitated Person.]

The authority and responsibility of a guardian of an incapacitated person terminates upon the death of the guardian or incapacitated person, the determination of incapacity of the guardian, the determination that the person is no longer incapacitated, or upon removal or resignation as provided in section 5-311. Testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination shall not affect a guardian's liability for prior acts or the obligation to report or account for funds and assets of the incapacitated person.

Section 5-311. [Removal or Resignation of Guardian; Termination of Incapacity.]

(a) On petition of the incapacitated person or any person interested in the incapacitated person's welfare, the court, after notice and hearing, may remove a guardian if the person under guardianship is no longer incapacitated or for other good cause. On petition of the guardian, the court, after hearing, may accept a resignation.

(b) The incapacitated person or any person interested in the welfare of the incapacitated person may petition for an order that the person is no longer incapacitated and for termination of the guardianship. A request for an order may also be made informally to the court.

(c) Upon removal, resignation, or death of the guardian, or if the guardian is determined to be incapacitated or disabled, the court may appoint a successor guardian and make any other appropriate order. Before appointing a successor guardian, or ordering that a person's incapacity has terminated, the court shall follow the same procedures to safeguard the rights of the incapacitated person that apply to a petition for appointment of a guardian.

Section 5-312. [Reserved.]

Section 5-313. [Religious Freedom of Incapacitated Person.]

It shall be the duty of all guardians appointed under this Article to protect and preserve the incapacitated person's right of freedom of religion and religious practice.

PART 4
MANAGEMENT OF PROPERTY OF PERSONS
UNDER DISABILITY AND MINORS

Section 5-401. [Management of Estate.]

(a) Upon petition and after notice and hearing in accordance with the provisions of this part, the court may appoint a limited or unlimited conservator or make any other protective order for cause as provided in this section.

(b) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money, real property or personal property requiring management or protection that cannot otherwise be provided or has or may have business affairs that may be jeopardized or prevented by minority, or that funds are needed for support and education and that protection is necessary or desirable to obtain or provide money.

(c) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person who is disabled for reasons other than minority if the court determines that:

(1) the person is unable to manage property and business affairs effectively because of a clinically diagnosed impairment in the ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate technological assistance, or because the individual is detained or otherwise unable to return to the United States; and

(2) the person has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, and welfare of the person or those entitled to the person's support and that protection is necessary or desirable to obtain or provide money.

Section 5-402. [Protective Proceedings; Jurisdiction of Business Affairs of Protected Persons.]

After the service of notice in a proceeding seeking the appointment of a conservator or other protective order and until termination of the proceeding, the court in which the petition is filed has:

(1) exclusive jurisdiction to determine the need for a conservator or other protective order until the proceedings are terminated; and

(2) exclusive jurisdiction to determine how the estate of the protected person which is subject to the laws of the commonwealth shall be managed, expended, or distributed to or for the use of the protected person, the protected person's dependents, or other claimants.

Section 5-403. [Reserved.]

Section 5-404. [Original Petition for Appointment or Protective Order.]

(a) The person to be protected or any person who is interested in the estate, affairs, or welfare of the person, including a parent, guardian, custodian, or any person who would be adversely affected by lack of effective management of the person's property and business

affairs may petition for a determination of disability, in whole or in part, and the appointment of a conservator or for other appropriate protective order.

(b) The petition shall set forth the petitioner's name, residence address, current street address if different, relationship to the person to be protected, and interest in the appointment or other protective order, and, to the extent known, state the following with respect to the person to be protected and the relief requested:

(1) the name of the person to be protected, his age, principal residence, current street address, and, if different, the address of the dwelling where it is proposed that the person to be protected will reside if the appointment is made, and the date residence was established;

(2) a brief description of the nature of the alleged incapacity;

(3) if the petition is being brought because the individual is detained or is otherwise unable to return to the United States, a statement of the relevant circumstances, including the time and nature of the detention or inability to return and a description of any search or inquiry concerning the person's whereabouts;

(4) the name and address of the person's:

(A) spouse; and

(B) adult children, or if none, parents and adult brothers and sisters, or, if none, heirs apparent or presumptive;

(5) the name and address of the person who has care or custody of the person or with whom the person has resided during the 60 days, exclusive of any period of hospitalization or institutionalization, preceding the filing of the petition;

(6) the name and address of any representative payee, trustee or custodian of a trust or custodianship of which the person to be protected is a beneficiary;

(7) the name and address of any person nominated as conservator by the person to be protected under a durable power of attorney, if known to the petitioner, and the name and address of any guardian or conservator currently acting for him in the commonwealth or elsewhere;

(8) the name and address of any agent designated under a durable power of attorney of which the person to be protected is the principal, if known to the petitioner, and the petitioner shall attach a copy of any such power of attorney, if available;

(9) a general statement of the person's property with an estimate of its value, including any insurance, pension, and the source and amount of any anticipated income or receipts;

(10) the reason why appointment of a conservator or other protective order is in the best interest of the person to be protected;

(11) a statement:

(A) that a medical certificate conforming with the provisions of section 5-303(c) dated within 30 days of the filing of the petition is in the possession of the court or accompanies the petition; or

(B) of the nature of any circumstance which makes it impossible to obtain a medical

certificate which shall be supported by affidavit or affidavits meeting the requirements set forth in Massachusetts Rule of Civil Procedure 4.1(h), in which case the court may waive or postpone the requirement of filing of a medical certificate.

(c) If the appointment of a conservator is requested, the petition shall also set forth to the extent known:

(1) the name and address of the proposed conservator, his relationship to the person to be protected, the reason why he or she should be selected, and the basis of the claim, if any, for priority for appointment;

(2) the name and address of any person nominated as conservator by the person to be protected if 14 or more years of age;

(3) the type of conservatorship requested, and if a general conservatorship, the reason why a limited conservatorship is inappropriate, and if a limited conservatorship, the powers to be granted to the limited conservator or property to be placed under the conservator's control; and

(d) Reasonable expenses incurred in any examination conducted pursuant to this section shall be paid by the petitioner, the estate of the person to be protected, or by the commonwealth as the court may determine.

Section 5-405. [Notice.]

(a) On a petition for appointment of a conservator or other protective order, the requirements for notice described in section 5-304 apply, but (i) if the person to be protected has disappeared or is otherwise situated so as to make personal service of notice impracticable, notice to the person shall be given by leaving a copy of the petition and citation at the last and usual place of abode of the person to be protected, and (ii) if the person to be protected is a minor, the provisions of section 5-206(b) also apply.

(b) Notice of hearing on a petition for an order subsequent to appointment of a conservator or other protective order shall be given to the protected person, any conservator of the protected person's estate, and any other person as ordered by the court.

Section 5-406. [Reserved.]

Section 5-407. [Findings; Order of Appointment; Permissible Court Orders.]

(a) The court shall exercise the authority conferred in this Part to encourage the development of maximum self-reliance and independence of a protected person and make protective orders only to the extent necessitated by the protected person's limitations and other conditions warranting the procedure.

(b) Upon hearing, the court may appoint a conservator as requested if it finds that:

(1) a qualified person seeks appointment;

(2) venue is proper;

(3) the required notices have been given;

(4) any required medical certificate is dated and the examination has taken place within 30 days prior to the hearing;

(5) the person for whom a conservator is sought is a disabled person;

(6) the appointment is necessary or desirable as a means of providing continuing care and supervision of the property and business affairs of the person to be protected; and

(7) the person's needs cannot be met by less restrictive means, including use of appropriate technological assistance.

The court, on appropriate findings, may enter any appropriate order or dismiss the proceedings.

(c) After full hearing and upon determining that a basis for an appointment or other protective order exists with respect to a minor without other disability, the court, after making appropriate findings of fact, has all those powers over the property and business affairs of the minor which are or may be necessary for the best interest of the minor and members of the minor's immediate family. Those powers include, but are not limited to, the power to create revocable trusts of the property of the estate which may extend beyond the minority of the minor, provided that:

(1) the court determines that it is in the best interest of the minor to extend the management and protection of the minor's money and property beyond the minor attaining the age of 18;

(2) the minor and issue of the minor are the only beneficiaries of the trust during the minor's lifetime;

(3) upon the termination of the trust during the minor's lifetime, the trust property will be distributed only to the minor;

(4) the ward, upon attaining the age of 18 shall have the inter vivos and testamentary power to appoint to or among such person or persons and in such proportions and upon such terms, whether outright or in trust or otherwise, all or any part of the property of the trust as the minor may determine;

(5) upon the death of the minor, to the extent that the minor fails to exercise the power to appoint, the trust will provide that the trust property be distributed to or be held in trust for the benefit of such relatives as would be likely recipients of legacies from the minor as determined by the court pursuant to subsection (e).

After full hearing and upon determining that an amendment, extension, or revocation is in the best interest of the minor, the court may amend, extend, or revoke the trust whether or not the minor has attained the age of 18. The court shall retain jurisdiction over the trust while it continues to exist.

(d) After full hearing and upon determining that a basis for an appointment or other protective order exists with respect to a person to be protected for reasons other than minority, the court, after making appropriate findings of fact, has all those powers over the property and business affairs of the protected person which are or may be necessary for the best interest of the protected person and members of his immediate family. Those powers include, but are not limited to the power to:

(1) make gifts, except as otherwise provided in section 5-424(b);

(2) convey, release, or disclaim contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or

tenancy by the entirety;

(3) exercise or release a power of appointment;

(4) create a revocable or irrevocable trust of property of the estate, whether the trust does or does not extend beyond the duration of the conservatorship, or to revoke or amend a trust revocable by the protected person;

(5) exercise rights to elect options and change beneficiaries under insurance policies and annuities or surrender the policies and annuities for their cash value;

(6) exercise any right to an elective share in the estate of the protected person's deceased spouse and to renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos; and

(7) make, amend, or revoke the protected person's will. The conservator, in making, amending, or revoking the protected person's will, shall comply with section 2-502 of this chapter.

(e) The court, in exercising or in approving a conservator's exercise of the powers listed in subsection (d), shall consider primarily the decision that the protected person would have made if not disabled, to the extent that the decision can be ascertained. In the absence of any evidence of the personal preference of the protected person, the court shall consider the following factors, and may exercise or approve a conservator's exercise of such powers even in the absence of 1 or more such factors:

(1) the financial needs of the protected person and the needs of individuals who are dependent on the protected person for support and the interest of creditors;

(2) reduction of income, estate, inheritance, or other tax liabilities;

(3) eligibility for governmental assistance;

(4) the protected person's previous pattern of giving or level of support;

(5) the existing estate plan;

(6) the likely recipients of the protected person's bounty;

(7) the protected person's life expectancy; the probability that the conservatorship will terminate before the protected person's death; and

(8) any other factors the court considers relevant.

(f) A determination that a basis for appointment of a conservator or other protective order exists is not a determination of incapacity of the protected person.

(g) The conservator shall have custody of all wills, codicils and other estate planning documents executed by the protected person.

Section 5-408. [Protective Arrangements and Single Transactions Authorized.]

(a) Upon petition, after notice as provided in section 5-405 and hearing, and if a basis exists as described in section 5-401 for affecting the property and business affairs of a person, the court, without appointing a conservator, may authorize, direct or ratify any transaction necessary or desirable to achieve any arrangement for security, service, or care meeting the foreseeable needs of the protected person. Protective arrangements include payment, delivery, deposit, or retention of funds or property; sale, mortgage, lease, or other transfer of tangible or intangible personal property; entry into an annuity contract, a contract

for life care, a deposit contract, or a contract for training and education; or addition to or establishment of a suitable trust including a trust created under the uniform custodial trust act.

(b) Upon petition, after notice as provided in section 5-405 and hearing, and if a basis exists as described in section 5-401 for affecting the property and business affairs of a person, the court, without appointing a conservator, may authorize, direct, or ratify any contract, trust, or other transaction relating to the protected person's property and business affairs, including settlement of a claim, if the court determines that the transaction is in the best interest of the protected person.

(c) Before approving a protective arrangement or other transaction under this section, the court shall consider the factors listed in section 5-407(e). The court may appoint a special conservator to assist in the accomplishment of any protective arrangement or other transaction authorized under this section who shall have the authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

Section 5-409. [Who May Be Appointed Conservator; Priorities.]

(a) Subject to subsection (c), the court may appoint an individual or a corporation with general power to serve as trustee or conservator of the estate of a protected person. The following are entitled to consideration for appointment in the order listed:

(1) Unless lack of qualification or other good cause dictates the contrary, a person nominated in the protected person's most recent durable power of attorney;

(2) a conservator, guardian of property, or other like fiduciary appointed or recognized by an appropriate court of any other jurisdiction in which the protected person resides;

(3) an individual or corporation nominated by the protected person 14 or more years of age and of sufficient mental capacity to make an intelligent choice;

(4) an agent appointed by the protected person under a durable power of attorney;

(5) a parent of the protected person, or any parental nominee; and

(6) any person deemed appropriate by the court.

(b) The court, acting in the best interest of the protected person, may pass over a person having priority and appoint a person having a lower priority or no priority.

(c) An owner, operator, or employee of a long-term care institution at which the protected person is receiving care or a paid caretaker may not be appointed as conservator unless related to the protected person by blood, marriage, or adoption.

Section 5-410. [Bond.]

(a) A conservator, temporary conservator and special conservator shall furnish a bond conditioned upon faithful discharge of all duties of the trust according to law and containing a statement of acceptance of the duties of the office. A surety shall be required on the bond of a conservator, except the court may waive the requirement of sureties for good cause shown by the conservator. A bond with sureties shall be in the amount established by the court.

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(b) Notwithstanding subsection (a), but subject to section 5-415, a conservator shall not be required to furnish sureties on his bond if the conservator has a priority for appointment under section 5-409(a)(1) and the person nominating the conservator expressly waives the requirement.

Section 5-411. [Terms and Requirements of Bonds.]

(a) The following requirements and provisions apply to any bond required under sections 5-208, 5-305 and 5-410:

(1) Bonds shall name the first judge of the court making the appointment and his successors as obligee for the benefit of the persons interested in the estate and shall be conditioned upon the faithful discharge by the fiduciary of all duties according to law.

(2) Unless otherwise provided by the terms of the approved bond, sureties are jointly and severally liable with the guardian or conservator and with each other.

(3) By executing an approved bond of a guardian or conservator, the surety consents to the jurisdiction of the court that issued letters to the primary obligor in any proceeding pertaining to the fiduciary duties of the guardian or conservator and naming the surety as a party respondent. Notice of any proceeding on the bond shall be delivered to the surety or mailed by registered or certified mail to the address listed with the court at the place where the bond is filed and to the address as then known to the petitioner.

(4) On petition of a successor guardian or conservator or any interested person, a proceeding may be initiated against a surety for breach of the obligation of the bond of the guardian or conservator.

(5) The bond of the guardian or conservator is not void after the first recovery but may be proceeded against from time to time until the whole penalty is exhausted.

(6) If a new bond is required, the sureties on the prior bond shall be liable for all breaches of the conditions thereof committed before the new bond is approved and filed.

(7) In no event shall any surety be liable for any claim or cause of action arising out of or in any way connected with acts or omissions of the guardian or conservator occurring prior to the appointment of such person as guardian or conservator.

(b) No proceeding may be commenced against the surety on any matter as to which an action or proceeding against the primary obligor is barred.

Section 5-412. [Acceptance of Appointment; Consent to Jurisdiction.]

Prior to receiving letters, a conservator, temporary conservator and special conservator shall accept appointment by filing a bond containing a statement of acceptance of the duties of the office. By accepting appointment, a conservator submits personally to the jurisdiction of the court in any proceeding relating to the estate which may be instituted by any interested person. Notice of any proceeding shall be delivered to the conservator or mailed by registered or certified mail to the address as listed in the petition for appointment or as thereafter reported to the court and to the address as then known to the petitioner.

Section 5-412A. [Emergency Orders; Temporary Conservators.]

(a) While a petition for appointment of a conservator or other protective order is pending and after hearing and without notice to others, the court may make orders to preserve

and apply the property of the person to be protected as may be required for the support of the person to be protected or his dependents.

(b) While a petition for appointment of a conservator is pending, if a person to be protected has no conservator, and the court finds that following the procedures of this article will likely result in substantial harm to the property, income or entitlements of the person to be protected or those entitled to the person's support occurring prior to the return date, and no other person appears to have authority to act in the circumstances, on appropriate motion the court may appoint a temporary conservator having the powers who may exercise only those powers granted in the order. A motion for appointment of a temporary conservator shall state the nature of the circumstances requiring appointment, the particular harm sought to be avoided, the actions which will be necessary by the temporary conservator to avoid the occurrence of the harm and the name and address of any attorney in fact designated under a durable power of attorney of which the person to be protected is the principal, and the petitioner shall attach a copy of any such durable power of attorney, if available. Such motion shall be accompanied by an affidavit containing facts supporting the statements and requests in the motion. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order, the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(c) If an appointed conservator is not effectively performing duties and the court further finds that the welfare of the person to be protected requires immediate action, it may appoint, with or without notice, a special conservator for the protected person having the powers of a general conservator, except as limited in the letters of appointment. The authority of any conservator previously appointed by the court is suspended as long as a special conservator has authority. The appointment may be for a period of up to 90 days except that upon a finding of extraordinary circumstances set forth in its order the court may order an appointment for a longer period to a date certain. The court may for good cause shown extend the appointment for additional 90 day periods.

(d) The petitioner shall give written notice 7 days prior to any hearing for the appointment of a temporary conservator in hand to the person to be protected and by delivery or by mail to all persons named in the petition for appointment of conservator. A certificate that such notice has been given, setting forth the names and addresses of those to whom notice has been given, shall be prima facie evidence thereof.

(e) If the court determines that an immediate emergency situation exists which requires the immediate appointment of a temporary conservator, it may shorten or waive the notice requirements in whole or in part and grant the motion, provided, however, that prior notice shall be given to the person to be protected as the court may order and post-appointment notice of any appointment is given to the person to be protected and those named in the petition for appointment of conservator stating further that any such person may move to vacate the order of the court or request that the court take any other appropriate action on the matter, and on said motion to vacate, the court shall hear said motion as a de

novo matter, as expeditiously as possible. A certificate stating that such notice has been given shall be filed with the court within 7 days following the appointment. Upon failure to file such certificate the court may on its own motion vacate said order.

(f) In the event that any person to whom notice is required is of parts unknown, such notice shall be delivered or mailed to that person's last known address, and the fact of such delivery or mailing shall be recited in the certificate of notice.

(g) Appointment of a temporary conservator, with or without notice, is not a determination of a persons incapacity or disability.

(h) The court may remove a temporary or special conservator at any time. A temporary conservator and a special conservator shall make any report the court requires. In other respects the provisions of parts 1, 2, 3 and 4 of this article concerning conservators apply to temporary and special conservators.

Section 5-413. [Compensation and Expenses.]

If not otherwise compensated for services rendered, any guardian ad litem, attorney, physician, licensed psychologist, clinical team, guardian, special guardian, temporary guardian, conservator, temporary conservator or special conservator appointed in a protective proceeding and any attorney whose services resulted in a protective order or in an order that was beneficial to a protected person's estate is entitled to reasonable compensation from the estate. Compensation may be paid and expenses reimbursed without court order, but, if the court later determines that the compensation is excessive or the expenses are inappropriate, the excessive or inappropriate amount shall be repaid to the estate on such terms as the court may order, including, but not limited to, costs, interest and attorney fees. The court may order that such compensation be paid by the petitioner.

Section 5-414. [Reserved.]

Section 5-415. [Petitions for Orders Subsequent to Appointment.]

(a) Any person interested in the welfare of a person for whom a conservator has been appointed may file a petition in the appointing court for an order:

(1) requiring sureties or collateral or additional sureties or collateral, or reducing bond;

(2) requiring an inventory or accounting for the administration of the trust;

(3) directing distribution;

(4) removing the conservator and appointing a temporary or successor conservator;

or

(5) granting other appropriate relief.

(b) A conservator may petition the appointing court for instructions concerning fiduciary responsibility.

(c) Upon notice and hearing, the court may give appropriate instructions or make any appropriate order.

Section 5-416. [General Duty of Conservator; Plan.]

(a) A conservator, in relation to powers conferred by this part, or implicit in the title acquired by virtue of the proceeding, shall act as a fiduciary and observe the standards of care

applicable to trustees as described by chapter 203C.

(b) A conservator shall exercise authority only as necessitated by the mental and adaptive limitations of the protected person, and to the extent possible, encourage the person to participate in decisions, to act in the person's own behalf, and to develop or regain the ability to manage the person's estate and business affairs.

(c) The court may order a conservator to file with the appointing court a plan for managing, expending, and distributing the assets of the protected person's estate. The plan shall be based on the actual needs of the person and take into consideration the best interest of the person. The conservator shall include in the plan steps to develop or restore the person's ability to manage the person's property, an estimate of the duration of the conservatorship, and projections for expenses and resources.

(d) In investing an estate, selecting assets of the estate for distribution, and invoking powers of revocation or withdrawal available for the use and benefit of the protected person and exercisable by the conservator, a conservator shall take into account any estate plan of the person known to the conservator and may examine the will and any other donative, nominative, or other appointive instrument of the person.

Section 5-417. [Inventory and Records.]

(a) Within 90 days after qualification, each conservator shall prepare and file with the appointing court a detailed inventory of the estate subject to the conservatorship together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. The conservator shall provide a copy thereof to the protected person if the person has attained the age of 14 years. A copy also shall be provided to any guardian or parent with whom the protected person resides.

(b) The conservator shall keep suitable records of the administration and exhibit the same on request of any interested person.

Section 5-418. [Accounts.]

(a) Each conservator shall account to the court for administration of the trust not less than annually unless the court directs otherwise, upon resignation or removal and at other times as the court may direct. On termination of the protected person's minority or disability, a conservator shall account to the court. Subject to appeal or vacation within the time permitted, an order allowing an intermediate account of a conservator adjudicates as to liabilities of the conservator concerning the matters set forth therein or shown thereby; and an order allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or the protected person's successors relating to the conservatorship.

(b) A conservator or any interested person may petition for an order of complete settlement of an account. Notice shall be given in the manner prescribed by section 1-401 by the petitioner to all interested persons.

(c) An account shall state or contain:

(1) a listing of the balance of the prior account or inventory, receipts, disbursements

and distributions during the reporting period and the assets of the estate under the conservator's control at the end of the reporting period;

(2) a listing of the services provided to the protected person; and

(3) any recommended changes in any conservatorship plan as well as a recommendation as to the continued need for conservatorship and any recommended changes in the scope of the conservatorship.

(d) If there are persons interested to whom notice has not been given, or if the interests of persons incapacitated or under disability are not represented except by the accountant, the court shall appoint as guardian ad litem an individual or any public or charitable agency to review the account and make appropriate recommendations to the court.

(e) Objections to a conservator's account shall be filed in the manner prescribed by section 1-401. After the time required for any notice has expired, upon proof of notice, and after any hearing that may be necessary, the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the conservator from further claim or demand of any interested person.

(f) The court shall establish a system for monitoring of conservatorships, including the filing and review of conservators' accounts and plans.

Section 5-419. [Conservators; Title By Appointment.]

(a) The appointment of a conservator vests in the conservator title as fiduciary to all property, or to the part thereof specified in the order, of the protected person, held at the time of appointment or thereafter acquired. An order vesting title to only a part of the property of the protected person creates a conservatorship limited to assets specified in the order.

(b) Except as otherwise provided herein, the interest of the protected person in property vested in a conservator by this section is not transferable or assignable by the protected person. An attempted transfer or assignment by the protected person, though ineffective to affect property rights, may generate a claim for restitution or damage.

Section 5-420. [Recording of Conservator's Letters.]

(a) Letters of conservatorship are evidence of transfer of all assets or the part thereof specified in the letters, of a protected person to the conservator. An order terminating a conservatorship is evidence of transfer of all assets subjected to the conservatorship from the conservator to the protected person, or to successors of the person.

(b) Subject to the requirements of general statutes governing the filing or recordation of documents of title to land or other property, letters of conservatorship and orders terminating conservatorships, shall be filed or recorded in each registry district in which the protected person owns real property to give record notice of title as between the conservator and the protected person.

Section 5-421. [Sale, Encumbrance, or Transaction Involving Conflict of Interest Voidable; Exceptions.]

Any sale or encumbrance to a conservator, the spouse, agent, attorney of a conservator or any corporation, trust, or other organization in which the conservator has a substantial

beneficial interest, or any other transaction involving the estate being administered by the conservator which is affected by a substantial conflict between fiduciary and personal interests is voidable unless the transaction is approved by the court after notice as directed by the court.

Section 5-422. [Persons Dealing With Conservators; Protection.]

(a) A person who in good faith either assists or deals with a conservator for value in any transaction other than those requiring a court order as provided in section 5-407 is protected as if the conservator properly exercised the power. The fact that a person knowingly deals with a conservator shall not alone require the person to inquire into the existence of a power or the propriety of its exercise, but restrictions on powers of conservators which are endorsed on letters as provided in section 5-425 are effective as to third persons. A person is not bound to see to the proper application of estate assets paid or delivered to a conservator.

(b) The protection expressed in this section extends to any procedural irregularity or jurisdictional defect occurring in proceedings leading to the issuance of letters and is not a substitution for protection provided by comparable provisions of the law relating to commercial transactions or to simplifying transfers of securities by fiduciaries.

Section 5-423. [Powers of Conservator in Administration.]

(a) Subject to limitation provided in section 5-425, a conservator has all of the powers conferred in this section and any additional powers conferred by law.

(b) A conservator without court authorization or confirmation, may invest and reinvest funds of the estate as would a trustee.

(c) A conservator, acting reasonably in efforts to accomplish the purpose of the appointment, may act without court authorization or confirmation, to

(1) collect, hold, and retain assets of the estate including land in this or another state, until judging that disposition of the assets should be made, and the assets may be retained even though they include an asset in which the conservator is personally interested;

(2) receive additions to the estate;

(3) continue or participate in the operation of any business or other enterprise;

(4) acquire an undivided interest in an estate asset in which the conservator, in any fiduciary capacity, holds an undivided interest;

(5) invest and reinvest estate assets in accordance with subsection (b);

(6) deposit estate funds in a state or federally insured financial institution, including one operated by the conservator, not in excess of \$100,000, or such other amount as is protected by federal or state insurance, in any single institution;

(7) dispose of tangible and intangible personal property for cash or on credit, at public or private sale;

(8) subject to court approval, acquire estate assets, including land in this or another state at public or private sale, and lease, manage, develop, improve, exchange, change the character of, or abandon an estate asset;

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(9) subject to court approval, make repairs or alterations in buildings or other structures; demolish any structures; and raze existing or erect new party walls or buildings;

(10) subject to court approval, subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation by giving or receiving considerations; and dedicate easements to public use without consideration;

(11) subject to court approval, enter for any purpose into a lease as lessor or lessee or renew for a term within or extending beyond the term of the conservatorship;

(12) subject to court approval, enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(13) subject to court approval, grant an option involving disposition of an estate asset and take an option for the acquisition of any asset;

(14) vote a security, in person or by general or limited proxy;

(15) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(16) sell or exercise stock-subscription or conversion rights;

(17) consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(18) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery, but the conservator is liable for any act of the nominee in connection with the stock so held;

(19) insure the assets of the estate against damage or loss and the conservator against liability with respect to third persons;

(20) borrow money to be repaid from estate assets or otherwise; advance money for the protection of the estate or the protected person and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets, for which the conservator has a lien on the estate as against the protected person for advances so made;

(21) pay or contest any claim; settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and release, in whole or in part, any claim belonging to the estate to the extent the claim is uncollectible;

(22) pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration, and protection of the estate;

(23) allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(24) pay any sum distributable to a protected person or individual who is dependent on the protected person by paying the sum to the distributee or by paying the sum for the use of the distributee;

(A) to the guardian of the distributee;

(B) to a distributee's custodian under the uniform transfers to minors act or custodial trustee under the uniform custodial trust act; or

(C) if there is no guardian, custodian or custodial trustee, to a relative or other person having custody of the distributee;

(25) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise or assist in the performance of administrative duties; act upon their recommendation without independent investigation;

(26) commence, prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of fiduciary duties;

(27) make funeral and burial arrangements and enter into pre-paid funeral contracts;

(28) resign the office of fiduciary held by the protected or incapacitated or person pursuant to any court appointment or written instrument; and

(29) execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the conservator.

(c) A conservator may not sell, mortgage or grant options in real estate, except as provided in chapter 202.

Section 5-423A. [Delegation.]

(a) A conservator may not delegate to an agent or another conservator the entire administration of the estate, but a conservator may otherwise delegate the management of investments that a prudent conservator of comparable skills may delegate under similar circumstances.

(b) The conservator shall exercise reasonable care, skill, and caution in:

(1) selecting an agent;

(2) establishing the scope and terms of a delegation, consistent with the purposes and terms of the conservatorship; and

(3) periodically reviewing an agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(c) In performing a delegated function, an agent owes a duty to the estate to exercise reasonable care to comply with the terms of the delegation.

(d) A conservator who complies with subsections (a) and (b) is not liable to the protected person or to the estate for the decisions or actions of the agent to whom a function was delegated.

(e) By accepting a delegation from a conservator subject to the law of the commonwealth, an agent submits to the jurisdiction of the courts of the commonwealth.

Section 5-424. [Distributive Duties and Powers of Conservator.]

(a) Unless otherwise specified in the order of appointment and endorsed on the letters of appointment or contrary to the plan filed pursuant to section 5-416, a conservator may expend or distribute income or principal of the estate without court authorization or confirmation for the support, education, care, or benefit of the protected person and dependents in

accordance with the following principles:

(1) The conservator shall consider recommendations relating to the appropriate standard of support, education, and benefit for the protected person or dependent made by a parent or guardian, if any. The conservator may not be surcharged for sums paid to persons or organizations furnishing support, education, or care to the protected person or a dependent pursuant to the recommendations of a parent or guardian of the protected person unless the conservator knows that the parent or guardian derives undue or disproportionate personal financial benefit therefrom, including relief from any personal duty of support or the recommendations are clearly not in the best interest of the protected person.

(2) The conservator shall expend or distribute sums reasonably necessary for the support, education, care, or benefit of the protected person and dependents with due regard to (i) the size of the estate, the probable duration of the conservatorship, and the likelihood that the protected person, at some future time, may be fully able to be wholly self-sufficient and able to manage business affairs and the estate; (ii) the accustomed standard of living of the protected person and dependents; and (iii) other funds or sources used for the support of the protected person.

(3) The conservator may expend funds of the estate for the support, funeral expenses and burial expenses of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves, and who are in need of support.

(4) Funds expended under this subsection may be paid by the conservator to any person, including the protected person, to reimburse for expenditures that the conservator might have made, or in advance for services to be rendered to the protected person if it is reasonable to expect the services will be performed and advance payments are customary or reasonably necessary under the circumstances.

(5) A conservator, in discharging the responsibilities conferred by court order and this part, shall implement the principles described in section 5-407(a), to the extent possible.

(b) If the estate is ample to provide for the purposes implicit in the distributions authorized by the preceding subsections, a conservator for a protected person other than a minor has power to make gifts to charity and persons which the protected person has expressed an intent to benefit, in amounts that do not exceed in total for any year 10 per cent of the income from the estate.

(c) When a minor who has not been adjudged disabled under section 5-401(c) attains majority, the conservator, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the formerly protected person as soon as possible.

(d) If satisfied that a protected person's disability, other than minority, has ceased, the conservator, after meeting all claims and expenses of administration, shall pay over and distribute all funds and properties to the formerly protected person as soon as possible.

(e) If a protected person dies, the conservator shall deliver to the court for safekeeping any will of the deceased protected person which may have come into the conservator's

possession, inform the personal representative or beneficiary named therein of the delivery, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto. If, 40 days after the death of the protected person, no other person has been appointed personal representative and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative in order to be able to proceed to administer and distribute the decedent's estate. Upon application for an order granting the powers of a personal representative to a conservator, after notice to any person nominated personal representative by any will of which the applicant is aware, the court may grant the application upon determining that there is no objection and endorse the letters of the conservator to note that the formerly protected person is deceased and that the conservator has acquired all of the powers and duties of a personal representative. The making and entry of an order under this section has the effect of an order of appointment of a personal representative as provided in section 3-308 and parts 6 to 10, inclusive, of article III, but the estate in the name of the conservator, after administration, may be distributed to the decedent's successors without prior re-transfer to the conservator as personal representative.

Section 5-425. [Enlargement or Limitation of Powers of Conservator.]

Subject to the restrictions in section 5-407(c), the court may confer on a conservator at the time of appointment or later, in addition to the powers conferred by sections 5-423 and 5-424, any power that the court itself could exercise under sections 5-407(c) and 5-407(d). The court, at the time of appointment or later, may limit the powers of a conservator otherwise conferred by sections 5-423 and 5-424 or previously conferred by the court and may at any time remove or modify any limitation. If the court limits any power conferred on the conservator by section 5-423 or section 5-424, or specifies, as provided in section 5-419(a), that title to some but not all assets of the protected person vest in the conservator, the limitation or specification of assets subject to the conservatorship shall be endorsed upon the letters of appointment.

Section 5-426. [Preservation of Estate Plan; Right to Examine.]

In (i) investing the estate, (ii) selecting assets of the estate for distribution under subsections (a) and (b) of section 5-424, and (iii) utilizing powers of revocation or withdrawal available for the support of the protected person and exercisable by the conservator or the court, the conservator and the court shall take into account any estate plan of the protected person known to them, including a will, any revocable trust of which the person is settlor, and any contract, transfer, or joint ownership arrangement originated by the protected person with provisions for payment or transfer of benefits or interests at the person's death to another or others.

Section 5-427. [Claims Against Protected Person.]

A conservator may pay or secure from the estate claims against the estate or against the protected person arising before or after the conservatorship.

Section 5-428. [Personal Liability of Conservator.]

(a) Unless otherwise provided in the contract, a conservator is not personally liable on a contract properly entered into in fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal the representative capacity and identify the estate in the contract.

(b) The conservator is not personally liable unless the conservator is personally at fault for either (i) obligations arising from ownership or control of property of the estate, or (ii) torts committed in the course of administration of the estate.

(c) Claims based on (i) contracts entered into by a conservator in fiduciary capacity, (ii) obligations arising from ownership or control of the estate, or (iii) torts committed in the course of administration of the estate, may be asserted against the estate by proceeding against the conservator in fiduciary capacity, whether or not the conservator is personally liable therefor.

(d) Any question of liability between the estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification, or other appropriate proceeding or action.

Section 5-429. [Removal or Resignation of Conservator; Termination of Disability; Termination of Proceedings.]

(a) On petition of the protected person or any person interested in the protected person's welfare, the court, after notice and hearing, may remove a conservator if the person under conservatorship is no longer disabled or for other good cause. On petition of the conservator, the court, after hearing, may accept a resignation.

(b) An order adjudicating disability may specify a minimum period, not exceeding 6 months, during which a petition for an adjudication that the protected person is no longer incapacitated may not be filed without special leave. Subject to that restriction, the protected person or any person interested in the welfare of the protected person may petition for an order that the person is no longer disabled and for termination of the conservatorship. A request for an order may also be made informally to the court and any person who knowingly interferes with transmission of the request may be adjudged guilty of contempt of court.

(c) Upon removal, resignation, or death of the conservator, or if the conservator is determined to be incapacitated or disabled, the court may appoint a successor conservator and make any other appropriate order. Before appointing a successor conservator, or ordering that a person's disability has terminated, the court shall follow the same procedures to safeguard the rights of the protected person that apply to a petition for appointment of a conservator.

(d) A conservatorship terminates upon the death of the protected person or upon order of the court.

(e) Upon the death of a protected person, the conservator shall conclude the administration of the estate by distribution to the person's successors. The conservator shall file a final accounting and petition for discharge within 30 days after distribution.

(f) Unless created for reasons other than minority, a conservatorship created for a minor terminates when the protected person attains majority or is emancipated.

(g) On petition of a protected person, a conservator, or another person interested in a protected person's welfare, the court may terminate the conservatorship if the protected person no longer needs the assistance or protection of a conservator. Termination of the conservatorship shall not affect a conservator's liability for previous acts or the obligation to account for funds and assets of the protected person.

(h) Upon termination of a conservatorship and whether or not formally distributed by the conservator, title to assets of the estate passes to the formerly protected person or the person's successors. The order of termination shall provide for expenses of administration and direct the conservator to execute appropriate instruments to evidence the transfer of title or confirm a distribution previously made and to file a final accounting and a petition for discharge upon approval of the final accounting.

(i) The court shall enter a final order of discharge upon the approval of the final accounting and satisfaction by the conservator of any other conditions placed by the court on the conservator's discharge.

Section 5-430. [Payment of Debt and Delivery of Property to Foreign Conservator without Local Proceedings.]

(a) Any person indebted to a protected person or having possession of property or of an instrument evidencing a debt, stock, or chose in action belonging to a protected person may pay or deliver it to a conservator, guardian of the estate, or other like fiduciary appointed by a court of the state of residence of the protected person upon being presented with proof of appointment and an affidavit made by or on behalf of the fiduciary stating:

(1) that no protective proceeding relating to the protected person is pending in the commonwealth; and

(2) that the foreign fiduciary is entitled to payment or to receive delivery.

(b) If the person to whom the affidavit is presented is not aware of any protective proceeding pending in the commonwealth, payment or delivery in response to the demand and affidavit discharges the debtor or possessor.

Section 5-431. [Foreign Conservator; Proof of Authority; Bond; Powers.]

(a) If a conservator has not been appointed in the commonwealth and no petition in a protective proceeding is pending in the commonwealth, a conservator appointed in the state in which the protected person resides may file in a court of the commonwealth in a county in which property belonging to the protected person is located, authenticated copies of letters of appointment and of any bond. Thereafter, the domiciliary foreign conservator may exercise as to assets in the commonwealth all powers of a conservator appointed in the commonwealth and may maintain actions and proceedings in the commonwealth subject to any conditions imposed upon non-resident parties generally.

(b) If a ward, incapacitated or protected person removes from or resides out of the commonwealth, a guardian or conservator appointed within the commonwealth may transfer and pay over the whole or any part of the personal property of such person to a guardian, conservator, trustee or committee or other official appointed by competent authority in the

state or country where such person resides, upon such terms and such manner as the court by which he or she was appointed may, after notice to all parties interested, order upon petition filed therefor.

PART 5 DURABLE POWER OF ATTORNEY

Section 5-501. [Definition.]

(a) A durable power of attorney is a power of attorney by which a principal designates another his attorney in fact in writing and the writing contains the words "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time," or "This power of attorney shall become effective upon the disability or incapacity of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

(b) References in this part to the disability or incapacity of the principal shall mean the mental illness or other disability of the principal recognized under the General Laws.

Section 5-502. [Durable Power of Attorney Not Affected By Lapse of Time, Disability or Incapacity.]

All acts done by an attorney in fact pursuant to a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and his successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.

Section 5-503. [Relation of Attorney in Fact to Court-appointed Fiduciary.]

(a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of his property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if such principal were not disabled or incapacitated.

(b) A principal may nominate, by a durable power of attorney, the conservator, or guardian of the person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. A principal may in a nomination of a conservator or guardian request that sureties on any bond of a conservator or guardian be waived. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

Section 5-504. [Power of Attorney Not Revoked Until Notice.]

(a) The death of a principal who has executed a written power of attorney, durable or otherwise, shall not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under

the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(b) The disability or incapacity of a principal who has previously executed a written power of attorney that is not a durable power shall not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his successors in interest.

Section 5-505. [Proof of Continuance of Durable and Other Powers of Attorney by Affidavit.]

As to acts undertaken in good faith reliance thereon, an affidavit executed by the attorney in fact under a power of attorney, durable or otherwise, stating that he did not have at the time of exercise of the power actual knowledge of the termination of the power by revocation or of the principal's death, disability, or incapacity is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power of attorney requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is likewise recordable. This section shall not affect any provision in a power of attorney for its termination by expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity.

Section 5-506. [Enforcement.]

The attorney in fact under a durable power of attorney is authorized to prosecute legal action for damages in behalf of the principal in the event of an unreasonable refusal of a third party to honor the authority of a valid durable power of attorney.

Section 5-507. [Protection; Third Parties.]

No third party acting in good faith reliance on a durable power of attorney shall be held liable for action taken in such reliance.

ARTICLE VI NONPROBATE TRANSFERS ON DEATH

PART 1 PROVISIONS RELATING TO EFFECT OF DEATH

Section 6-101. [Nonprobate Transfers on Death.]

(a) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage promissory note, certificated or uncertificated security, account, agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, or any other written instrument effective as a contract, gift, conveyance or trust, is nontestamentary.

(b) This subsection includes a written provision that:

(1) money or other benefits or property due to, controlled by, or owned by a decedent

before death shall be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before, after, or at the same time as the instrument if:

(i) the original document specifically provides for disposition in accordance with the later instrument; or

(ii) the later instrument has independent significance such as a contract, gift, conveyance, trust or will.

(2) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand.

(c) This section shall not limit rights of creditors under other laws of the commonwealth.

PART 2 MULTIPLE-PERSON ACCOUNTS

SUBPART 1 DEFINITIONS AND GENERAL PROVISIONS

Section 6-201 to 6-206. [Reserved]

SUBPART 2 OWNERSHIP AS BETWEEN PARTIES AND OTHERS

Section 6-211 to 6-216. [Reserved]

SUBPART 3 PROTECTION OF FINANCIAL INSTITUTIONS

Section 6-221 to 6-227. [Reserved]

PART 3 UNIFORM TOD SECURITY REGISTRATION ACT

Section 6-301. [Definitions.]

In this part:

(1) "Beneficiary form", a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Register", including its derivatives, is to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(3) "Registering entity", a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(4) "Security", has the same meaning as provided in clause (k) of section 401 of chapter 110A and includes a security account.

(5) "Security account", (i) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death, or (ii) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

Section 6-302. [Registration in Beneficiary Form; Sole or Joint Tenancy Ownership.]

Only individuals whose registration of a security shows sole ownership by 1 individual or multiple ownership by 2 or more with rights of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with rights of survivorship, or as tenants by the entireties, and not as tenants in common.

Section 6-303. [Registration in Beneficiary Form; Applicable Law.]

A security may be registered in beneficiary form if the form is authorized by this part or a similar law of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this part or a similar law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this part or similar law is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

Section 6-304. [Origination of Registration in Beneficiary Form.]

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

Section 6-305. [Form of Registration in Beneficiary Form.]

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD", or by the words "pay on death" or the abbreviation "POD", after the name of the registered owner and before the name of a beneficiary.

Section 6-306. [Effect of Registration in Beneficiary Form.]

The designation of a transfer on death beneficiary on a registration in beneficiary form shall have no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all surviving owners without the consent of the beneficiary.

Section 6-307. [Ownership on Death of Owner.]

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable re-

quirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, and if no anti-lapse statute applies, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

Section 6-308. [Protection of Registering Entity.]

(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this part.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this part.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section 6-307 and does so in good faith reliance (i) on the registration, (ii) on this part, and (iii) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this part shall not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity shall affect its right to protection under this part.

(d) The protection provided by this part to the registering entity of a security shall not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

Section 6-309. [Nontestamentary Transfer on Death.]

(a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this part and is not testamentary.

(b) This part shall not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of the commonwealth.

Section 6-310. [Terms, Conditions, and Forms for Registration.]

(a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (i) for registrations in beneficiary form, and (ii) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered transfer on death beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems

concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on 1 or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are examples of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S Brown Jr.

(2) Multiple owners-sole beneficiary: John S Brown Mary B Brown JT TEN TOD John S Brown Jr.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: (example 1) John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB BENE Peter Q Brown (example 2) John S Brown Mary B Brown JT TEN TOD John S Brown Jr LDPS.

Section 6-311. [Rights of Creditors and Others.]

(a) If other assets of the estate are insufficient, a transfer resulting from registration under this part shall not be effective against the estate of a deceased party to the extent needed to pay claims against the estate and statutory allowances to the surviving spouse and children.

(b) A surviving party or beneficiary who receives payment of a security registered in accordance with this part shall be liable to account to the personal representative of the decedent for a proportionate share of the amount received to which the decedent, immediately before death, was beneficially entitled to the extent necessary to discharge the claims and allowances described in subsection (a) remaining unpaid after application of the decedent's estate. A proceeding to assert the liability may not be commenced unless a claim is presented pursuant to section 3-804, or the personal representative has received a written demand for statutory allowance by the surviving spouse, a child, or a person acting for a child of the decedent. The proceeding shall be commenced within 1 year after death of the decedent. Sums recovered by the personal representative shall be administered as part of the decedent's estate.

(c) A personal representative, surviving party or beneficiary against whom a proceeding is brought may join as a party to the proceeding a surviving party or beneficiary of this or of any other security of the decedent.

ARTICLE VII
TRUST ADMINISTRATION

PART 1
SITUS OF TRUSTS

Section 7-101. [Principal Place of Administration.]

A trust shall be subject to the jurisdiction of the court of the commonwealth for the county in which is located its principal place of administration. The principal place of administration of a testamentary trust shall be deemed to be the location of the court of the commonwealth in which the will creating the trust was granted informal or formal probate. Unless otherwise designated in the trust instrument, the principal place of administration of an inter vivos trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no such place of business. In the case of co-trustees, the principal place of administration, if not otherwise designated in the trust instrument, is (1) the usual place of business of the corporate trustee if there is but 1 corporate co-trustee, or (2) the usual place of business or residence of the individual trustee who is a professional fiduciary if there is but 1 such person and no corporate co-trustee, and otherwise (3) the usual place of business or residence of any of the co-trustees as agreed upon by them.

Section 7-102. [Reserved.]

Section 7-103. [Effect of Trusteeship.]

(a) By accepting the trusteeship of a trust, the trustee submits personally to the jurisdiction of the court in any proceeding under section 7-201 of this code relating to the trust that may be initiated by any interested person. Notice of any proceeding shall be delivered to the trustee, or mailed to the trustee by ordinary first class mail at the trustee's address as reported to the court and to the trustee's address as then known to the petitioner.

(b) To the extent of their interests in the trust, all beneficiaries of a trust administered in the commonwealth are subject to the jurisdiction of the court of the commonwealth for the county in which is located the principal place of administration of the trust, for the purposes of proceedings under section 7-201, provided notice is given pursuant to section 1-401.

Section 7-104. [Reserved.]

Section 7-105. [Qualification of Foreign Trustee.]

A foreign corporate trustee is required to qualify as a foreign corporation doing business in the commonwealth if it maintains the principal place of administration of any trust within the commonwealth. A foreign co-trustee is not required to qualify in the commonwealth solely because its co-trustee maintains the principal place of administration in the commonwealth. Unless otherwise doing business in the commonwealth, local qualification by a foreign trustee, corporate or individual, is not required in order for the trustee to receive distribution from a local estate, to hold, invest in, manage or acquire property located in the commonwealth, or to maintain litigation. Nothing in this section affects a determination of what other acts require qualification as doing business in the com-

monwealth.

PART 2

JURISDICTION OF COURT CONCERNING TRUSTS

Section 7-201. [Court; Jurisdiction of Trusts.]

(a) The court has jurisdiction of proceedings initiated by interested parties concerning the internal affairs of testamentary and inter vivos trusts. Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts. These include, but are not limited to, proceedings:

- (1) to appoint or remove a trustee;
- (2) to review trustees' fees and to review and settle interim or final accounts; and
- (3) to ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust including questions of construction of trust instruments, to instruct trustees, to authorize the sale of real or personal property, to order the consolidation or the termination and distribution of uneconomic trusts, to authorize compromise of controversies affecting trusts under the procedure described in sections 3-1101 and 3-1102, and to determine the existence or nonexistence of any immunity, power, privilege, duty or right.

(b) Neither accepting trusteeship of a testamentary or inter vivos trust nor a proceeding under this section results in continuing supervisory proceedings. The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustee's fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously consistent with the terms of the trust, free of judicial intervention and without order, approval or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law.

Section 7-202. [Trust Proceedings; Venue.]

Venue for proceedings under section 7-201 involving trusts in the commonwealth is in the principal place of administration of the trust, and otherwise by the rules of civil procedure.

Section 7-203. [Trust Proceedings; Dismissal of Matters Relating to Foreign Trusts.]

The court will not, over the objection of a party, entertain proceedings under section 7-201 involving a trust registered or having its principal place of administration in another state, unless (1) when all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration or (2) when the interests of justice otherwise would seriously be impaired. The court may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust is registered or has its principal place of business, or the court may grant a continuance or enter any other appropriate order.

Section 7-204. [Reserved]

Section 7-205. [Proceedings for Review of Employment of Agents and Review of Compensation of Trustee and Employees of Trust.]

On petition of an interested person, after notice to all interested persons, the court may review the propriety of employment of any person by a trustee including any attorney, auditor, investment advisor or other specialized agent or assistant, and the reasonableness of the compensation of any person so employed, and the reasonableness of the compensation determined by the trustee for the trustee's own services. Any person who has received excessive compensation from a trust may be ordered to make appropriate refunds.

Section 7-206. [Trust Proceedings; Initiation by Notice; Necessary Parties.]

Proceedings under section 7-201 are initiated by filing a petition in the court and giving notice pursuant to section 1-401 to interested parties. The court may order notification of additional persons. A decree is valid as to all who are given notice of the proceeding though fewer than all interested parties are notified.

PART 3

DUTIES AND LIABILITIES OF TRUSTEES

Section 7-301. [General Duties Not Limited.]

Except as specifically provided, the general duty of the trustee to administer a trust expeditiously for the benefit of the beneficiaries shall not be altered by this code.

Section 7-302. [Reserved.]

Section 7-303. [Duty to Inform and Account to Beneficiaries.]

The trustee shall keep the donor of a revocable trust and the beneficiaries of an irrevocable trust reasonably informed of the trust and its administration. In addition, unless the trust is revocable:

(a) Within 30 days after his acceptance of the trust or the trust becomes irrevocable, whichever is later, the trustee shall inform in writing the current beneficiaries and if possible, 1 or more persons who under section 1-403 may represent beneficiaries with future interests, of the court having jurisdiction over the trust and of the trustee's name and address. The information shall be delivered or sent by ordinary first class mail.

(b) Upon reasonable request, the trustee shall provide the beneficiary with a copy of the trust and with relevant information about the assets of the trust and the particulars relating to its administration.

(c) Upon reasonable request, a beneficiary is entitled to a statement of the accounts of the trust annually and on termination of the trust or change of the trustee.

Section 7-304. [Duty to Provide Bond.]

In the case of a testamentary trust, a trustee shall furnish a bond for the performance of the trustee's fiduciary duties and a surety shall be required unless waived by the terms of the trust, or found by the court to be not necessary to protect the interests of the beneficiaries. On petition of the trustee or other interested person the court may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. When the instrument creating the trust exempts the

trustee from furnishing a bond or limits the amount thereof, or the court determines that the bond is insufficient, the court may if it concludes that a bond be necessary or that a bond of a larger amount is necessary, require the furnishing of such bond.

Section 7-305. [Trustee's Duties; Appropriate Place of Administration; Deviation.]

A trustee is under a continuing duty to administer the trust at a place appropriate to the purposes of the trust and to its sound, efficient management. If the principal place of administration becomes inappropriate for any reason, the court may enter any order furthering efficient administration and the interests of beneficiaries, including, if appropriate, removal of the trustee and appointment of a trustee in another state or country. Trust provisions relating to the place of administration and to changes in the place of administration or of trustee control unless compliance would be contrary to efficient administration or the purposes of the trust. Views of adult beneficiaries shall be given weight in determining the suitability of the trustee and the place of administration.

Section 7-306. [Personal Liability of Trustee to Third Parties.]

(a) Unless otherwise provided in the contract, a trustee is not personally liable on contracts properly entered into in the trustee's fiduciary capacity in the course of administration of the trust estate unless the trustee fails to reveal his representative capacity and identify the trust estate in the contract.

(b) A trustee is not personally liable unless the trustee is personally at fault for either (i) obligations arising from ownership or control of property of the trust estate, or (ii) torts committed in the course of administration of the trust estate.

(c) Claims based on contracts entered into by a trustee in the trustee's fiduciary capacity, on obligations arising from ownership or control of the trust estate, or on torts committed in the course of trust administration may be asserted against the trust estate by proceeding against the trustee in a fiduciary capacity, whether or not the trustee is personally liable therefor.

(d) The question of liability as between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

Section 7-307. [Limitations on Proceedings Against Trustees After Final Account.]

Unless previously barred by adjudication, consent or limitation, any claim against a trustee for breach of trust is barred as to any beneficiary who has received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the claim is commenced within 6 months after receipt of the final account or statement. In any event and notwithstanding lack of full disclosure a trustee who has issued a final account or statement received by the beneficiary and has informed the beneficiary of the location and availability of records for examination by the beneficiary is protected after 3 years. A beneficiary is deemed to have received a final account or statement if, being an adult, it is received by the beneficiary personally or if, being a minor or disabled person, it is received by the beneficiary's representative as described in section 1-403(1) and (2).

Section 7-308. [Resignation or Removal of Trustee; Appointment to Fill Vacancy.]

(a) A trustee may resign the office or be removed as provided by the terms of the will or other instrument creating the trust. Any vacancy caused by such resignation, removal or otherwise may be filled as so provided.

(b) A trustee may resign the office by filing a written statement of resignation with a petition for permission to resign with the court having jurisdiction of the trust.

(c) A trustee or any person interested in a trust may at any time petition for removal of a trustee on the ground that removal would be in the best interest of the beneficiaries of the trust or for cause. Cause for removal exists if it is shown that the trustee has disregarded an order of the court, has become incapacitated or otherwise incapable of discharging the duties of the office, or has mismanaged the property or failed to perform any duty pertaining to the office.

(d) A trustee or any person interested in a trust may at any time petition for the appointment of a trustee to fill a vacancy which is not filled as provided by the terms of the will or other instrument creating the trust.

(e) Upon filing of the petition, the court shall fix a time and place for hearing. Notice shall be given by the petitioner to the trustees, the beneficiaries and to other persons as the court may order. After notice and hearing, the court may terminate the appointment of a trustee by ordering removal or by accepting the resignation and, if the petition contains a prayer therefor, may appoint a successor trustee to fill the vacancy caused by such resignation, removal or otherwise.

Section 7-309. [Petition for Transfers of Trust Property Whose Disposition Depends Upon the Death of an Absentee.]

(a) If a trustee holds trust property the disposition of which depends upon the death of an absentee whose death has not been determined under paragraph (1), (2) or (3) of section 1-107, on or after the day 5 years after the date of the absentee's disappearance the trustee, or any person who would be interested in the trust property were the absentee dead, may petition the court having jurisdiction of the trust for an order that the trust property be disposed of to the persons to whom and in the shares or proportions in which it would be distributed under the provisions of the trust if the absentee had died on that day.

(b) The court may direct the petitioner to report the results of, or make and report back concerning, a reasonably diligent search for the absentee in any manner that may seem advisable, including any or all of the following methods:

(1) by inserting in 1 or more suitable periodicals a notice requesting information from any person having knowledge of the whereabouts of the absentee;

(2) by notifying law enforceable officials, public welfare agencies and registers of deaths in appropriate locations of the disappearance of the absentee;

(3) by engaging the services of an investigator.

The costs of any search so directed shall be paid from the trust property.

(c) After any such report directed by the court under paragraph (b) above has been completed to the satisfaction of the court, notice of the hearing on the petition shall be given

as provided in section 1-401.

(d) If after the hearing the court finds that the facts warrant a presumption of death under paragraph (4) of section 1-107, it shall enter an appropriate order of disposition of the trust property and any undistributed net income.

Section 7-310. [Receipts of Trustees.]

The receipt of a trustee, or of any 1 or more of several trustees, for any money, securities or other personal property or effects payable, transferable or deliverable to him or them under any trust or power shall be a sufficient discharge therefor to the person paying, transferring or delivering it, and no such person shall be bound to see to the application thereof.

Section 7-311. [Duties of Purchasers.]

A company or corporation, public or private, or quasi corporation, or unincorporated association, or the managers of any trust, or any transfer agent, registrar or other agent of such company, corporation, quasi corporation, unincorporated association or managers, shall not be bound to see to the execution of any trust, express, implied or constructive, to which any of its shares, bonds or securities are subject, or to ascertain or inquire whether the trust authorizes a transfer thereof by the holder, but this section shall not be a protection against liability for participating with actual knowledge in a breach of trust, and the fact that the trust is of record shall not constitute such actual knowledge.

**PART 4
POWERS OF FIDUCIARY**

Section 7-401. [Powers of Fiduciary.]

Except as restricted or otherwise provided by the will, deed or other instrument creating a trust or by an order in a formal proceeding, a trustee acting reasonably for the benefit of the interested persons may, without court authorization or confirmation, properly:

(1) hold and retain property of the trust including land in another state, until judging that disposition of the property should be made, and the property may be retained even though it includes property in which the trustee is personally interested;

(2) receive additions to the trust from fiduciaries or other sources;

(3) continue or participate in the operation of any business or other enterprise;

(4) acquire an undivided interest in property in which the trustee, in any fiduciary capacity, holds an undivided interest;

(5) invest and reinvest principal and income in any property the trustee determines, and without limiting the generality of the foregoing, invest in (i) shares of an investment company or in shares or undivided portions of any common trust fund established by the trustee and (ii) policies of life or endowment insurance or annuity contracts on the life of any beneficiary of the trust or of any person in whose life such beneficiary has an insurable interest;

(6) deposit trust funds in a state or federally insured financial institution, including 1 operated by the trustee;

(7) acquire or dispose of property, including land in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, abandon or demolish property;

(8) make ordinary or extraordinary repairs or alterations in buildings or other structures; demolish any improvements; and raze existing or erect new party walls or buildings;

(9) subdivide, develop, or dedicate land to public use; adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; and dedicate easements to public use without consideration;

(10) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the trust;

(11) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(12) grant an option involving disposition of an estate asset and take an option for the acquisition of any asset;

(13) vote a security, in person or by general or limited proxy;

(14) pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(15) sell or exercise stock subscription or conversion rights;

(16) consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(17) hold uncertificated securities as more fully provided in section 14B of chapter 203;

(18) insure the property of the trust against damage or loss and the trustee against liability with respect to third persons;

(19) borrow money with or without security to be repaid from the trust property or otherwise and in connection therewith mortgage or otherwise encumber any property on any conditions the trustee determines even if the term of the loan may extend beyond the term of the trust;

(20) pay or contest any claim; settle a claim by or against the trust or its property by compromise, arbitration, or otherwise; and release, in whole or in part, any claim belonging to the trust to the extent the claim is uncollectible;

(21) pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the estate;

(22) allocate items of income or expense to either income or principal, as permitted or provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(23) allot in or towards satisfaction of any payment, distribution, or division, in any manner the trustee determines, any property at its then current fair market value;

(24) hold trusts and shares undivided or at any time hold them or any of them set apart one from another;

(25) pay any sum distributable to a beneficiary by paying the sum to the beneficiary or by paying the sum for the use of the beneficiary to the guardian, conservator or custodian of the beneficiary or, if none, to a relative or other person having custody of the beneficiary;

(26) employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the trustee, to advise or assist in the performance of administrative duties; act upon their recommendation without independent investigation, and instead of acting personally, employ agents to perform any act of administration, whether or not discretionary;

(27) prosecute or defend actions, claims, or proceedings in any jurisdiction for the protection of trust property and of the trustee in the performance of fiduciary duties; and

(28) execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the trustee.

PART 5

STATUTORY CUSTODIANSHIP TRUSTS

Section 7-501. [Transfer of Property; Statutory Custodianship Trustee; Revocability.]

An adult person may, during his lifetime, transfer any property owned by him, in any manner otherwise consistent with law, to 1 or more named persons designated, in substance, as a "statutory custodianship trustee". Such transfer shall be sufficient to create a trust upon the terms set forth in this part 5 as it is in effect at the date of the transfer without any further trust instrument or designation of terms and without appointment or qualification by any court, and shall be complete upon acceptance of the trust by the trustee or trustees manifested in any form. The trustee or trustees shall serve without giving bond or surety unless the transferor by written instrument, or the court upon the application of any person interested in the estate of the transferor and upon good cause shown, shall provide for a bond. All transfers in trust under this part 5 shall be revocable by the transferor at any time the transferor has legal capacity by a writing signed by the transferor and delivered to the person, or if more than 1 to any person serving as trustee.

Section 7-502. [Application of Income and Principal; Accounting by Trustee.]

During the life of the transferor the trustee or trustees shall apply the income and principal, by payment to the transferor or by direct expenditure, as may be necessary for the comfortable and suitable maintenance and support of the transferor and the transferor's family in accordance with the principles applicable to a conservator. Upon the death of the transferor the remaining property shall be delivered and paid over to the estate of the transferor. With respect to the property in the trust, except as modified in the instrument of transfer, the trustee or trustees shall have the fiduciary powers provided in section 7-401, and such additional rights and powers as the transferor may provide by written instrument. The trustee or trustees shall account at least annually to the transferor or to the transferor's guard-

ian or conservator, if any, and after the death of the transferor to the transferor's personal representative. In the event of the incompetency of the transferor the trustee or trustees may apply to the court in the same manner as a guardian or conservator for authority to deal with property held in trust in any manner in which the court might authorize a guardian or conservator to deal with property of the transferor.

Section 7-503. [Resignation or Removal of Trustee; Appointment to Fill Vacancy.]

A trustee may resign by an instrument in writing delivered to the transferor or to the transferor's guardian or conservator, if any. A trustee may be removed by the transferor by an instrument in writing delivered to such trustee. If there is more than one person serving as trustee, a vacancy need not be filled, and until a successor is appointed the remaining trustee or trustees may act alone. In the event of a vacancy a successor may be appointed by the transferor, if legally competent, or as the transferor shall have provided by a written instrument, and otherwise by the transferor's guardian or conservator, if any, and if none, by the transferor's heirs presumptive, and such appointment shall become effective upon acceptance.

SECTION 10. Sections 1 to 14, inclusive, and sections 17 to 30, inclusive, of chapter 191 of the General Laws are hereby repealed.

SECTION 11. Chapter 191A of the General Laws is hereby repealed.

SECTION 12. Chapter 192 of the General Laws is hereby repealed.

SECTION 13. Chapter 193 of the General Laws is hereby repealed.

SECTION 14. Chapter 195 of the General Laws is hereby repealed.

SECTION 15. Chapter 196 of the General Laws is hereby repealed.

SECTION 16. Chapter 197 of the General Laws is hereby repealed.

SECTION 17. Sections 1 to 7, inclusive, of chapter 198 of the General Laws are hereby repealed.

SECTION 18. Sections 8 to 10, inclusive, of said chapter 198 of the General Laws are hereby repealed.

SECTION 19. Sections 11 to 33, inclusive, of said chapter 198 of the General Laws are hereby repealed.

SECTION 20. Chapter 199A of the General Laws is hereby repealed.

SECTION 21. Chapter 201 of the General Laws is hereby repealed.

SECTION 22. Chapter 201B of the General Laws is hereby repealed.

SECTION 23. Chapter 201C of the General Laws is hereby repealed.

SECTION 24. Chapter 201E of the General Laws is hereby repealed.

SECTION 25. Section 3B of chapter 203 of the General Laws is hereby repealed.

SECTION 26. Sections 5 to 14A, inclusive, of said chapter 203 are hereby repealed.

SECTION 27. Sections 15 to 39, inclusive, of said chapter 203 are hereby repealed.

SECTION 28. Sections 3 and 3A of chapter 204 of the General Laws are hereby repealed.

SECTION 29. Sections 13 to 18, inclusive, of said chapter 204 are hereby repealed.

SECTION 30. Section 37 of said chapter 204 is hereby repealed.

SECTION 31. Chapter 205 is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 1. An executor, temporary executor or temporary administrator with the will annexed, administrator, administrator with the will annexed, special administrator, receiver of an absentee, conservator, temporary guardian and, unless otherwise expressly provided, a guardian or trustee under a will or appointed by the probate court, including a trustee under a will holding property for public charitable purposes, before entering upon the duties of his trust, shall give bond with sufficient sureties, in such sum as the probate court may order, payable to the judge of said court and his successors, and with condition substantially as follows:

1. In the case of an executor or administrator with the will annexed:

First, To make and return to the probate court within three months a true inventory of all the testator's real and personal property which at the time of making such inventory shall have come to his possession or knowledge;

Second, To administer according to law and to the will of the testator all personal property of the testator which may come into his possession or into the possession of any person for him, and also the proceeds of any of the real estate of the testator which may be sold or mortgaged by him;

Third, To render upon oath a true account of his administration at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, and also to render such account at such other times as the court may order.

2. In the case of an administrator:

First, To make and return to the probate court within three months a true inventory of all the intestate's real and personal property which at the time of making such inventory shall have come to his possession or knowledge;

Second, To administer according to law all the personal property of the deceased which may come into his possession or into the possession of any person for him, and also the proceeds of any of the real property of the deceased which may be sold or mortgaged by him;

Third, To render upon oath a true account of his administration at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, and also to render such account at such other times as the court orders;

Fourth, To pay to such persons as the court orders any balance remaining in his hands upon the settlement of his accounts;

Fifth, To deliver his letters of administration into the court if a will of the deceased is thereafter duly proved and allowed.

3. In the case of a special administrator:

That he will make and return to the probate court within such time as it orders a true inventory of all the personal property of the deceased which at the time of making such inventory shall have come to his possession or knowledge, and that he will, whenever required

by the probate court, truly account on oath for all the property of the deceased which may be received by him as such special administrator, and will deliver the same to any person who may be appointed executor or administrator of the deceased, or may be otherwise lawfully authorized to receive the same.

4. In the case of a receiver of an absentee under chapter two hundred:

With condition substantially as provided for the bond of an executor or administrator, and with the further condition to obey all orders and decrees made by the probate court.

5. In the case of a trustee under a will or appointed by the probate court:

First, To make and return to the probate court at such time as it orders a true inventory of all the real and personal property belonging to him as trustee which at the time of the making of such inventory shall have come to his possession or knowledge;

Second, To manage and dispose of all such property, and faithfully to perform his trust relative thereto according to law and to the will of the testator or the terms of the trust as the case may be;

Third, To render upon oath at least once a year until his trust is fulfilled, unless he is excused therefrom in any year by the court, a true account of the property in his hands and of the management and disposition thereof, and also to render such account at such other times as said court orders;

Fourth, At the expiration of his trust to settle his account in the probate court, and to pay over and deliver all the property remaining in his hands, or due from him on such settlement, to the person or persons entitled thereto.

6. In the case of a temporary executor appointed under section thirteen of chapter one hundred and ninety-two or a temporary administrator with the will annexed appointed under section seven A of chapter one hundred and ninety-three:

First, when required by the provisions of chapter one hundred and ninety-two and whenever required by the probate court, to make and return to the probate court a true inventory of all the deceased's real and personal property which at the time of making such inventory shall have come to his possession or knowledge, and to render upon oath a true account of his administration;

Second, to deliver all the property of the deceased which may be received by him as such temporary executor or temporary administrator with the will annexed to any person who may be appointed executor, administrator or administrator with the will annexed of the deceased, or may be otherwise lawfully authorized to receive the same.

SECTION 32. Said chapter 205 is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:—

Section 1. A receiver of an absentee, and, unless otherwise expressly provided, a guardian before entering upon the duties of his trust, shall give bond with sufficient sureties, in such sum as the probate court may order payable to the judge of said court and his successors, and with condition substantially as follows:

1. In the case of a receiver of an absentee under chapter 200:

With condition substantially as provided for the bond of an executor or administrator, and with the further condition to obey all orders and decrees made by the probate court.

SECTION 33. Sections 2 to 5, inclusive, of said chapter 205 are hereby repealed.

SECTION 34. Said chapter 205 is hereby further amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. A trustee under a will shall be exempt from giving sureties on his bond, if the testator has ordered or requested such exemption, or that no bond be required, or if all the persons beneficially interested in the trust, of full age and legal capacity, other than creditors, request such exemption; but not until the conservator of any person under disability interested therein and such other persons as the court orders have been notified and had opportunity to show cause against the same. The probate court may, however, at any time require such trustee, or a trustee appointed by the probate court, to give a bond with sureties. The court may, with or without notice, exempt a trustee under a will holding property for public charitable purposes from giving surety on his bond.

SECTION 35. Section 6 of said chapter 205 of the General Laws is hereby repealed.

SECTION 36. Said chapter 205 is hereby further amended by striking out section 6A, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:—

Section 6A. No surety shall be required upon bonds filed by national banks, located in the commonwealth and duly permitted to act in a fiduciary capacity, as receiver, assignee, guardian, conservator except that the court appointing such a bank as such a fiduciary, other than as trustee, may upon application of an interested person require the bank so appointed to give such security, in addition to the lien or security provided by the laws of the United States, as the court may consider proper, and upon failure of such bank to give the security required may revoke such appointment and remove such bank.

SECTION 37. Sections 7 to 8, inclusive, of said chapter 205 are hereby repealed.

SECTION 38. Sections 1, 16, 18, 20 to 22, inclusive, 23A to 30, inclusive, of chapter 206 of the General Laws are hereby repealed.

SECTION 39. Section 7 of chapter 210 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “chapters one hundred ninety and one hundred and ninety-six,” and inserting in place thereof the following:— chapter 190B.

SECTION 40. Section 8 of chapter 215 of the General Laws is hereby repealed.

SECTION 41. Section 30B of said chapter 215 is hereby repealed.

SECTION 42. Sections 5 and 5A of chapter 259 of the General Laws are hereby repealed.

SECTION 43. Except as provided elsewhere in this act, on the effective date of this act:

1. this act shall apply to pre-existing governing instruments, except that it shall not apply to governing instruments which became irrevocable prior to the effective date of this

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act;

2. this act shall apply to any proceedings in court then pending or thereafter commenced regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this act;

3. every personal representative including a person administering an estate of a minor or incompetent holding an appointment on that date, continues to hold the appointment but has only the powers conferred by this act and is subject to the duties imposed with respect to any act occurring or done thereafter;

4. an act done before the effective date in any proceeding and any accrued right is not impaired by this act. If a right is acquired, extinguished or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute before the effective date, the provisions shall remain in force with respect to that right;

5. any rule of construction or presumption provided in this act applies to governing instruments executed before the effective date unless there is a clear indication of a contrary intent, except that it shall not apply to governing instruments which became irrevocable prior to the effective date of this act.

SECTION 44. Sections 1-201, 1-401, 1-404 and Article V of chapter 190B of the General Laws, inserted by section 9, and sections 21, 22, 30, 31, 34, 35 and 41 shall take effect on July 1, 2009. The remainder of this act shall take effect on July 1, 2011.

Approved January 15, 2009.

Chapter 522. AN ACT RELATIVE TO THE DEPARTMENT OF TELECOMMUNICATIONS AND CABLE.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 23A of the General Laws is hereby amended by striking out, in line 76, as appearing in the 2006 Official Edition, the word "energy" and inserting in place thereof the following word:- cable.

SECTION 2. Said section 3 of said chapter 23A is hereby further amended by striking out, in lines 101 and 102, as so appearing, the words "chairman of department of telecommunications and energy" and inserting in place thereof the following words:- commissioner of telecommunications and cable.

SECTION 3. Section 2A of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 58, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 4. Section 40H of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 5. Section 43 of chapter 92 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 6. Section 44 of said chapter 92, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 7. Section 24 of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in line 54, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 8. Section 108 of said chapter 93, as so appearing, is hereby amended by striking out, in line 6, the word "energy" and inserting in place thereof the following word:- cable.

SECTION 9. Section 8 of chapter 110C of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 10. Section 81R of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 81 and 82, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 11. Section 34A of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 to 15, inclusive, the words "telecommunications and energy after public hearing to be required by public necessity or convenience for telephone, telegraph or electric light or power transmission lines, or pipe lines for natural gas" and inserting in place thereof the following words:- public utilities after public hearing to be required by public necessity or convenience for electric light or power transmission lines or pipelines for natural gas, or found by order of the department of telecommunications and cable after public hearing to be required for public necessity or convenience for telephone or telegraph lines.

SECTION 12. Said section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in line 25, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities if a location for electric light

or power transmission lines or pipelines for natural gas or the department of telecommunications and cable if a location for telephone or telegraph lines.

SECTION 13. Section 34A of said chapter 132, as so appearing, is hereby further amended by striking out, in lines 35 and 38, the words "telecommunications and energy" and inserting in place thereof, in each instance, the following words:- public utilities or the department of telecommunications and cable.

SECTION 14. Section 16 of chapter 132A of the General Laws, 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 15. Section 7 of chapter 141 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 16. Section 57 of chapter 147 of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 17. Section 4 of chapter 155 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 18. Section 5 of said chapter 155, as so appearing, is hereby amended by striking out, in line 1, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 19. Section 5A of said chapter 155, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 20. Section 16 of chapter 158 of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 21. Section 1 of chapter 166A of the General Laws, as so appearing, is hereby amended by striking out, the definition of "Commission".

SECTION 22. Section 2 of said chapter 166A, as amended by section 2 of chapter 19 of the acts of 2007, is hereby further amended by striking out the first and second paragraphs and inserting in place thereof the following paragraph:-

There shall be within the department of telecommunications and cable a division of community antenna television. Subject to section 4 of chapter 25C, the commissioner of the department shall have all the powers and duties under this chapter including, but not limited to: presiding at hearings pursuant to section 2A; maintaining or intervening in an action pursuant to section 12; hearing appeals and issuing enforcement orders pursuant to section 14; regulating rates pursuant to section 15; adopting regulations pursuant to section 16; enforcement powers pursuant to section 17; and all other authority to carry out the duties and responsibilities of this chapter. Except as otherwise provided in this chapter, appeals taken from the orders of the department shall be taken in the same manner and according to the same procedure for the department of public utilities established in section 5 of chapter 25.

SECTION 23. Section 2A of said chapter 166A, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 1, 8, 9 and 11 the word "director" and inserting in place thereof, in each instance, the following word:- commissioner.

SECTION 24 . Said section 2A of said chapter 166A, as so appearing, is hereby further amended by striking out, in line 7, the word "division" and inserting in place thereof the following word:- department.

SECTION 25. Said section 2A of said chapter 166A, as so appearing, is hereby further amended by striking out, in line 9, the word "director's" and inserting in place thereof the following word:- commissioner's.

SECTION 26. Section 4 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 3, the word "division" and inserting in place thereof the following word:- department.

SECTION 27. Section 7 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 5, the word "division" and inserting in place thereof the following word:- department.

SECTION 28. Section 8 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 4, 5, 7 and 8 the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 29. Section 10 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 4 and 5, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 30. Section 11 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 10 and 12, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 31. Section 13 of said chapter 166A, as so appearing, is hereby amended by striking out, in line 4, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 32. Section 14 of said chapter 166A, as so appearing, is hereby amended

by striking out, in lines 8, 12, 14, 15, 18, 25, 31, 32 and 35 the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 33. Section 15 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 2, 9, 13, 16, 19, 20, 32, 33 and 34 the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 34. Said section 15 of said chapter 166A, as so appearing, is hereby further amended by striking out the fourth paragraph.

SECTION 35. Section 16 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 1, 4 and 7 the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 36. Section 17 of said chapter 166A, as so appearing, is hereby amended by striking out, in lines 1, 4, 5 and 9 the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 37. Section 5 of chapter 167B of the General Laws, as so appearing, is hereby amended by striking out, in line 77, the word "energy" and inserting in place thereof the following word:- cable.

SECTION 38. Section 20 of said chapter 167B, as so appearing, is hereby amended by striking out, in line 55, the word "energy" and inserting in place thereof the following word:- cable.

SECTION 39. Section 1 of chapter 182 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "telecommunications and energy" and inserting in place thereof, in each instance, the following words:- public utilities or the department of telecommunications and cable.

SECTION 40. Section 32 of chapter 184, as so appearing, is hereby amended by striking out, in lines 102 and 103, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 41. Section 5 of chapter 187 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17 and 23, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 42. Section 76 of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 43. Section 44 of chapter 262 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 44. Section 6 of chapter 268 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities, the department of telecommunications and cable.

SECTION 45. Section 33 of said chapter 268, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "telecommunications and energy" and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 46. Section 8B of chapter 268A of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "department of telecommunications and energy" and inserting in place thereof the following words:- commonwealth utilities commission.

SECTION 47. Said section 8B of said chapter 268A, as so appearing, is hereby further amended by inserting after the figure "25," in line 2, the words:- or the commissioner of telecommunications and cable.

SECTION 48. The second paragraph of section 107 of chapter 169 of the acts of 2008 is hereby amended by striking out the words "January 1, 2009" and inserting in place thereof the following words:- June 30, 2009.

Approved January 15, 2009.

Chapter 523. AN ACT RELATIVE TO THE OPERATION OF LOW-SPEED MOTOR VEHICLES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 85 of the General Laws is hereby amended by striking out section 2E, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 2E. Notwithstanding the provisions of section 18 of chapter 90, the department for purposes of public safety and convenience may from time to time by regulations exclude persons and vehicles from state highways or portions thereof for such periods as it may deem necessary. The department may by regulation permanently prohibit or limit the operation of a low-speed vehicle, as defined in section 1 of chapter 90, on a state highway or a portion of a state highway, regardless of posted speeds, in the interest of public safety and convenience where it finds that use of the state highway or a particular portion of the state highway by a low-speed motor vehicle would represent an unreasonable risk of death or serious injury to occupants of low-speed vehicles because of general traffic conditions which shall include, but not be limited to, excessive speed of other vehicles, traffic volumes, use of the state highway by heavy trucks or other large vehicles or if the established

speed limit on the way increases above 30 miles per hour beyond the point where a low-speed vehicle could safely exit the state highway. The commissioner of highways shall post signs where necessary to provide notice to the public of such prohibited or limited access to low-speed vehicles. Regulations promulgated under this section may provide for a penalty of a fine not more than \$75 for a particular violation.

SECTION 2. Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the definition "Low-boy boat transporter" the following definition:-

"Low-speed motor vehicle" or "low-speed vehicle", a motor vehicle as defined in 49 C.F.R. § 571.3 as a vehicle that is 4-wheeled, whose speed attainable in 1 mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface and whose gross vehicle weight rating is less than 3,000 pounds. All low-speed motor vehicles shall comply with the standards established in 49 C.F.R. § 571.500, as amended, and pursuant thereto, shall be equipped with headlamps, front and rear turn signal lamps, tail lamps, stop lamps, an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror, a parking brake, a windshield that conforms to the federal standards on glazing materials, a vehicle identification number that conforms to the requirements of 49 C.F.R. pt 565 for such numbers, a Type 1 or Type 2 seat belt assembly conforming to 49 C.F.R. § 571.209, installed at each designated seating position and reflex reflectors; provided, that 1 reflector is red on each side as far to the rear as practicable and 1 reflector is red on the rear. A low speed motor vehicle that meets the requirements of 49 C.F.R. § 571.500, as amended, and is equipped as herein provided, may be registered in the commonwealth, subject to inspection and insurance requirements.

SECTION 3. Said chapter 90 is hereby further amended by inserting after section 1E the following 4 sections:-

Section 1F. Every person lawfully operating a low-speed motor vehicle shall have the right to use all public ways in the commonwealth except limited access or express state highways or any public way with a speed limit of more than 30 miles per hour, and shall be subject to the traffic laws and regulations of the commonwealth and the provisions of this section. This shall not prohibit a low-speed motor vehicle from crossing a public way at an intersection where the public way to be crossed has a posted speed limit between 30 and 45 miles per hour, provided the public way the low-speed vehicle is traveling on and the public way the low-speed vehicle is crossing the intersection to both have a speed limit no higher than 30 miles per hour and the intersection is controlled by traffic signals or stop signs. A municipality may, by ordinance, prohibit the operation of low-speed vehicles on a way or a portion of a way within its jurisdiction and under its control, regardless of posted speeds, where it finds that use of the way or a particular portion of the way by low-speed motor vehicles would represent an unreasonable risk of death or serious injury to occupants of low-speed vehicles because of general traffic conditions which shall include, but not be limited to, excessive speeds of other vehicles, traffic volumes, use of the way by heavy trucks

or other large vehicles or if the established speed limit on the way increases above 30 miles per hour beyond the point where a low-speed vehicle could safely exit the way. The municipality shall post signs where necessary to provide notice to the public of such prohibited access. A low-speed vehicle shall not be operated by a person under 16 years of age nor by any person not possessing a valid driver's license, except that a person who is at least 16 years of age who possesses a valid learner's permit may operate a low-speed vehicle on those ways, or portions of ways, where such operation is lawful, if accompanied by an operator duly licensed by his state of residence who is 21 years of age or over, who has had at least 1 year of driving experience and who is occupying a seat beside the driver. The holder of a junior operator's license shall be subject to the same license restrictions applicable to that license classification in the operation of a low-speed vehicle as if the license holder were operating any other motor vehicle. A low-speed vehicle shall not be operated upon any public way unless such vehicle is registered in accordance with the provisions of this chapter, displays the registration number as provided in section 6, displays a slow moving vehicle emblem on the rear of the vehicle as required by section 7 and by 540 C.M.R. § 22.11, is equipped as required by 49 C.F.R. § 571.500, as amended, and as required by this chapter, meets the insurance certificate requirements of section 34B and is titled under chapter 90D. Low-speed vehicles shall be subject to annual inspection as required by section 7A, except that low-speed vehicles whose sole source of power is generated electrically shall not be subject to the test for emissions. The registrar may issue registration plates displaying the International Symbol of Access for a low-speed vehicle upon the same terms and conditions applicable to registrants of other motor vehicles and may issue a special parking identification placard bearing the same designation upon the same terms and conditions applicable to persons seeking a placard for a motor vehicle. A person convicted of a violation of this section, the penalty for which is not otherwise provided by this chapter, shall be punished by a fine of not more than \$75 for the first offense, not less than \$75 nor more than \$150 for a second and each subsequent offense.

Section 1G. Every licensed motor vehicle dealer and every person engaged in the business of leasing or renting low-speed vehicles to the public shall, upon the sale, lease or rental of such low-speed vehicle to a customer provide a notice of disclosure printed in at least 10-point type. Such original notice shall be signed by the person purchasing, leasing or renting the low-speed vehicle and shall be retained by the merchant and a copy of the signed notice shall be provided to the customer. The merchant shall maintain such original signed disclosure notices for at least 2 years and such signed notices shall be made available for review during normal business hours by the registrar or the registrar's agents, agents of the attorney general and local and state police. The notice shall be substantially as follows:

Operation of Low-Speed Vehicle In Massachusetts

"Low-Speed Vehicle is a "Motor Vehicle." This is a "low speed motor vehicle" and like any other motor vehicle under Massachusetts law, it is required to be registered, titled and insured before it can be operated on a public way. It must be inspected within 7 days of

registration.

License/Permit Required: You must have a valid driver's license or learner's permit to operate this motor vehicle. The holder of a learner's permit or Junior Operator's license is subject to the restrictions applicable to his license/permit. This vehicle must display the distinctive slow moving vehicle emblem on the rear of the vehicle required by General Law Chapter 90, Section 7.

Maximum Operating Speed: You cannot legally operate this vehicle at a speed greater than 25 miles per hour.

Operation Prohibited on Limited Access or Express State Highways: You cannot legally operate this vehicle on or across limited access or express state highways and ways where signs specifically prohibiting low-speed vehicles have been posted.

No Operation Where Speed Limit Exceeds 30 Miles Per Hour: You cannot legally operate this vehicle on any portion of a public way if the speed limit on that portion of the public way is greater than 30 miles per hour. If the speed limit increases above 30 miles per hour on the portion of the public way immediately ahead, you must get off the public way, if it is safe to do so, after making the appropriate turn signal. If it is not safe to do so, you must move the vehicle as far as possible off of the road surface and wait until a police officer or other public safety officer can be summoned to direct the safe movement of the vehicle.

Crossing Public Ways with a Speed Limit Less than 30 Miles Per Hour: Unless otherwise prohibited, you may cross a public way at an intersection where the public way to be crossed has a posted speed limit of less than 30 miles per hour, if it is safe to do so.

Crossing Public Ways with a Speed Limit Between 30 – 45 Miles Per Hour: You may cross a public way at an intersection where the public way to be crossed has a posted speed limit of 30 miles an hour or more, up to 45 miles per hour, if the crossing begins and ends on a public way with a speed limit of 30 miles per hour or less and the intersection is controlled by traffic signals or stop signs.

No Crossing of Public Ways where Speed Limit Exceeds 45 Miles Per Hour or Sign Posted: You may not cross a public way in a low-speed vehicle if the public way to be crossed has a posted speed limit higher than 45 miles per hour or where signs have been posted prohibiting crossing of the highway by low-speed vehicles.

Operator is Subject to All Traffic Laws: You are subject to all traffic laws and regulations of Massachusetts when operating this vehicle.

Use of Passenger Restraints Required: All occupants of this low speed motor vehicle must be secured by a properly adjusted safety belt (Chapter 90, Section 13A). Any child under the age of 8 shall be properly fastened and secured by a "child passenger restraint," according to the instructions of the manufacturer, unless such passenger measures more than 57 inches in height. Unless required to be secured by a child passenger restraint, a passenger that is under the age of 13 shall wear a safety belt which is properly adjusted and fastened according to the manufacturer's instructions (Chapter 90, Section 7AA, as amended).

Out-of State Operation: It may be illegal to operate this vehicle in other states so check with each state before you do."

Every licensed motor vehicle dealer and every person engaged in the business of leasing or renting low-speed vehicles to the public who fails to provide a customer with the notice required by this section upon the sale, lease or rental of a low-speed vehicle, shall be fined \$25 for each such occurrence.

Section 1H. In addition to the types of vehicles that may be registered under chapter 90, the registrar of motor vehicles may issue a registration for a motor vehicle meeting Federal Motor Vehicle Safety Standards for that particular class of vehicle, other than a low-speed motor vehicle, if the vehicle is designed by its manufacturer to be operated on public ways and its speed on a paved level surface can exceed 30 miles per hour but is not capable of exceeding 40 miles per hour, as may be determined by the registrar. The registrar may adopt reasonable rules and regulations concerning requirements for registration, equipment, inspections and insurance for such vehicles. Every person authorized and registered to operate such a vehicle upon a way shall not operate the vehicle in excess of 40 miles per hour and shall have the right to use all public ways in the commonwealth except limited access or express state highways where signs specifically prohibit bicycles, mopeds or low-speed vehicles have been posted and shall not operate the vehicle on a portion of a way where the speed limit increases beyond 40 miles per hour. This shall not prohibit a vehicle described in this section from crossing a public way at an intersection where the public way to be crossed has a posted speed limit between 40 and 55 miles per hour, provided the public way the vehicle is traveling on and the public way the vehicle is crossing the intersection to, both have a speed limit no higher than 40 miles per hour and the intersection is controlled by traffic signals or stop signs. Such limitations as to the vehicle's limited use of public ways may be conspicuously printed on the registration certificate of the vehicle by the registrar. The registrar may issue a distinctive registration plate for such vehicle indicating its speed restrictions.

Section 1I. Notwithstanding the definition of "Motorcycle" in section 1, the registrar of motor vehicles may register a 3-wheeled motor vehicle as a motorcycle on which the operator and passenger ride within an enclosed cab, if the vehicle's manufacturer has issued a certificate of origin indicating the vehicle meets Federal Motor Vehicle Safety Standards for a motorcycle and if the vehicle is designed by the manufacturer to be operated on public ways. If the registrar determines that the vehicle can attain a speed of at least 30 miles per hour but cannot exceed 40 miles per hour, he may restrict its use on public ways. If the vehicle was previously registered, the registrar may register the vehicle as a motorcycle if the owner provides documentation, satisfactory to the registrar, that the vehicle was previously registered in this or another state as a motorcycle. The registrar may adopt reasonable rules and regulations concerning requirements for registration, equipment, inspections and insurance. Every person authorized and registered to operate such a vehicle upon a way shall not operate the vehicle in excess of 40 miles per hour and shall have the right to use all public ways except limited access or express state highways where signs specifically prohibiting bicycles, mopeds or low-speed vehicles have been posted and shall not operate the vehicle on a portion of a way where the speed limit increases beyond 40 miles per hour. This shall not prohibit a vehicle described in this section from crossing a public way at an

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intersection where the public way to be crossed has a posted speed limit between 40 and 55 miles per hour, provided the public way the low-speed vehicle is traveling on and the public way the low-speed vehicle is crossing the intersection to, both have a speed limit no higher than 40 miles per hour and the intersection is controlled by traffic signals or stop signs. Such limitations as to the use of public ways may be conspicuously printed on the registration certificate of the vehicle by the registrar. The registrar may issue a distinctive registration plate for such vehicle indicating its speed restrictions.

SECTION 4. Said chapter 90 is hereby further amended by inserting after section 2F the following section:-

Section 2G. The registrar of motor vehicles shall issue passenger plates of suitable design for low-speed motor vehicles as defined in section 1. The fee for the registration of a low-speed motor vehicle shall be as set in clause 2 of section 33.

SECTION 5. Section 7 of said chapter 90, as appearing in the 2006 Official Edition, is hereby further amended by inserting after the word "machinery", in line 208, the following words:- and every low-speed motor vehicle.

SECTION 6. The first paragraph of section 7A of said chapter 90, as so appearing, is hereby amended by adding the following 2 sentences:- The registrar shall establish rules and regulations to govern the annual safety and emissions inspections of low-speed motor vehicles which shall ensure that the safety standards established by 49 C.F.R. § 571.500 are being complied with, that all required equipment is in good working order, that the slow moving vehicle emblem is properly displayed and that the vehicle meets the required emissions standards, as applicable, under state law. The registrar may adopt additional standards pursuant to section 7 to ensure that other parts or components of the vehicle, as equipped, are in good working order and that the vehicle is safe to operate.

SECTION 7. This act shall take effect July 31, 2009.

Approved January 15, 2009.

Chapter 524. AN ACT FURTHER REGULATING THE RIGHTS OF ADOPTED CHILDREN.

Be it enacted, etc., as follows:

Chapter 27 of the acts of 1969 is hereby amended by striking out section 2, as amended by section 3 of chapter 769 of the acts of 1975, and inserting in place thereof the following section:-

Section 2. Section 8 of chapter 210 of the General Laws shall apply to all grants, trust settlements, entails, devises, or bequests executed at any time, but this section shall not affect distributions made before May 1, 2009 under testamentary instruments executed before September 1, 1969.

Approved January 15, 2009.

Chapter 525. AN ACT PROVIDING FOR BICYCLE SAFETY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 116D the following section:—

Section 116E. (a) The municipal police training committee shall develop and establish within the recruit basic training curriculum a course for regional and municipal police training schools for the training of law enforcement officers in bicycle safety enforcement and develop guidelines for traffic enforcement for bicyclist safety. As used in this section, “law enforcement officer” shall mean an officer of a municipal police department.

(b) The course in bicycle safety enforcement shall include, but not be limited to, at least 2 hours of instruction in the procedures and techniques described below:

(1) the rights and duties of bicyclists set forth in chapter 85;

(2) patterns and sources of injuries to bicyclists, both those involving and those not involving motor vehicles and the percentage of crashes involving cyclists riding against traffic, riding at night and riding on sidewalks;

(3) the most dangerous actions by bicyclists and procedures for citing bicyclists, including minors;

(4) common motorist actions causing bicycle crashes;

(5) reporting bicyclist crashes; and

(6) motorists intentionally endangering bicyclists.

(c) All law enforcement recruits shall receive the course in bicycle safety enforcement as part of their required training program.

(d) The course in bicycle safety enforcement shall be taught as part of the highway safety component of the recruit academy training, so that there shall not be an increase in the currently required hours of recruit training.

(e) The course of instruction, the learning and performance objectives, the standards for training and the guidelines shall be developed by the municipal police training committee in consultation with the Massachusetts Bicycle Advisory Board and appropriate groups and individuals having an interest and expertise in bicycle safety.

(f) The municipal police training committee may include this course of instruction within its in-service training curriculum available to in-service trainees and any other public safety officers.

SECTION 2. Section 11A of chapter 85 of the General Laws is hereby repealed.

SECTION 3. Section 11B of said chapter 85, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “turn”, in line 9, the following words:— ; provided, however, that signals need not be made continuously and shall not be made when the use of both hands is necessary for the safe operation of the bicycle.

SECTION 4. The second paragraph of said section 11B of said chapter 85, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:—

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(1) Bicyclists riding together shall not ride more than 2 abreast but, on a roadway with more than 1 lane in the direction of travel, bicyclists shall ride within a single lane. Nothing in this clause shall relieve a bicyclist of the duty to facilitate overtaking as required by section 2 of chapter 89.

SECTION 5. Said section 11B of said chapter 85, as so appearing, is hereby further amended by striking out, in lines 36 to 39, inclusive, the words "American National Standards Institute (ANSI Z 90.4) or subsequent standards or the Snell Memorial Foundation's nineteen hundred and eighty-four standard for use in bicycling or subsequent standards" and inserting in place thereof the following words:- United States Consumer Product Safety Commission.

SECTION 6. Said chapter 85 is hereby further amended by striking out section 11C, as so appearing, and inserting in place thereof the following section:—

Section 11C. A police officer who observes a traffic law violation committed by a bicyclist may request the offender to state his true name and address. Whoever, upon such request, refuses to state his name and address or whoever states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than \$20 nor more than \$50. An offender who refuses to state his true name and address may be arrested without a warrant for such refusal but no person shall be arrested without a warrant for any other traffic law violation committed while operating a bicycle. A police officer shall use the ticketing procedure described in chapter 90C to cite a bicyclist for a traffic law violation but the violation shall not affect the status of the bicyclist's license to operate a motor vehicle nor shall it affect the bicyclist's status in the safe driver insurance plan. When a citation is issued to a bicyclist, it shall be clearly indicated on the ticket that the violator is a bicyclist, and failure to do so shall be a defense to the violation.

The parent or guardian of a person under 18 years of age shall not authorize or knowingly permit that person to violate this section. A violation of this section by a person under 18 years of age shall not affect any civil right or liability nor shall the violation be a criminal offense. If the offender is under 16 years of age, the officer may give the notice to the parent or guardian of the offender.

All fines collected by a city or town pursuant to this section shall be used by the city or town for the development and implementation of bicycle safety programs.

SECTION 7. The second paragraph of section 11D of said chapter 85, as so appearing, is hereby amended by adding the following sentence:— A person, firm or corporation engaged in the business of renting bicycles shall make available a bicycle helmet conforming to the specifications for bicycle helmets of the United States Consumer Product Safety Commission to each person renting a bicycle.

SECTION 8. Section 2 of chapter 89 of the General Laws, as so appearing, is hereby amended by inserting after the word "vehicle", in line 3, the following words:— and shall not return to the right until safely clear of the overtaken vehicle.

SECTION 9. The first paragraph of said section 2 of said chapter 89, as so appearing, is hereby amended by inserting after the first sentence the following sentence:—

If it is not possible to overtake a bicycle or other vehicle at a safe distance in the same lane, the overtaking vehicle shall use all or part of an adjacent lane if it is safe to do so or wait for a safe opportunity to overtake.

SECTION 10. The first paragraph of section 14 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the eleventh sentence the following sentence:— No person operating a vehicle that overtakes and passes a bicyclist proceeding in the same direction shall make a right turn at an intersection or driveway unless the turn can be made at a safe distance from the bicyclist at a speed that is reasonable and proper.

SECTION 11. Said section 14 of said chapter 90, as so appearing, is hereby further amended by inserting after the word “direction”, in line 63, the following words:— , including a bicycle on the right of the other approaching vehicles,.

SECTION 12. The first paragraph of said section 14 of said chapter 90, as so appearing, is hereby amended by inserting after the thirteenth sentence the following sentence:— It shall not be a defense for a motorist causing an accident with a bicycle that the bicycle was to the right of vehicular traffic.

SECTION 13. Said first paragraph of said section 14 of said chapter 90 is hereby further amended by adding the following sentence:— No person shall open a door on a motor vehicle unless it is reasonably safe to do so without interfering with the movement of other traffic, including bicyclists and pedestrians. Whoever violates the preceding sentence shall be punished by a fine of not more than \$100.

SECTION 14. The course on bicycle safety to be developed by the municipal police training committee pursuant to section 116E of chapter 6 of the General Laws shall be established and implemented not later than July 1, 2009.

Approved January 15, 2009.

Chapter 526. AN ACT RELATIVE TO AMERICAN SIGN LANGUAGE AND HARD OF HEARING WORKFORCE SOLUTIONS.

Be it enacted, etc., as follows:

There is hereby established the William Hoy Council of Deaf Studies and Workforce Development, hereinafter referred to as the council. The council shall be comprised of the following members: the commissioner of the deaf and hard of hearing or a designee, who shall be the chair of the council; the president of the University of Massachusetts or a designee; the commissioner of higher education or a designee; 2 presidents of community colleges appointed by the commissioner of higher education, or their designees; 2 presidents of state colleges appointed by the commissioner of higher education, or their designees; 2 presidents of private colleges or universities appointed by the commissioner of higher education, or their designees; the director of workforce development or a designee; the president

of the Commonwealth Corporation or a designee; the chief executive officer of the Massachusetts State Association of the Deaf, Inc. or a designee; the president of the Massachusetts chapter of the National Registry of Interpreters for the Deaf, Inc. or a designee; and the chief executive officer of DEAF, Inc. or a designee. In addition, the commissioner of the deaf and hard of hearing shall appoint a graduate student in deaf studies, an undergraduate student in deaf studies, a student in American Sign Language interpreting, no fewer than 2 nationally recognized interpreting educators, and no fewer than 2 certified teachers of American Sign Language at the college level.

The council shall: (a) develop guidelines for a grant program for the establishment, enhancement, and expansion of new and existing programs in deaf studies and American Sign Language interpreting in public and private institutions of higher education in the commonwealth; (b) develop guidelines for financial assistance programs for undergraduate and graduate students matriculating in public or private institutions of higher education in commonwealth; and (c) develop guidelines for a marketing and outreach program on deaf studies and American Sign Language interpreting targeted toward elementary and secondary education students.

The council shall file a report with the senate and house ways and means committees, and with the joint committee on higher education within 12 months of the effective date of this act. The report shall include, but need not be limited to, recommendations on: (a) guidelines for a grant program for the establishment, enhancement, and expansion of new and existing programs in deaf studies and American Sign Language interpreting in public and private institutions of higher education in the commonwealth, including any planning and implementation grants necessary for the institutions to develop and undertake such programs; (b) guidelines for financial assistance programs for undergraduate and graduate students matriculating in public or private institutions of higher education in commonwealth who agree to work in fields related to the deaf or hard of hearing including, but not limited to, American Sign Language interpreting upon graduation; and (c) guidelines for a marketing and outreach program on deaf studies and American Sign Language interpreting targeted toward elementary and secondary education students.

Approved January 15, 2009.

Chapter 527. AN ACT RELATIVE TO FOOD ALLERGY AWARENESS IN RESTAURANTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 140 of the General Laws is hereby amended by inserting after section 6 the following section:-

Section 6B. (a) As used in this section, the word “department” shall mean the department of public health.

(b) A person licensed as an innholder or common victualler, when serving food, shall:

(1) prominently display in the staff area a poster approved by the department relative to food allergy awareness. The poster shall include, but not be limited to, information regarding the risk of an allergic reaction and shall be developed by the department in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network; and

(2) include on all menus a notice to customers of the customer's obligation to inform the server about any food allergies, the language of the notice shall be developed by the department in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network.

(c) A person in charge and certified food protection manager, as those terms are used in the state sanitary code for food establishments, in order to obtain certification, shall view, as part of an otherwise approved food protection manager course, a video concerning food allergies. The department shall approve the video in collaboration with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network. A person designated as an alternate person-in charge, as that term is used in the state sanitary code for food establishments, in addition to existing requirements, shall be knowledgeable with regard to the relevant issues concerning food allergies as they relate to food preparation.

(d) A violation of this section shall be subject to the remedies available under the state sanitary code for food establishments.

(e) The department may adopt regulations to carry out this section.

(f) This section shall not establish or change a private cause of action nor change a duty under any other statute or the common law, except as this section expressly provides.

(g) The department shall develop a program for restaurants to be designated as "Food Allergy Friendly" and shall maintain a listing of restaurants receiving that designation on its website. Participation in the program shall be voluntary and the department, in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network, shall issue guidelines and requirements for restaurants to receive the designation; provided that the requirements shall include, but not be limited to, maintaining on the premises and making available to the public, a master list of all the ingredients used in the preparation of each food item available for consumption.

SECTION 2. On or before November 1, 2011, the department of public health, in consultation with the Massachusetts Restaurant Association and the Food Allergy & Anaphylaxis Network, shall submit a report to the joint committee on community development and small business and the clerks of the senate and the house of representatives, which shall include analysis of the impact of this act. The report shall include, but not be limited to, the scope of compliance of restaurants with section 6B of chapter 140 of the General Laws, and proposed changes to the law consistent with the public health and welfare.

SECTION 3. Clause (2) of subsection (b) of section 6B of chapter 140 of the General Laws shall take effect on January 1, 2010.

Approved January 15, 2009.

Chapter 528. AN ACT ESTABLISHING COLLABORATIVE DRUG THERAPY MANAGEMENT.

Be it enacted, etc., as follows:

SECTION 1. Subsection (g) of section 7 of chapter 94C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 2 paragraphs:—

The commissioner shall issue regulations authorizing pharmacists, who have been duly registered in accordance with section 24½ of chapter 112, to engage in collaborative drug therapy management and to issue written prescriptions in accordance with the provisions of said section 24½ of said chapter 112 and guidelines mutually developed and agreed upon by the supervising physician and the pharmacist in a collaborative practice agreement, as defined in section 24½ of said chapter 112, established in accordance with regulations of the board of registration in medicine and board of registration in pharmacy. Prior to issuing such regulations, the commissioner shall consult with the board of registration in medicine and the board of registration in pharmacy with regard to the schedules of controlled substances for which a pharmacist may be authorized to prescribe within the scope of his collaborative practice.

The commissioner may gather patient outcome and cost-savings data if available from objective sources and review community retail drug business-based collaborative drug therapy management. If the commissioner finds that sufficient data and funding sources exist to conduct a valid study, he shall conduct a study within 2 years after that finding. The study shall include representatives of the board of registration in medicine and the board of registration in pharmacy. In conducting the study, the commissioner shall hold at least 1 public hearing to receive testimony from the public, including representatives of pharmacy and medicine and other concerned parties.

SECTION 2. Said chapter 94C is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:—

Section 9. (a) A physician, dentist, podiatrist, optometrist as limited by sections 66 and 66B of chapter 112 and subsection (h) of section 7, nurse practitioner and psychiatric nurse mental health clinical specialist as limited by subsection (g) of said section 7 and section 80E of said chapter 112, physician assistant as limited by said subsection (g) of said section 7 and section 9E of said chapter 112, certified nurse-midwife as provided in section 80C of said chapter 112, pharmacist as limited by said subsection (g) of said section 7 and section 24B½ of said chapter 112, or veterinarian when registered pursuant to said section 7, may, when acting in accordance with applicable federal law and any provision of this chapter which is consistent with federal law and in good faith and in the course of a professional practice for the alleviation of pain and suffering or for the treatment or alleviation of disease, possess controlled substances as may reasonably be required for the purpose of patient treatment and may administer controlled substances or may cause the same to be administered under his direction by a nurse.

A practitioner may cause controlled substances to be administered under his direction by a licensed dental hygienist, for the purposes of local anesthesia only.

(b) Notwithstanding section 17, a physician, physician assistant, dentist, podiatrist, optometrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, pharmacist as limited by said subsection (g) of said section 7 and section 24B½ of said chapter 112, or veterinarian registered pursuant to said section 7, may, when acting in good faith and in the practice of medicine, dentistry, podiatry, optometry, nurse-midwifery, pharmacy or veterinary medicine or as a nurse, as the case may be, and when authorized by a physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified nurse-midwife, psychiatric nurse mental health clinical specialist or veterinarian in the course of such nurse's professional practice, dispense by delivering to an ultimate user a controlled substance in a single dose or in a quantity that is, in the opinion of such physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified midwife, psychiatric nurse mental health clinical specialist, pharmacist or veterinarian, essential for the treatment of the patient. The amount or quantity of any controlled substance dispensed under this subsection shall not exceed the quantity of a controlled substance necessary for the immediate and proper treatment of the patient until it is possible for the patient to have a prescription filled by a pharmacy. All controlled substances required by the patient as part of his treatment shall be dispensed by prescription to the ultimate user in accordance with this chapter.

This section shall not prohibit or limit the dispensing of a prescription medication that is classified by the department as schedule VI and that is provided by the manufacturer as part of an indigent patient program or for use as samples if the prescription medication is: (i) dispensed to the patient by a professional authorized to dispense controlled substances pursuant to this section; (ii) dispensed in the package provided by the manufacturer; and (iii) provided at no charge to the patient. The department shall promulgate rules and regulations governing the dispensing of medication pursuant to this section. These rules and regulations shall include, but not be limited to, those concerning the types and amounts of medications that may be dispensed and the appropriate safeguards for the labeling and dispensing of such medications.

(c) A nurse who has obtained from a physician, dentist, physician assistant, podiatrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, pharmacist or veterinarian a controlled substance for dispensing to an ultimate user pursuant to subsection (b) or for administration to a patient pursuant to subsection (a) during the absence of the physician, physician assistant, dentist, podiatrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, pharmacist or veterinarian, shall return to the physician, physician assistant, dentist, podiatrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, pharmacist or veterinarian any unused portion of the controlled substance which is no longer required by the patient.

A licensed dental hygienist who has obtained a controlled substance from a practitioner for dispensing to an ultimate user pursuant to subsection (a) shall return to such practitioner any unused portion of the substance which is no longer required by the patient.

(d) Every physician, physician assistant, dentist, podiatrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, pharmacist or veterinarian shall, in the course of a professional practice, keep and maintain records, open to inspection by the commissioner during reasonable business hours, which shall include the following: the names and quantities of any controlled substances in schedules I, II or III received by the practitioner; the name and address of each patient to whom such controlled substance is administered or dispensed; the name, dosage and strength per dosage unit of each such controlled substance; and the date of such administration or dispensing.

(e) Notwithstanding subsection (b), a physician, nurse practitioner, physician assistant, pharmacist as limited by subsection (g) of section 7 and section 24B½ of said chapter 112 or certified nurse-midwife, when acting in good faith and providing care under a program funded in whole or in part by 42 U.S.C. 300, or in a clinic licensed by the department to provide comparable medical services or a registered nurse, registered pursuant to section 74 of said chapter 112 and authorized by such physician, nurse practitioner, physician assistant, pharmacist as limited by said subsection (g) of said section 7 and section 24B½ of said chapter 112, or certified nurse-midwife, may lawfully dispense controlled substances pursuant to schedule VI to recipients of such services in such quantity as needed for treatment and shall be exempt from the requirement that such dispensing be in a single dosage or as necessary for immediate and proper treatment under subsection (b). A registered nurse shall dispense under this subsection only as provided in section 17. The department may establish rules and regulations controlling the dispensing of these medications, including, but not limited to, the types and amounts of medications dispensed and appropriate safeguards for dispensing.

SECTION 3. Chapter 112 of the General Laws is hereby amended by inserting after section 24B the following 2 sections:-

Section 24B½. (a) As used in this section and section 24B¾ the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Collaborative drug therapy management”, the initiating, monitoring, modifying and discontinuing of a patient's drug therapy by a pharmacist in accordance with a collaborative practice agreement; provided, however, that collaborative drug therapy management may include: collecting and reviewing patient histories; obtaining and checking vital signs, including pulse, temperature, blood pressure and respiration; and, under the supervision of, or in direct consultation with, a physician, ordering and evaluating the results of laboratory tests directly related to drug therapy when performed in accordance with approved protocols applicable to the practice setting and when the evaluation shall not include a diagnostic component.

“Collaborative practice agreement”, a written and signed agreement between a pharmacist with training and experience relevant to the scope of the collaborative practice and a supervising physician that defines the collaborative practice in which the pharmacist and supervising physician propose to engage. The collaborative practice shall be within the scope of the supervising physician's practice. Each collaborative practice agreement shall

be subject to review and renewal on a biennial basis. A collaborative practice agreement shall include individually developed guidelines for any prescriptive practice of the pharmacist.

“Commissioner”, the commissioner of the department of public health.

“Department”, the department of public health.

“Patient”, a person who is referred to a pharmacist by his supervising physician for the purpose of receiving collaborative drug therapy management services from the pharmacist. The supervising physician shall assess the patient and include a diagnosis when referring the patient to the collaborating pharmacist. The patient shall be notified of, and shall consent to, the collaborative drug therapy management services in the retail drug business setting. Individual referral and consent shall be recorded by the pharmacist and the supervising physician in the patient’s record.

(b) In order for a pharmacist to enter into a collaborative practice agreement, the pharmacist shall: (1) hold a current license to practice pharmacy in the commonwealth and currently be engaged in pharmacy practice in the commonwealth; (2) have at least \$1,000,000 of professional liability insurance; (3) have earned a doctor of pharmacy degree or have completed 5 years of experience as a licensed pharmacist or the equivalent; (4) agree to devote a portion of his practice to the defined drug therapy area that the pharmacist shall co-manage; and (5) agree to complete, in each year of the agreement, at least 5 additional contact hours or 0.5 continuing education units of board-approved continuing education that addresses areas of practice generally related to collaborative practice agreements.

(c) Collaborative drug therapy management shall only be allowed in the following settings: (1) hospitals licensed pursuant to section 51 of chapter 111, subject to approval by the medical staff executive committee at a licensed hospital or designee; (2) long-term care facilities licensed pursuant to section 71 of chapter 111, subject to approval by the long-term care facilities’ medical director or designee; (3) inpatient or outpatient hospice settings licensed pursuant to section 57D of chapter 111, subject to approval by the hospice’s medical director or designee; (4) ambulatory care clinics licensed pursuant to section 51 of chapter 111, with on-site supervision by the attending physician and a collaborating pharmacist, subject to approval by the ambulatory care clinic’s medical staff executive committee or designee, or medical director or designee; (5) a collaborating pharmacist in a retail drug business, as registered in section 38 of chapter 112 and limited by this section, with supervision by a physician according to the terms of his collaborative practice agreement and limited to the following: patients 18 years of age or older; an extension by 30 days of current drug therapy prescribed by the supervising physician; and administration of vaccines or the modification of dosages of medications prescribed by the supervising physician for asthma, chronic obstructive pulmonary disease, diabetes, hypertension, hyperlipidemia, congestive heart failure, HIV or AIDS, osteoporosis and co-morbidities identified by the supervising physician for the individual patient along with the primary diagnosis. The collaborative practice agreement shall specifically reference each disease state being co-managed. A patient shall be referred by a supervising physician to that physician’s collaborating pharm-

acist and shall be given notice of the collaboration and shall consent to the collaboration. No collaborative practice agreement in the retail drug business setting may permit the prescribing of schedule II through V controlled substances, as defined in section 3 of chapter 94C. A pharmacist in the retail setting, who has a collaborative practice agreement with a supervising physician which specifically allows initial prescriptions for referred patients of the supervising physician, may issue prescriptions for schedule VI controlled substances, as defined in clause 6 of section 3 of chapter 94C. Such prescriptions shall be for a patient diagnosis specified in the supervising physician's individual referral of that patient. A copy of the prescription shall be sent to the supervising physician within 24 hours.

(d) A retail drug business practicing in collaborative drug therapy management under this section shall not be required to register as a Health Facility under 105 CMR 700.004(A)(2)(d).

(e) A physician or a physician group may hire pharmacists for the purpose of practicing collaborative drug therapy management under a collaborative practice agreement, as defined in subsection (a), for the benefit of a patient of that physician or physician group. No retail pharmacy may employ a physician for the purpose of maintaining, establishing or entering into a collaborative practice agreement with a patient. Nothing shall prohibit a retail pharmacy from hiring a physician or licensed medical practitioner for the purpose of conducting quality assurance reviews of its pharmacists that are engaged in the practice of collaborative drug therapy.

Section 24B³/₄. The board of registration in medicine and the board of registration in pharmacy shall issue rules and regulations to implement collaborative drug therapy management pursuant to section 24B¹/₂ and sections 7 and 9 of chapter 94C. To aid in the implementation, the board of registration in medicine and the board of registration in pharmacy shall consult with at least 1 individual from each of the following groups: the department of public health; the Massachusetts Society of Health-System Pharmacists; the Massachusetts chapter of the American Society of Consultant Pharmacists; the Massachusetts Pharmacists Association; the Massachusetts Independent Pharmacists Association; the Massachusetts Chain Pharmacy Council; the Massachusetts College of Pharmacy and Health Sciences; the Bouvé College of Health Sciences at Northeastern University; the Massachusetts Medical Society; the Massachusetts Academy of Family Physicians; the Massachusetts Chapter of the American Academy of Pediatrics; the Massachusetts Psychiatric Society; the Massachusetts chapter of the American Academy of Emergency Physicians; the Massachusetts Chapter of the American Medical Directors Association; and the Massachusetts Hospital Association. The rules and regulations shall govern each collaborative practice agreement, shall be defined and limited by section 24B¹/₂, chapter 94C and other applicable statutes. The board of registration in medicine and the board of registration in pharmacy shall address the following issues: (1) further limitations and conditions on sites and settings where a collaborative practice may take place beyond those of section 24; (2) the qualifications of participating pharmacists and physicians; (3) the scope of conditions or diseases to be managed, the initial list of which shall not include more

than 5 disease states considered appropriate for collaborative management, providing that the 5 diseases selected for collaborative management in the retail setting must be from among those referenced in clause (5) of subsection (c) of section 24B½; (4) practice protocols; (5) risk management activities; (6) documentation of any initiation, modification or discontinuation of a patient's medication therapy in the patient's permanent medical record; (7) outcome measurements; and (8) informed consent procedures. The board of registration in medicine and the board of registration in pharmacy shall reconsider these regulations on a periodic basis, as considered appropriate by the commissioner for the purposes of adding or removing disease states to be managed under collaborative drug therapy treatment, as well as for the purpose of updating the rules and regulations governing collaborative drug therapy management, as necessary.

Approved January 15, 2009.

Chapter 529. AN ACT RELATIVE TO PUBLIC HEALTH REGIONALIZATION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 111 of the General Laws is hereby amended by striking out sections 27A to 27C, inclusive, as appearing in the 2006 Official Edition, and inserting in place thereof the following 3 sections:-

Section 27A. Two or more municipalities may, by vote of each, form a district for the purpose of employing therein a health officer and necessary assistants and clerks, all of whom shall be appointed and may be removed by a joint committee composed of either the boards of health of the municipalities or 1 or more representatives from the board of health of each municipality. Persons so employed shall perform such duties and receive such compensation as the joint committee shall determine and, in so far as their duties in a given municipality are concerned, shall be the employees of and responsible to the regularly constituted board of health of such municipality. The department, in consultation with the department of environmental protection, may adopt regulations to set minimum qualifications for health officer pursuant to this section. The joint committee shall annually elect a chairman and a secretary and shall determine the relative amount of service to be performed in each municipality of the district by employees of the district. The treasurer of 1 of the municipalities of the district, designated by the joint committee, or such other treasurer designated by the joint committee, shall be treasurer of the district and shall give to the district a bond with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties as treasurer of the district, in such sum and upon such conditions as the joint committee may require. The joint committee, annually in the month of December, shall estimate the amount of money required to pay the costs and expenses of the district for the following year, shall fix and determine the proportion of such costs and expenses to be paid by the respective municipalities thereof

during the year and shall certify the amount so determined for each such municipality to its assessors who shall include such amount in the tax levy of such year. Upon order of the board of health of each municipality, the municipal treasurer thereof shall, from time to time and subject to section 52 of chapter 41, pay to the district treasurer such sums not exceeding the amount certified by the joint committee as the municipality's share of the costs and expenses of the district. The district treasurer shall disburse the money so received, upon warrants approved by the health officer. A member municipality of a regional health district formed pursuant to this section may withdraw by majority vote of its legislative body and the vote to withdraw shall become effective on the last day of the next fiscal year. This section shall not apply in the county of Barnstable.

Nothing in this section shall be construed to prohibit a board of health that is not part of a regional health district from appointing as its health agent, a health agent employed by another municipality pursuant to section 30, and setting the salary and terms of employment thereof if such health agent has received written approval from the original appointing authority and the health agent is either: (a) a physician, having graduated from an accredited approved school of medicine and registered, or eligible for registration, to practice medicine in the commonwealth, with 1 year of full-time graduate public health academic training or 2 years of full-time experience in public health; or (b) a lay person with professional academic training equivalent to a bachelor's degree and with 5 years of administrative experience and supervision of generalized public health programs or a registered sanitarian, certified pursuant to section 87 OO of chapter 112. If a lay health officer is employed, a registered physician shall also be employed to perform such medical functions as are required.

For purposes of this section, the term "board of health" shall include any body politic or political subdivision of the commonwealth that acts as a board of health, public health commission or a health department for a municipality.

Section 27B. Two or more municipalities may, by vote of their respective boards of health and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, in other cities by vote of the city council and approval of the mayor, and by vote of a town at a regular annual town meeting, form a regional health district which shall consist of a regional board of health, a director of health and staff thereof. Towns and cities may, in a like manner, join a regional health district previously formed with the approval of the regional board of health of such district. The regional health district may have all the powers and may perform all the duties conferred upon, or exercised by, the boards of health and health departments of the constituent municipalities under any law or ordinance pertaining thereto, except in so far as the regional health district may, by majority vote, delegate certain powers and duties to the constituent municipalities. Notwithstanding the foregoing, a constituent municipality shall retain its legal authority under chapter 111 and section 6 of Article 2 of the Amendments to the Massachusetts Constitution, unless and until a municipality votes, by vote of its board of health and, in a city having a Plan E charter by the affirmative vote of a majority of all members of the city council, and in other cities by

vote of the city council and approval of the mayor, and by vote of a town at a regular annual town meeting, to delegate part or all of its legal authority to the regional board of health.

The regional board of health, hereinafter referred to as the board, shall be comprised of at least 1 representative from each constituent municipality. Unless the board votes otherwise, each constituent municipality having a population greater than 10,000 shall have 1 additional representative to the board for every population unit of 10,000 or major fraction thereof beyond the first 10,000. In no instance shall there be more than 5 representatives from a single municipality on a board. Towns shall, at a town meeting, select or change the method of selecting their representative or representatives by any of the following methods: (a) by appointment of the board of health; (b) by appointment of the selectmen; (c) by vote at the annual town meeting; or (d) by any other method decided at the annual town meeting. In cities, such representatives shall be appointed by the mayor with the approval of the city council, or in cities having Plan E charters by the city manager, unless a definite mode of appointment is otherwise provided by the city charter. Each representative shall serve for a period of 3 years, except that at its initial organization the board shall decide the term of years for the first representatives who shall be elected or appointed to the board, so that thereafter approximately one-third of the representatives will be elected or appointed each year. Such representatives shall serve without compensation, but shall receive their necessary traveling expenses from the board while in the performance of their official duties. Representatives to the board may be re-elected or reappointed for a maximum of 2 terms. The board shall meet annually and at such other times as it shall determine by its rules or when requested by the chairman of the board or the director of health.

Each board may make and adopt reasonable rules and regulations for the promotion of general health within the district not in conflict with law, ordinance, by-law or any fire, health or safety regulation. The powers of each district shall include, but not be limited to, the power to: (1) sue and be sued; (2) make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the health district; (3) make and from time to time amend and repeal rules and regulations relative to the operation of the district; (4) receive and expend funds; (5) apply for and receive grants from the commonwealth, the federal government and from other grantors, if the purpose of the grant is to improve public health; and (6) have such other powers as are necessary to properly carry out its powers as an independent entity of government.

Any constituent municipality that has been a member of the district for at least 3 years may withdraw from the district, by vote of its board of health and its respective legislative bodies passed prior to July first in any year, and the withdrawal shall be effective January first of the following year. In the event of the withdrawal of a town or city from the district, or in the event of dissolution of any district, the employees thereof, if originally employed by a municipality, shall automatically become employees in the same position they held in such municipality's board of health.

The board shall select a treasurer, who may be the treasurer of 1 of the constituent municipalities or such other treasurer as designated by the board, to act as treasurer for the

district. For the faithful performance of his duties, the treasurer shall give bond, with a surety company authorized to transact business in the commonwealth, in such sums and upon such conditions as the board may require. The board shall, annually, in the month of December: (a) estimate the amount of money required to pay the cost and expense of the district for the following year; (b) fix and determine by a majority vote the proportion of such costs and expenses to be paid by the individual municipalities thereof during such year; and (c) certify the amount so determined for each municipality to the assessors thereof, who shall include such in the tax levies of each year, and each municipality shall appropriate such sum for the district. In apportioning the costs, the board, by a majority vote, may use any of the following formulae as a basis for its apportionment: (a) valuation, according to the latest state valuation, establishing the basis of apportionment of state and county taxes; (b) population, as determined by the most recent estimate by the state secretary, exclusive of universities and federal, state and county institutions; (c) a combined formula of valuation according to the latest state valuation and population as determined by the most recent estimate by the state secretary, exclusive of universities and federal, state and county institutions; or (d) any other method decided by majority vote of the board. Upon order of the board, the treasurer of each constituent municipality thereof shall, from time to time, subject to section 52 of chapter 41, pay to the treasurer of the district the amount certified by the board as the municipality's share of the cost and expenses of the district. The treasurer of the district shall disburse the money so received upon warrant approved by the director of health and signed by the chairman or vice-chairman of the board. The accounts of each district shall be audited annually by the bureau of accounts of the department of corporations and taxation, under sections 35, 40 and 41 of chapter 44.

The board shall appoint, and may reappoint, for a term of 3 years, a director of health, hereinafter referred to as the director. The board may remove the director for cause after proper notice and a public hearing. The director shall serve as secretary of the board, but shall have no vote. He shall be the executive and administrative head of the district and, may, with the approval of the board, designate 1 or more deputies and may appoint and employ, with like approval, such assistants as may be provided for in the budget. The director shall prepare and present annually to the board a report and a budget for its approval, together with such recommendations as he deems proper. The department of public health, in consultation with the department of environmental protection shall adopt regulations to set minimum qualifications for directors of health and other employees hired pursuant to this section.

The board shall adopt reasonable rules and regulations, for which notice and public hearing shall be given in the same manner and extent as required by section 37 of chapter 30 and section 2 of chapter 30A. The board shall also: (a) take evidence in appeals; (b) consider plans and appointments required by law; (c) hold hearings; and (d) discharge such other duties required by law, but the board shall have no administrative or executive functions. The board may delegate the holding of hearings to the director or his deputies. The board may elect an executive committee consisting of its chairman, vice-chairman, secretary and

such other members as its rules may determine. The executive committee shall have the authority to act for the board when the board is not in session.

All full-time and part-time incumbents of any office or position brought under the district at the time of its formation shall be transferred thereto without loss of civil service, retirement or other rights. Any transferred employee's compensation shall be fixed by the board at not less than the amount received by the employee during the fiscal year preceding the date such employee was transferred to the district. Any person hired pursuant to this section shall be hired in accordance with the merit system, personnel policies and compensation plans approved by the board. Any employee whose employment was governed by chapter 31 shall be transferred to the district with duties comparable to those previously performed by him and shall have all rights and privileges accruing to him from his previous position. Any employee whose employment was not governed by said chapter 31 shall be transferred to the district in a comparable position. The employee shall have all rights and privileges accruing to him from his previous position. If a new position is governed by said chapter 31 such employee shall be classified in the competitive civil service without examination. All positions and offices of the district, including the director, but excluding representatives to the board, shall be subject to the provisions of chapter 32. Ninety days after the organizational meeting of the board, all district positions and offices, except the director and the representatives to the board, not subject to chapter 31 at the time of the formation of the regional board of health, shall be placed within the civil service in the manner provided by said chapter 31 and the rules and regulations promulgated thereunder, and all positions and offices subsequently established by the board shall be subject to said chapter 31 and the rules and regulations thereof, unless the board by a majority vote within 90 days after its organizational meeting votes not to extend said chapter 31 to any or all of such eligible positions and offices. At any time after such a vote to exclude, the board may, by a majority vote, bring within said chapter 31 any or all positions and offices, in the manner set forth therein, except the director and the representatives to the board, which were excluded but which are still subject to the jurisdiction of the board. The wages and salaries of all offices and positions, including those subject to chapter 31, shall be determined by the board. The department in consultation with the department of environmental protection, shall establish by regulation minimum performance standards, including standards for inspection and enforcement, for basic programs of public health administration, personal health, laboratory services, health resources and other preventive health programs not inconsistent with law, as it finds necessary or desirable for the protection of public health.

For purposes of this section, the words "board of health" shall include any body politic or political subdivision of the commonwealth that acts as a board of health, public health commission or a health department for a municipality.

Section 27C. (1) Each regional health district established under section 27B shall be entitled to reimbursement from the commonwealth, subject to appropriation, for expenditures incurred by it for initial capital outlays, including the acquisition, construction, improvement

or renovation of any buildings or premises for the use of the district and any original furnishings and equipment therefor, but excluding the costs of supplies, salaries and other expenses for the ordinary maintenance and operation of the district. The department shall establish, by regulation, a formula for allocating state funds for initial capital outlays to each regional health district. In order to qualify for such reimbursement, a regional board of health shall, before incurring any expenses reimbursable under this section, submit to the commissioner an itemized statement of all proposed expenditures for such purposes. The commissioner shall examine such statement and shall notify such board to what extent, in his opinion, the proposed expenditures are reasonably necessary for the purposes of the regional health district and reimbursable hereunder, and the probable amount of reimbursement therefor. Within 3 months after the date of final payment for such capital outlays the board shall submit to the commissioner a certified statement of its actual expenditures for such purposes. If satisfied that the expenditures so certified are reimbursable and not unreasonable or excessive, the commissioner shall certify to the comptroller and the treasurer shall forthwith pay to such regional health district, from any amounts appropriated therefor, the amount of such approved reimbursement.

(2) A formula shall be established, subject to appropriation, for allocating state funds for operating expenses to each regional health district. This formula shall include the requirement of municipal matching funds on a basis to be determined from the annual tax receipts of each participating city or town. Districts receiving state funds shall meet the performance standards and personnel qualifications adopted by the department of public health pursuant to section 27B. Such regional health districts may use additional funds, which they may secure from other sources. In the event that a city or town fails to appropriate its required matching funds from the annual tax receipts, such city or town shall be removed from the regional health district.

Approved January 15, 2009.

Chapter 530. AN ACT TO IMPROVE, PROMOTE AND PROTECT THE ORAL HEALTH OF THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section 19 of chapter 13 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 2, the figure "9" and inserting in place thereof the following figure:- 10.

SECTION 2. Said section 19 of said chapter 13, as so appearing, is hereby further amended by inserting after the word "appointment", in line 11, the following words:- and 1 of whom shall be a dental assistant in the commonwealth for the 5 years next preceding his appointment.

SECTION 3. Chapter 111 of the General Laws is hereby amended by inserting after section 4N the following section:-

Section 4O. (a) Subject to appropriation, the commissioner shall appoint a dental director. The dental director shall serve at the pleasure of the commissioner and shall be a dentist licensed in the commonwealth with public health experience. The department may establish additional qualifications for the position of dental director by regulation. The dental director shall oversee the department of public health dental program to increase access to oral health services, oral health prevention activities and other initiatives to address oral health disparities.

(b) There shall be an office of oral health within the department with responsibilities that shall include, but not be limited to:

(1) providing recommendations and guidance to the department and other individuals or entities as the office determines including, but not limited to, other departments, agencies, community providers and the legislature for preventing oral diseases and for improving, promoting and protecting oral health with a focus on underserved populations and reducing oral health disparities;

(2) monitoring, studying and appraising the commonwealth's oral health needs and resources;

(3) fostering the development, expansion and evaluation of oral health services for residents of the commonwealth in collaboration with key partners including, but not limited to, MassHealth, the department of youth services, the department of children and families, the department of mental retardation, the department of mental health, the executive office of elderly affairs, the board of registration in dentistry, the department of elementary and secondary education and the department of early education and care;

(4) providing information and education concerning oral health to the dental and health community and to the public;

(5) promoting and providing technical assistance, monitoring and evaluating population-based dental programs including, but not limited to, community water fluoridation programs, school prevention programs, mobile and portable dental programs and other programs to improve access to services;

(6) developing policies to promote oral health; and

(7) developing related programs, policies and preventive measures that impact oral health.

SECTION 4. Section 43A of chapter 112 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 15 and 16, the words "qualified by education, training or experience" and inserting in place thereof the following words:- registered by the board or authorized under section 51½.

SECTION 5. Said section 43A of said chapter 112, as so appearing, is hereby further amended by inserting after the word "procedures", in line 18, the following words:- under the supervision of a licensed dentist as determined by the board.

SECTION 6. Said section 43A of said chapter 112, as so appearing, is hereby further amended by adding the following definition:-

“Public health dental hygienist”, a dental hygienist with at least 3 years of full-time clinical experience who is practicing full or part time in a public health setting pursuant to section 51 and who has received appropriate training as determined by the department of public health.

SECTION 7. Section 51 of said chapter 112, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

A registered dental hygienist practicing as a public health dental hygienist may perform in a public health setting, without the supervision or direction of a dentist, any procedure or provide any service that is within the scope of his practice and that has been authorized and adopted by the board as a delegable procedure for dental hygienists in private practice under general supervision. A public health setting shall include, but not be limited to, the following: residences of the homebound; schools; nursing homes and long-term care facilities; clinics, hospitals, medical facilities, community health centers and mobile and portable dental health programs licensed or certified by the department of public health; Head Start programs; and other facilities or programs deemed appropriate by the department of public health. Before performing a procedure or providing a service under this paragraph, a public health dental hygienist shall enter into a written collaborative agreement with a local or state government agency or institution or with a licensed dentist who states that he shall be able to provide the appropriate level of communication and consultation with the dental hygienist to ensure patient health and safety. The board shall establish appropriate guidelines for this written collaborative agreement. Public health dental hygienists shall provide to the patient or to the patient's legal guardian a written referral to a dentist and an assessment of further dental needs. Public health dental hygienists shall also provide to each patient or to the patient's legal guardian a consent form to be signed by the patient or legal guardian, which form shall be consistent with current department of public health policies, that describes services to be rendered, explains that the services are not a substitute for a dental examination by a dentist and informs the patient or legal guardian that the patient should obtain a dental examination by a dentist within 90 days. Public health dental hygienists shall be directly reimbursed for services administered in a public health setting by MassHealth or the commonwealth care health insurance program, but shall not seek reimbursement from any other insurance or third party payor. A public health dental hygienist shall not operate independently of a dentist, except for a dental hygienist working for a local or state government agency or institution or practicing in a mobile or portable prevention program licensed or certified by the department of public health. In such cases, the local or state government agency or institution, or mobile or portable prevention program licensed or certified by the department of public health may seek reimbursement from any other insurance or third party payor.

SECTION 8. Said section 51 of said chapter 112, as so appearing, is hereby amend-

ed by striking out, in lines 41 and 42, the words "and those delegated procedures performed by a dental assistant".

SECTION 9. Said chapter 112 is hereby further amended by inserting after section 51 the following section:-

Section 51½. No person shall practice as a dental assistant unless registered with the board. A person who is at least 18 years of age, of good moral character and who meets the applicable qualifications and requirements for registration as a dental assistant as established and adopted by the board shall, upon application and payment of a fee, as determined annually by the secretary of administration under section 3B of chapter 7, be registered as a dental assistant. The board shall furnish to each such person a registration certificate in a form prescribed by the board. A registration certificate issued under this section shall be revoked upon the issuance to the same person of a certificate of registration under section 45 or 51. The board may adopt rules and regulations consistent with sections 43 to 53, inclusive, governing the registration and practice of dental assistants to protect the public health, safety and welfare including, without limitation, rules and regulations that establish and define the acts, services and delegated procedures that may be performed by dental assistants, the level of supervision required by a registered dentist, tiered classes or levels of practice and certification requirements for each established class or level, education and training requirements, registration and registration renewal procedures and requirements for the display of registration certificates. The continuing education requirements set forth in section 51A shall not apply to this section unless adopted by the board. A dental assistant shall not practice dentistry as defined in section 50 or perform acts or services requiring the knowledge and skill of a registered dentist, such as diagnoses, treatment planning, surgical or cutting procedures on hard or soft tissue and the prescription of medications, or perform any acts or services that require the training, knowledge or skill of a registered dental hygienist, unless specifically authorized by regulation of the board and performed under the appropriate supervision of a registered dentist; provided, however, that the board shall not authorize a dental assistant to perform dental screenings, periodontal charting, subgingival and supragingival scaling, root planting and curettage, minor emergency dental adjustments, polishing of amalgam restorations, micro disk identification applications or preliminary examinations for hygienist services. The board may, without examination, register as a dental assistant an applicant who is duly licensed or registered under the laws of a state, territory or commonwealth of the United States or the District of Colombia, where the requirements for licensure or registration are, in the opinion of the board, equivalent to those in the commonwealth. A dental assistant shall register biennially, which shall be in the year not so designated for the registration of dentists, and shall pay a biennial registration fee determined under this section; provided, however, that the board may issue an initial registration for not more than 2 years. Notwithstanding the above registration requirement, a person who is at least 18 years of age may practice as a dental assistant without being registered by the board for on-the-job training or professional education training under the supervision of a registered dentist for a preliminary and 1-time period of up to 6 consecutive

months to commence from the beginning of the initial training if the person: (i) has not been previously employed, licensed or registered as a dentist, dental hygienist or dental assistant; (ii) prior to the commencement of the training, provided written notification of such training to the board on a form prescribed by the board and a certification by the supervising dentist confirming that he will supervise the person during the training; and (iii) is not in violation of any rule or regulation adopted by the board. The board may extend the training period for an additional 6 months for a dental assistant who is enrolled in a program of professional educational training for dental assistants offered by a college, university or dental school authorized to confer degrees or by another dental institution or association recognized by the board.

All registration applications and training notifications submitted to the board under this section shall be signed under the penalties of perjury by the person certifying the information contained therein. The board shall investigate all complaints relating to the practice of dental assistants. The authority granted to the board in sections 43 to 53, inclusive, shall include disciplining dental assistants who are registered or authorized to practice for training purposes, and the board may exercise such authority by conducting hearings regarding complaints or by suspending, revoking or cancelling any such registration or authorization to practice as a dental assistant to protect the health, safety and welfare of the public, in the same manner as with registered dentists and dental hygienists.

A registered dentist under section 45, a dental faculty member or a dental intern under section 45A subject to a restriction on location of practice or a dental hygienist under section 51 shall not be considered to be practicing as a dental assistant for the purposes of this section.

SECTION 10. Section 52 of said chapter 112, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “hygiene”, in line 7, the following words:- or as a dental assistant.

SECTION 11. Said section 52 of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words “forty-five to fifty-one”, and inserting in place thereof the following figures:- 45 to 51½.

SECTION 12. Chapter 118E of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2A. (a) In order to improve, promote and protect oral health, there shall be, in the office of Medicaid, a full-time director of dental services who shall work collaboratively with the department of public health to facilitate the integration of programs to improve oral health.

(b) The director of dental services shall be a dentist licensed in the commonwealth who has public health experience and shall oversee the MassHealth dental program and collaborate with the dental director at the department of public health and the office of oral health on dental public health programs for MassHealth recipients to increase access to oral health services, oral health prevention activities and other initiatives to address oral health disparities including, but not limited to, workforce shortages.

SECTION 13. Notwithstanding any general or special law the contrary, the office of oral health in the department of public health shall evaluate programs and develop quality assurance activities, which shall include, but not limited to, updating on the progress made to date on the recommendations of the report of the special commission on oral health filed pursuant to section 42 of chapter 170 of the acts of 1997. The update shall be filed with the joint committee on public health not later than May 1, 2009.

SECTION 14. Notwithstanding any general or special law the contrary, the department of public health shall submit separate reports on public health dental hygienists as defined in section 43A of chapter 112 of the General Laws, which shall include, but not limited to, the current number of registered public health dental hygienists, the public health settings in which they practice and the type of procedures or services most commonly performed under that designation. The report shall also evaluate whether the designation of public health dental hygienists has improved access to safe and effective dental and dental hygiene services. The department shall submit the report, along with any recommendations for legislative or other action, to the clerks of the senate and house of representatives not later than July 1, 2010. The department shall submit a subsequent report, along with any recommendations for legislative or other action, to the clerks of the senate and house of representatives not later than July 1, 2013.

SECTION 15. The department of public health, in consultation with the board of registration in dentistry, shall determine an appropriate level of training for public health dental hygienists pursuant to section 51 of chapter 112 of the General Laws not later than 6 months after the effective date of this act.

SECTION 16. The board of registration in dentistry shall establish guidelines pursuant to section 51 of chapter 112 of the General Laws not later than 6 months after the effective date of this act.

SECTION 17. Sections 4, 5, 8, 9, 10 and 11 shall take effect on July 1, 2009.

Approved January 15, 2009.

Chapter 531. AN ACT RELATIVE TO THE APPOINTMENT OF THE CHIEF OF THE FIRE DEPARTMENT IN THE TOWN OF MARBLEHEAD.

Be it enacted, etc., as follows:

Section 1 of chapter 73 of the acts of 1939, as appearing in section 1 of chapter 216 of said acts of 1939, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Appointments to such office shall be made only after a department civil service promotional examination; provided, however, that the permanent and call members of the department may take the examination notwithstanding any age limit

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prescribed in the laws or rules and regulations.

Approved January 15, 2009

Chapter 532. AN ACT RELATIVE TO NONPUBLIC SCHOOL DEFERRED COMPENSATION.

Be it enacted, etc., as follows:

Section 148 of chapter 149 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first paragraph the following new paragraph:-

Compensation paid to public and non-public school teachers shall be deemed to be fully earned at the end of the school year, and proportionately earned during the school year; provided, however, that payment of such compensation may be deferred to the extent that equal payments may be established for a 12 month period including amounts payable in July and August subsequent to the end of the school year.

Approved January 15, 2009.

Chapter 533. AN ACT RELATIVE TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY RETIREMENT SYSTEM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to restore certain provisions regarding the Massachusetts Water Resources Authority Employees' Retirement System, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 273 of the acts of 2006 is hereby amended by adding the following section:-

Section 4. Nothing in this act shall change the membership in another system, decrease or abridge the annuities, pensions, retirement allowances, refunds or accumulated total deductions or a right or benefit to which an employee was entitled before the effective date of this act. Persons transferred to the Massachusetts Water Resources Authority on July 1, 1985, who were members of the state employees' retirement system as employees of the former metropolitan district commission before that date shall continue to be members of the state employees' retirement system. Neither the Massachusetts Water Resources Authority nor the Massachusetts Water Resources Authority Retirement System shall have liability for retirement allowances to, or on behalf of, those persons.

Approved January 15, 2009.

Chapter 534. AN ACT ESTABLISHING CRIMINAL PENALTIES FOR ASSAULT AND BATTERY ON A FAMILY OR HOUSEHOLD MEMBER.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a specific penalty for perpetrators of domestic abuse, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 265 of the General Laws is hereby amended by inserting after section 13L the following section:-

Section 13M. Whoever is convicted of a second or subsequent offense of assault or assault and battery on a family or household member shall be punished by imprisonment in the house of correction for not more than 2 ½ years or by imprisonment in the state prison for not more than 5 years. For the purposes of this section, "family or household member" shall be limited to persons who: (a) are married to each other or were married to each other within the 5 years preceding the date of the alleged offense; (b) are residing together in the same household or were residing together in the same household within the 5 years preceding the date of the alleged offense; (c) are related by blood; (d) have a child in common; or (e) are or have been in a substantive dating or engagement relationship within the 5 years preceding the date of the alleged offense; provided, however, that in determining that relationship, the court shall consider the following factors: (1) the length of time of the relationship; (2) the type of relationship; (3) the frequency of interaction between the parties; and (4) if the relationship has been terminated by either person, the length of time that has elapsed since the termination of the relationship.

Approved January 16, 2009.

Chapter 535. AN ACT RELATIVE TO THE MASSACHUSETTS MUNICIPAL WHOLESALE ELECTRIC COMPANY.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 775 of the acts of 1975 is hereby amended by striking out the definition of "Electric power facilities" or "electric power facility", inserted by section 2 of chapter 129 of the acts of 1988, and inserting in place thereof the following 2 definitions:-

"Energy", electricity, electric power, electric capacity, electric energy, natural gas, liquefied natural gas, liquefied petroleum air gas, propane air, synthetic natural gas, oil, steam, coal, water, wind, solar, battery, or any by-products, derivatives, services, ancillary products or ancillary services derived therefrom, including, but not limited to, reactive power

or voltage control, loss compensation, scheduling and dispatch, load following, system protection services and energy imbalance services, emissions allowances or the transmission, transportation, storage, purchase, sale, exchange or interchange of energy capacity, either electric or other, distribution, disposal, decommissioning thereof, or the transmission, transportation, storage, disposal, decommissioning or distribution of any by-products thereof.

“Energy facility”, an electric power facility, or a system or facility, or an interest in or right to the use of services derived from the facility or system or a part of thereof, including an energy conservation system, system for the production of renewable energy or alternative energy facility for the manufacture, generation, transmission, distribution, transformation, transportation, storage, purchase, sale, exchange or interchange or conservation of energy or any by-products or ancillary products thereof or services derived therefrom by any means, including, but not limited to, vehicles, personal or real property and a facility for processing refuse or other materials into fuel with or without other by-products, or facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing or disposal of fuel and other materials of any kind for any of these purposes, as necessary to carry out the purposes of this act.

SECTION 2. Section 5 of said chapter 775 is hereby amended by striking out clauses (h) and (i) and inserting in place thereof the following 2 clauses:-

(h) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein, upon the term and conditions as the corporation shall determine, with or without consideration and notwithstanding whether the real or personal property shall be needed by or useful to the corporation;

(i) to pledge or assign any money, fees, charges or other revenue of the agency, or any real or personal property and any proceeds derived by the corporation from the sale of energy or property or any insurance or condemnation awards;.

SECTION 3. Said section 5 of said chapter 775 is hereby further amended by striking out clauses (k) and (l) and inserting in place thereof the following 2 clauses:-

(k) to borrow money and issue its bonds as provided in this act and to provide a pooled loan program on behalf of and for the benefit of its members, to make loans to its members and to enter into leases on behalf of its members, both as lessee or lessor;

(l) to purchase energy, including, but not limited to, all or a portion of the capacity and output of energy facilities and steam, whether or not produced by an energy facility;.

SECTION 4. Clause (m) of said section 5 of said chapter 775 is hereby amended by striking out, in lines 1, 7 and 9, the words “electric power and”.

SECTION 5. Said clause (m) of said section 5 is hereby amended by striking out, in line 2, the words “electric power” and inserting in place thereof the following word:- energy.

SECTION 6. Clause (p) of said section 5 of said chapter 775 is hereby amended by

striking out, in lines 3 and 8, the words "electric power" and inserting in place thereof, in each instance, the following word:- energy.

SECTION 7. Clause (q) of said section 5 of said chapter 775 is hereby amended by striking out, in line 4, the words "electric power" and inserting in place thereof the following word:- energy.

SECTION 8. Clause (s) of said section 5 of said chapter 775 is hereby amended by striking out, in line 3, the word "fancions" and inserting in place thereof the following word:- functions.

SECTION 9. Said section 5 of said chapter 775 is hereby further amended by striking out clause (t) and inserting in place thereof the following 3 clauses:-

(t) to enter into contracts determined by the corporation to be necessary or for the prudent management of its assets, funds, debts or fuels, including, without limitation, interest rate swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, leases or other risk management instruments;

(u) to exercise and perform all or a part of its powers and functions through wholly-owned or partly-owned corporations or other entities; and

(v) to do all things necessary, convenient or desirable to carry out the purposes of this act or the powers expressly granted or necessarily implied in this act.

SECTION 10. Clause (a) of section 6 of said chapter 775 is hereby amended by striking out, in lines 6 and 7, the words "electric power" and inserting in place thereof the following word:- energy.

SECTION 11. Said section 6 of said chapter 775 is hereby amended by striking out subsections (b) and (c) and inserting in place thereof the following 2 subsections:-

(b) Neither the obligations of the corporation nor the obligations of any member or non-member cities and towns under any energy contracts hereunder shall be included in computing the borrowing capacities of the cities and towns. The obligations of cities and towns with municipal electric departments established under chapter 164 of the General Laws or by a special act shall be treated as expenses of operating their electric plants and shall constitute special obligations of the cities and towns, payable solely from the revenues and other moneys derived by the cities and towns from their electric departments or systems. The liability of those cities and towns from other funds shall be limited to obligations undertaken by them to pay for the energy used by them.

(c) A city or town shall be obligated to fix, revise and collect fees and charges for energy and other services, facilities and commodities furnished or supplied through its electric department or systems at least sufficient to provide revenues adequate to meet its obligations under any contracts with the corporation and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including amounts sufficient to pay the principal of and interest on all bonds issued by the city or town for energy-related purposes.

SECTION 12. Section 9 of said chapter 775 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) The corporation may, subject to the approval of the department under this act, borrow money by the issue of its bonds for any of its corporate purposes. Bonds may be issued hereunder as mortgage bonds, as general obligations of the corporation or as special obligations payable solely from particular funds. Without limiting the generality of the foregoing, these bonds may be issued for project costs, prepayment of fuel, transmission or transportation of fuel, or for the corporation's share of project costs of energy facilities or long-term purchases of rights to use energy facilities which may include interest before and during the carrying out of any project and for a reasonable period after that time, prepayments under contracts for the purchase of energy or services related thereto, stranded investment costs, early termination costs of any energy project, decommissioning costs, reserves for debt service or other capital or current expenses that may be required by a trust agreement or resolution securing bonds, and all other expenses incidental to the determination of the feasibility of any project or to the carrying out of the project or to the placing of the project in operation.

SECTION 13. Subsection (a) of section 10 of said chapter 775 is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 3 sentences:- In the discretion of the corporation, but subject to the terms of the department's approval, any bonds issued under this act may be secured by a resolution of the board or by a trust agreement between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth. This trust agreement shall be in a form and executed in a manner that may be determined by the corporation. The trust agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the corporation, including the revenues from any facilities existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing or later coming into existence and whether then held or later acquired by the corporation, and the proceeds thereof.

SECTION 14. Subsection (b) of said section 10 of said chapter 775 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The corporation is authorized to fix, revise and collect fees and charges for energy and other services, facilities and commodities furnished or supplied by it.

SECTION 15. Said subsection (b) of said section 10 of said chapter 775 is hereby further amended by striking out, in line 12, the words "electric power" and inserting in place thereof the following word:- energy.

SECTION 16. Subsection (c) of section 19 of said chapter 775 is hereby amended by striking out, in line 12, the words "electric power and".

SECTION 17. Said subsection (c) of said section 19 of said chapter 775 is hereby further amended by striking out, in lines 13 and 14, the words "electric power" and inserting in place thereof the following word:- energy.

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SECTION 18. Subsection (f) of said section 19 of said chapter 775 is hereby amended by striking out, in line 2, the words "electric power", and inserting in place thereof the following word:- energy.

SECTION 19. Subsection (g) of said section 19 of said chapter 775 is hereby amended by striking out, in line 6, the words "electric power" and inserting in place thereof the following word:- energy.

Approved January 16, 2009.

**Chapter 1. *RESOLVE* PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO THE HIDDEN WOUNDS
OF WAR ON MASSACHUSETTS SERVICE MEMBERS.**

Resolved, That a special commission is hereby established for the purposes of making an investigation and study relative to the mental health effects of war on those citizens of the commonwealth returning from active duty and the establishment of a mandatory mental health treatment program for national guard members who engage in combat, a state military family leave policy for caregivers and a statewide education training program to assist law enforcement, corrections officers and other first responders in recognizing the early warning signs of post-traumatic stress disorder. The commission shall consist of: 4 members of the senate, 1 of whom shall be the president of the senate or a designee who shall serve as co-chair, 1 of whom shall be the minority leader of the senate or a designee, 1 of whom shall be the chair of the joint committee on veterans and federal affairs or a designee and 1 of whom shall be the chair of the joint committee on mental health and substance abuse or a designee; 6 members of the house of representatives, 1 of whom shall be the speaker or a designee who shall serve as co-chair, 1 of whom shall be the minority leader of the house of representatives or a designee, 1 of whom shall be the chair of the joint committee on veterans and federal affairs or a designee, 1 of whom shall be the chair of the joint committee on mental health and substance abuse or a designee; the adjutant general of the national guard or a designee; the secretary of veterans' services or a designee; the commissioner of mental health or a designee; the commissioner of probation or a designee; and 5 persons to be appointed by the governor, 1 of whom shall be a representative of the National Alliance on Mental Illness, 1 of whom shall be a veterans' agent to be selected by the president of the Massachusetts Veterans' Service Officers Association, 1 of whom shall be a representative of the Massachusetts District Attorneys Association and 1 of whom shall be a representative of the Massachusetts Chiefs of Police Association.

All appointments shall be made not later than 30 days after the effective date of this resolve. The chairpersons shall meet with the commission not later than 60 days after the effective date of this resolve.

Members shall not receive compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission.

Not later than September 15, 2008, the commission shall report to the general court the result of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the house of representatives who shall forward the same to the joint committee on veterans and federal affairs and the joint committee on mental health and substance abuse.

Approved April 10 , 2008.

**Chapter 2. *RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO THE ESTABLISHMENT
OF A CRANBERRY HERITAGE AREA.***

Resolved, that a special commission to consist of 1 member of the senate, 1 member of the house of representatives, the executive director or his designee of the office of travel and tourism, the commissioner or his designee of the department of agricultural resources, and 7 persons to be appointed by the governor, 1 of whom shall be from the Cranberry County Chamber of Commerce, Inc., 1 of whom shall be from the University of Massachusetts Center for Marketing Research, 1 of whom shall be from The Trustees of Reservations, 1 of whom shall be from the Plymouth County Development Council, Inc. Convention and Visitors Bureau, and 3 of whom shall be members of the Cape Cod Cranberry Growers Association is hereby established for the purpose of making an investigation and study relative to the establishment of a Cranberry Heritage Area in southeastern Massachusetts.

Said commission shall include, but not be limited to; studying the historic, cultural and natural resources of the cranberry industry to provide education of and inspiration for the cranberry industry for present and future generations. Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives on or before December 31, 2008.

Approved April 10 , 2008.

**Chapter 3. *RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO THE ESTABLISHMENT
OF A STATEWIDE LAW ENFORCEMENT TRAINING PROGRAM.***

Resolved, That a special commission is hereby established for the purpose of conducting an investigation and study of the feasibility of establishing a statewide law enforcement training program to coordinate municipal law enforcement training and creating more efficient law enforcement facilities, staffing instruction and preparedness. The commission shall also study and make recommendations relative to the training provided to law enforcement officers in handling incidents involving persons with mental illness. The commission shall conduct at least 1 public hearing.

The commission shall consist of the house and senate chairs of the joint committee on public safety and homeland security, who shall serve as co-chairs of the commission; 1 member to be appointed by the senate president; 1 member to be appointed by the speaker of the house of representatives; 1 member to be appointed by the senate minority leader; 1 member to be appointed by the house minority leader; the colonel of state police or his designee; the secretary of public safety or his designee; the commissioner of correction; and

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1 representative from each of the following organizations: the State Police Association of Massachusetts; the Massachusetts Chiefs of Police Association; the Massachusetts Coalition of Police, the municipal police training committee; the Massachusetts Sheriffs Association; the Massachusetts Harbormasters Association and the Massachusetts Campus Police Chiefs Association.

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 senate and house of representatives not later than 120 days after the first meeting of the commission.

Approved July 16, 2008.

Chapter 4. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY THE COMMISSIONER OF DEVELOPMENTAL SERVICES ON A SELF-DETERMINATION MODEL FOR PERSONS WITH DISABILITIES.

RESOLVED, That the commissioner of developmental services shall conduct a study and make recommendations for the implementation of a self-determination model for funding services and supports for clients of the department of developmental services. The model shall include the following: (a) an individual budget for each participant's service and support plan; (b) appropriate assistance for each participant to design, implement and control a unique service and support plan; (c) the arrangement of unique services and supports preferred by the participant; and (d) a system of accountability for the use of public funds.

The commissioner shall appoint an advisory committee to assist with the study and recommendations.

The commissioner shall file a report of the results of its investigation and its recommendations, if any, together with drafts of legislation and administrative recommendations necessary to implement the self-determination model with the governor and the clerks of the senate and house of representatives not later than June 30, 2009.

Approved September 17, 2008.

Chapter 5. RESOLVE PROVIDING FOR A PLAQUE AT THE STATE HOUSE TO HONOR THE CONTRIBUTIONS OF AFRICAN AMERICANS TO THE COMMONWEALTH.

Resolved, That a special commission to make recommendations to the art commission relative to the placement of a plaque, mural or bust in an appropriate area in the state

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house to honor the contributions of African Americans to the commonwealth. The special commission shall consist of 2 persons to be appointed by the president of the senate, 1 of whom shall serve as co-chair; 1 person to be appointed by the minority leader of the senate; 2 persons to be appointed by the speaker of the house of representatives, 1 of whom shall serve as co-chair; 1 person to be appointed by the minority leader of the house of representatives; and 5 persons to be appointed by the governor, 1 of whom shall be from a community-based art organization, 1 of whom shall be from the National Center of Afro-American Artists and 1 of whom shall be from the Museum of African American History. The special commission shall make recommendations to the art commission as to the location, size and content of the plaque, mural or bust on or before July 27, 2009, and the superintendent of state office buildings shall, subject to the approval of the art commission pursuant to section 20 of chapter 6 of the General Laws, install and maintain the plaque, mural or bust.

Approved November 7, 2008.

Chapter 6. **RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION RELATIVE TO MIDDLE EDUCATION IN THE COMMONWEALTH.**

Resolved, That the special commission established under section 363 of chapter 149 of the acts of 2004, is hereby revived and continued.

Approved December 17, 2008.

Chapter 7. **RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO ECONOMIC OPPORTUNITIES IN THE COMMONWEALTH.**

Resolved, That a special commission to consist of: 2 members of the senate, 1 of whom shall be appointed by the senate president and who shall serve as co-chairperson, and 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 speaker of the house of representatives and who shall serve as co-chairperson, and 1 of whom shall be appointed by the house minority leader; the secretary of labor and workforce development or his designee; the secretary of energy and environmental affairs or his designee; the secretary of transportation and public works or his designee; the secretary of elder affairs or his designee; the secretary of veterans' services or his designee; the secretary of public safety and security or his designee; the secretary of health and human services or his designee; the secretary of housing and economic development or his designee; the secretary of education or his designee; and

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4 persons to be appointed by the governor, 1 of whom shall be a representative of a labor organization from a list of 3 nominees provided by the Massachusetts AFL-CIO who shall be experienced in small business, the health care industry, education or workforce development; 1 of whom shall be a representative of business from a list of 3 nominees provided by the Associated Industries of Massachusetts who shall be experienced in renewable energy, small business, the health care industry, veterans affairs, immigration, workforce development or the self-employed; 1 of whom shall be a representative of the unemployed from 3 nominees provided by Boston Connects, Inc.; and 1 of whom shall be an expert in labor economics from a state college or university, is hereby established for the purpose of making an investigation and study relative to the economy in order to create and maintain quality jobs in the commonwealth.

Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, by filing the same with the clerk of the senate and the clerk of the house of representatives on or before the last Wednesday of June 2009.

Approved January 7, 2009.

Chapter 8. **RESOLVE PROVIDING FOR THE ESTABLISHMENT OF A SPECIAL COMMISSION TO STUDY INNOVATIVE METHODS FOR FUNDING THE CONSERVATION OF FORESTED WILDLANDS AND WOODLANDS IN THE COMMONWEALTH.**

Resolved, That there shall be a special commission consisting of: the secretary of energy and environmental affairs, or his designee; the commissioner of conservation and recreation, or his designee; the chief forester, or his designee; 2 members of the senate to be appointed by the president of the senate, 1 of whom shall be the senate chair of the joint committee on environment, natural resources and agriculture; 2 members of the house of representatives to be appointed by the speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on environment, natural resources and agriculture; 1 member to be appointed by the minority leader of the senate; 1 member to be appointed by the minority leader of the house; and 8 members to be appointed by the governor, 3 of whom shall be representatives of private organizations engaged in forest conservation, 3 of whom shall be members of nonprofit organizations that address land and forest conservation issues and 2 of whom shall be representatives of academic institutions that study and address forest conservation issues. The special commission shall be created for the purpose of conducting an investigation and study of innovative methods for funding the conservation of forested wildlands and woodlands owned and managed by public and nonprofit organizations and by private individuals and organizations.

Approved January 13, 2009.

**Chapter 9. *RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO DESIGNATING 1,000
GREAT PLACES IN THE COMMONWEALTH.***

Resolved, That a special commission to consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader, 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader, the executive director of the Massachusetts office of travel and tourism, and 6 persons to be appointed by the governor, 3 of whom shall be representatives of the regional tourist councils and 3 of whom shall be representatives of the Massachusetts Cultural Council is hereby established for the purpose of making an investigation and study to identify, catalogue, evaluate and designate 1,000 great places in the commonwealth.

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 senate and house of representatives not later than 120 days after the first meeting of the commission.

Approved January 15, 2009.

**SUMMARY OF THE ACTS AND RESOLVES APPROVED, APPROVAL
WITHHELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO,
AN ACT DECLARED EMERGENCY LAW BY THE GOVERNOR UNDER THE
AUTHORITY OF THE CONSTITUTION AND LAWS ENACTED BY THE PEOPLE
AT THE NOVEMBER 4, 2008 STATE ELECTION**

During the second session of the General Court held in 2008, 535 Acts were enacted of which 527 Acts and nine Resolves received the Governor's approval.

Chapters 80, 364 and 450 were not approved by the Governor within the ten days prescribed by the Constitution. They were not returned to either legislative branch during the ten days with the Governor's reasons for disapproval in writing and since the General Court had not prorogued during that time, these acts have the force of law and have been so certified.

Two Acts were returned by the Governor to the House, the branch in which each Act had originated, with his objections in writing thereto. Chapters 324 and 325 were passed by the House on July 30, 2008 and by the Senate on July 31, 2008. The Governor's objection notwithstanding, these chapters have the force of law and have been so certified.

This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

One Act, Chapter 309, was declared to be an emergency law by the Governor under Article XLVIII of the Amendments to the Constitution.

Chapter 387, An Act Establishing a Sensible Marihuana Policy, and Chapter 388, An Act to Protect Greyhounds, were adopted by the people at the November 4, 2008 state election under Article XLVIII of the Amendments to the Constitution, The Initiative, Part V, Section 1, as amended; according to the determination of the Governor and Council dated December 3, 2008.

Chapter 27, An Act Reorganizing Certain Education Agencies, not having been disapproved by the General Court, was adopted as provided in Article LXXXVII of the Amendments to the Constitution.

The 2008 session of the General Court was dissolved at midnight on Tuesday January 6, 2009 the session having lasted 371 days.

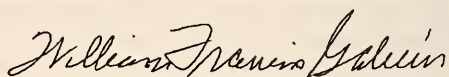


William Francis Galvin
Secretary of the Commonwealth

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS **October 31, 2009**

I hereby certify that the Acts and Resolves contained in this volume are true copies of the originals on file with this department.

I further certify that the Index and the Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of M.G.L. c. 3, section 52.

A handwritten signature in cursive script, reading "William Francis Galvin".

William Francis Galvin
Secretary of the Commonwealth

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 2006 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 2007.

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

- § 55 stricken out, **replaced** with § 56, 2008, 451 § 2
- § 58 **added**, 2008, 45.
- § 59 **added**, 2008, 243.

CHAPTER 3 - The General Court.

- § 38C **amended**, 2008, 305, § 1
- § 67 stricken out, **replaced** with § 68, 2008, 451 § 3
- § 69 **added**, 2008, 176, § 1

CHAPTER 4 - Statutes.

- § 7 **amended**, 2008, 308, § 1
- § 7, clause 26 **amended**, 2008, 176, § 2
- § 7, Clause Twenty-sixth, subclause (q) **added**, 2007 109 § 1.
- § 7, Clause Twenty-sixth, subclause (s) **added**, 2008, 445 § 1

CHAPTER 5 - Printing and Distribution of Laws and Public Documents.

- § 11 **amended**, 2008, 451 § 4 (see § 187)

CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library.

- § 1 **revised**, 2007, 140 § 3. (See § 64)
- § 2 **amended**, 2007, 140 § 4. (See § 64)
- § 2 word **added**, 2008, 27 § 2.
- § 14A **added**, 2008, 27, 3.
- § 15 LLLL **repealed**, 2008, 451 § 5.
- § 15 VVVV **repealed**, 2008, 451 § 6.
- § 15BBBBB **added**, 2007, 51.
- § 15CCCCC **added**, 2007, 114.

**CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers
under the Governor and Council, and State Library. - continued**

- § 15DDDDD added, 2007, 173.
- § 15EEEEEE added, 2008, 19.
- § 15EEEEEE added, 2008, 26.
- § 15 EEEEE repealed, 2008, 451 § 7.
- § 15FFFFF added, 2008, 32.
- § 15 GGGGG added, 2008, 237.
- § 15 GGGGG amended, 2008, 349.
- § 15 HHHHH added, 2008, 451 § 8.
- § 15 IIIII added, 2008, 451 § 8.
- § 15 JJJJJ added, 2008, 451 § 8.
- § 15 KKKKK added, 2008, 451 § 8. (See § 188)
- § 17 amended, 2008, 176, § 3.
- § 17A revised, 2007, 19 § 1.
- § 17A word added, 2008, 27 § 1.
- § 56 first paragraph amended, 2007, 19 § 2.
- § 56 first paragraph replaced, 2007, 39 § 1.
- § 56 fifth paragraph replaced, 2007, 39 § 2.
- § 81 amended, 2008, 176, § 4.
- § 81 amended, 2008, 451 § 9. (See § 187)
- § 98, amended, 2008, 304 § 3.
- § 105 amended, 2008, 176 § 5.
- § 116 amended, 2008, 176 § 6.
- § 116D added, 2008, 176 § 7.
- § 121 repealed, 2007, 192 § 1.
- § 162 revised, 2007, 140 § 5.
- § 172B amended, 2008, 176 § 8.
- § 172F amended, 2008, 215 § 1.
- § 172J added, 2007, 206 § 2.
- § 172J added, 2007, 224 § 1.
- § 178K amended, 2008, 176 § 9.
- § 178J, amended, 2008, 215 § 2.
- § 181, amended, 2008, 215 § 3.
- § 181, amended, 2008, 451 § 10 (See § 187)
- § 189 amended, 2008, 176 § 10
- § 202 replaced, 2008, 176 § 11
- § 203, second paragraph, clause (10) replaced, 2008, 176 § 12
- § 203, amended, 2008, 215 § 4.
- § 208, amended, 2008, 215 § 5.

**CHAPTER 6- The Governor, Lieutenant Governor and Council, Certain Officers
under the Governor and Council, and State Library. - continued**

§§ 209, 210, 211, 212, 213 **repealed**, 2007, 192 § 2.

§ 215 **added**, 2008, 176 § 13.

§ 215, **amended**, 2008, 215 § 6.

§ 215 **amended**, 2008, 451 § 11 (See § 187)

CHAPTER 6A - Executive Offices.

§ 2 **revised**, 2007, 19 § 3.

§ 2 word **added**, 2008, 27 § 2.

§ 3 third sentence **amended**, 2007, 19 § 4.

§ 8B **repealed**, 2007, 19 § 5.

§ 8C **added**, 2008, 233 § 6.

§ 14A **added**, 2008, 27 § 3.

§ 16 **amended**, 2008, 176 § 14.

§ 16 **amended**, 2008, 215 § 7.

§ 16 paragraph **added**, 2008, 176 § 15.

§ 16 **amended**, 2008, 451 §§ 12 and 13 (See § 187)

§ 16F **amended**, 2008, 451 § 14 (See § 187)

§ 16G subsection (a) first sentence **amended**, 2007, 19 § 6.

§ 16G **amended**. 2007, 19 § 7.

§ 16G subsection (a) first sentence **amended**, 2008, 302 § 3.

§ 16G subsections (d), (e), **stricken out**, 2007, 19 § 8.

§ 16G subsection (f), first sentence **amended**, 2007, 19 § 9.

§ 16J **amended**, 2008, 305, § 2.

§§ 16K and 16 L **amended**, 2008, 305, § 3.

§ 16 L subsection (e) 4 sentences **added**, 2007, 205 § 1.

§ 16O **revised**, 2007, 205 § 2.

§§ 16P, 16Q, 16R, and 16S **added**, 2008, 321 § 1.

§ 16Q subsection (b) **amended**, 2008, 451 § 15 (See § 187)

§ 16S **amended**, 2008, 451 § 16 (See § 187)

§§ 17D, 17E **repealed**, 2007, 145 § 1.

§ 18 **amended**, 2008, 223 § 1.

§ 18½ **amended**, 2008, 451 §§ 17 and 18.

§§ 18A and 18B **amended**, 2008, 223 § 2. (see § 20).

§ 18C **amended**, 2008, 223 § 3.

§ 18D **amended**, 2008, 223 § 4.

§ 18E **amended**, 2008, 223 § 5.

§ 18F **repealed**, 2008, 223 § 6.

§ 18G **amended**, 2008, 223 § 7.

§ 18H **amended**, 2008, 223 § 8.

CHAPTER 6A - Executive Offices. - continued

- § 18H½ **amended**, 2007, 42 § 3.
- § 18H½ **date changed**, 2008, 164 § 1.
- § 18H½ **repealed**, 2008, 223 § 9.
- § 18¾, clause (9) **added**, 2008, 176, § 16.
- § 18I **amended**, 2008, 223 § 10.
- § 18J **added**, 2008, 223, § 10.
- § 18K **added**, 2008, 223 § 10A.
- § 19, subsection (e) 11 sentences **added**, 2008, 86 § 5; subsection (f) amended and (g) **added**, 2008, 298, § 1.
- § 19 ½ **added**, 2008, 86 § 6.
- § 104 **added**, 2008, 303 § 3.
- § 116D **added**, 2008, 422 § 1.
- § 116E **added**, 2008, 525 § 1.

CHAPTER 6B - Acute Hospital Finance.

**CHAPTER 7 - Executive Office for Administration and Finance.
(Former title, Commission on Administration and Finance.)**

- § 3B **amended**, 2008, 451 § 19
- § 4G **amended**, 2007, 19 § 10.
- § 9A paragraphs **inserted**, 2008, 169 § 1.
- § 22N, **added**, 2008, 257 § 1.
- § 38C, **amended**, 2008, 304 § 3.
- § 39D, **added**, 2008, 169 § 2.
- § 40E, **amended**, 2008, 215 §§ 8 and 9.

CHAPTER 7A - Office of the Comptroller.

- § 8 last paragraph **revised**, 2007, 140 § 6.
- § 18 subsection (a), clause (6), **revised**, 2007, 140 § 7.

CHAPTER 8 - State Superintendent of Buildings, and State House.

CHAPTER 9 - Department of the State Secretary.

- § 1 **amended**, 2007, 140 § 8. (See § 64)
- § 31 **amended**, 2007, 16 § 3; 2007, 20 § 1.

**CHAPTER 9A - Address Confidentiality Program.
(New Chapter added, 2000, 409.)**

CHAPTER 10 - Department of the State Treasurer.

- § 1 line 3 **amended**, 2007, 140 § 9. (See § 64)
- § 17 **amended**, 2008, 451 § 20. (See § 187)
- § 35W **repealed**, 2008, 223 § 11.
- § 35W½ **repealed**, 2008, 223 § 12.
- § 35X **amended**, 2008, 182 § 4.
- § 35X, subsection (d) **added**, 2008, 182 § 5.
- § 35CC **amended**, 2008, 182 § 6.
- §§ 35DD, 35EE **added**, 2007, 61 § 4.
- § 35FF **added**, 2007, 140 § 10; **amended**, 2008, 307 § 1.
- § 35GG **added**, 2008, 23 § 1.
- § 35HH **added**, 2008, 114, § 1.
- § 35II **added**, 2008, 169, § 3.
- § 35JJ **added**, 2008, 223 § 13.
- § 35JJ **added**, 2008, 312 § 3.
- § 35KK **added**, 2008, 422 § 2.
- § 63 **amended**, 2007, 140 § 11.
- § 63 **amended**, 2007, 228 §§ 3, 4.
- § 63 **amended**, 2008, 306 § 13.
- § 63A **added**, 2007, 228 § 5.
- § 63A **added**, 2008, 303 § 4.
- § 69A, **added**, 2008, 86 § 7.
- § 69B **added**, 2008, 182 § 6

CHAPTER 11 - Department of the State Auditor.

- § 1 **amended**, 2007, 140 § 12. (See § 64)
- § 17 **amended**, 2008, 176, § 17.

CHAPTER 12 - Department of the Attorney General, and the District Attorneys.

- § 1 **amended**, 2007, 140 § 13. (See § 64)
- § 8F **amended**, 2008, 361 § 1. (see § 2)
- § 11E, **replaced**, 2008, 169 § 4.
- § 15, **amended**, 2007, 140 §§ 14, 15. (See § 63, 64)
- § 20D paragraph **added**, 2008, 176 § 18.
- § 32 **amended**, 2008, 176 § 19.

CHAPTER 12A - Office of the Inspector General.

CHAPTER 12B - State Gambling and Advisory Commission.

CHAPTER 13 - Division and Boards of Registration.
(Former title - Department of Civil Service and Registration.)
(Title revised, 1998, 161 § 59.)

§ 19 **amended**, 2008, 530 §§ 1 and 2
§ 45 **amended**, 2008, 439 §§ 1 through 4
§ 97A, **added**, 2008, 169 § 5
§ 98 through 100 **stricken out**, 2008, 451 § 21
§§ 101 and 102 **added**, 2008, 232 § 1.
§§ 103 through 105 **added**, 2008, 451 § 22

CHAPTER 14 - Department of Revenue.

§ 6, paragraph (8) **added**, 2008, 182, § 8
§ 6 clause (8) **added**, 2008, 196, § 1

CHAPTER 15 - Department of Education.

Chapter Title changed, 2008, 27 § 4.
§ 1, **replace** section, 2008, 27 § 5.
§ 1E, **revised**, 2008, 27 §§ 6 through 8.
§ 1F, **revised**, 2008, 27 § 9,
§ 1G **amended**, 2008, 176, § 20; 2008, 215, §§ 10 through 12; 2008, 311 §§ 1 and 2 (see
§ 9); 2008, 451 § 23 (See § 187)
§ 54 **amended**, 2008, 215, §§ 13 through 19.
§ 54 **repealed**, 2008, 215 § 20. (see § 89).
§ 55A **amended**, 2008, 311 § 3

CHAPTER 15A - Public Education.

§ 1, **insert** sentence, 2008, 27 § 10.
§ 2, **repealed**, 2008, 27 § 11.
§ 3A, **amended**, 2008, 27 § 12.
§ 4 subsection (a), **amended**, 2008, 27 §§ 13 through 16; subsection (b), **amended**, 2008,
27 §§ 17 through 20.
§ 4 subsection (d), **amended**, 2008, 27 §§ 21 and 22.
§ 4 subsection (g), **amended**, 2008, 27 § 23.
§§ 4, 5 word "design" **added** after the word "Art", 2007, 72 §§ 2, 3.
§ 5A **added**, 2008, 364.
§ 6 **replace** section, 2008, 27 § 24.
§ 7 **amended**, 2008, 27 §§ 25, 26 through 30.
§ 7A subsection (a) **amended**, 2008, 27 § 31.
§ 7A subsection (b) **amended**, 2008, 27 § 32.

CHAPTER 15A - Public Education. - continued

- § 7A subsection (e) **amended**, 2008, 27 §§ 33 and 34.
- § 7A subsection (f) **amended**, 2008, 27 § 35.
- § 7A subsection (g) **amended**, 2008, 27 § 36.
- § 7A subsection (h) **amended**, 2008, 27 § 37.
- § 7A subsection (i) **amended**, 2008, 27 §§ 38 through 40.
- § 7A subsection (j) **amended**, 2008, 27 §§ 41 and 42.
- § 9 clause (b) **replace** sentences, 2008, 27 § 43.
- § 9 clause (c) **amended**, 2008, 27 § 44.
- § 9 clause (d) **amended**, 2008, 27 § 45.
- § 9 clause (e) **amended**, 2008, 27 § 46.
- § 9 clause (f) **amended**, 2008, 27 § 47 and 48
- § 9 clause (l) **revised**, 2008, 27 § 49.
- § 9 clause (n) **amended**, 2008, 27 § 50.
- § 9 clause (cc) **sentences added**, 2008, 27 § 51.
- § 9 clause (ee) **amended**, 2008, 27 § 52.
- § 9 clause (ff) **amended**, 2008, 27 § 53.
- § 9 clause (gg) **sentences stricken out**, 2008, 27 § 54.
- § 9 **amended**, 2008, 27 § 55.
- § 15 **amended**, 2008, 27 §§ 56 through 59.
- § 15B **amended**, 2008, 27 § 60 through 62.
- § 15B new paragraph **added**, 2008, 27 § 63.
- § 19 **amended**, 2008, 176, § 21 and 22.
- § 21 **words added**, 2008, 27 § 64.
- § 21 **amended**, 2008, 27 § 65.
- § 21 **amended**, 2008, 27 § 66.
- § 22 clause (a) **amended**, 2008, 27 § 67.
- § 22 clause (l) **revised**, 2008, 27 § 68.
- § 22 clause (m) **revised**, 2008, 27 § 69.
- § 22 clause (n) **amended**, 2008, 27 § 70.
- § 22 clause (o) **revised**, 2008, 27 § 71.
- § 22 clause (p) **amended**, 2008, 27 § 72.
- § 22A **added**, 2007, 61 § 5.
- § 23 **words added**, 2008, 27 § 73.

CHAPTER 15B - The New England Educational Loan Marketing Corporation Act. (Chapter repealed, 1982, 356 § 2.)

CHAPTER 15C - Massachusetts College Student Loan Authority.

CHAPTER 15D - Department of Early Education and Care.
(New Chapter added, 2004, 205.) (See 2004, 205 § 2.)

- § 1 **amended**, 2008, 215 § 21.
- § 1A, **added**, 2008, 215 § 22.
- § 2 **words added**, 2008, 27 § 74.
- § 2 **amended**, 2008, 27 § 75.
- § 2 **amended**, 2008, 215, §§ 23 and 24.
- § 2, **amended**, 2008, 321 § 2
- § 3 **amended**, 2008, §§25 through 31.
- § 3 subsection (b) **amended**, 2008, 27 § 76.
- § 3 subsection (b) words **stricken**, 2008, 27 § 77.
- § 3 subsection (b) words **added**, 2008, 27 § 78.
- § 3 subsection (b) **amended**, 2008, 27 §§ 79 and 80.
- § 3 subsection (b) **amended**, 2008, 27 § 81.
- § 3 subsection (b) sentence **added**, 2008, 27 § 82.
- § 3 subsection (b) **amended**, 2008, 27 § 83.
- § 3 subsection (e) words **stricken out**, 2008, 27 § 84.
- § 3 subsection (e) **amended**, 2008, 215 § 32.
- § 3 subsection (g), **amended**, 2008, 321 § 3
- § 3A **added**, 2008, 215 § 33.
- § 4 first paragraph **revised**, 2008, 27 § 85.
- § 4 new paragraphs **added**, 2008, 27 § 86.
- § 4 **amended**, 2008, 215 § 34.
- § 4, **amended**, 2008, 321 § 4
- § 4A **added**, 2008, 215 § 34.
- § 5 **amended** 2008, 215 § 35.
- § 5 **amended**, 2008, 215 § 36.
- § 5, **amended**, 2008, 321 § 5

CHAPTER 16 - Department of Highways.
(Formerly, Department of Public Works.)

- § 1 **amended**, 2008, 303 § 5.
- § 1 subsection (d) amended and (e) **added**, 2008, 298, § 2.
- § 4C **added**, 2008, 303 § 6
- § 4D **added**, 2008, 303 § 6
- § 4E **added**, 2008, 303 § 6
- § 4F **added**, 2008, 303 § 6
- § 4G **added**, 2008, 303 § 6 (see § 77)

CHAPTER 17 - Department of Public Health.

§ 3 revised, 2007, 1 § 5.

§ 5 replaced, 2007 1 § 1.

§14 amended, 2008, 176 § 23.

CHAPTER 18 - Department of Transitional Assistance.

(Title revised, 1995, 5 § 7. Former title, Department of Public Welfare.) (See 1995, 5 § 7.)

§ 2A amended, 2008, 451 § 24. (See § 187)

§ 28 amended, 2008, 176, § 24.

§ 28 amended, 2008, 215 § 37.

CHAPTER 18A - Department of Youth Services.

§ 9 amended, 2008, 215 § 38.

§ 1, amended, 2008, 321 § 6.

CHAPTER 18B - Department of Social Services.

§1 amended 2008, 176, § 25

§§ 2 and 3 replaced, 2008, 176, § 26

§ 6 amended, 2008, 176, §§ 27 and 28

§ 6A amended, 2008, 176 §§ 29 through 31

§ 7 replaced, 2008, 176, § 32

§ 7, amended, 2008, 321 § 7

§ 8 amended, 2008, 176, §33

§ 9 amended, 2008, 176, §34

§ 12 amended, 2008, 176, §§35 and 36

§ 13 replaced, 2008, 176, §37

§ 13 amended, 2008, 215, § 39.

§ 14 amended, 2008, 176, § 38

§ 15 amended, 2008, 176, § 39

§ 16 amended, 2008, 176, §§ 40 and 41

§ 17 replaced, 2008, 176, § 42

§ 20 replaced, 2008, 176, § 43

§ 22 amended, 2008, 176, § 44

§§ 23 through 25 added, 2008, 176, § 45

§ 23, amended, 2008, 321 § 8

CHAPTER 18C - Office of Child Advocate.

(New chapter inserted, 2008, 176 § 46.)

§ 4 amended, 2008, 451 § 25 (See § 187)

CHAPTER 19 - Department of Mental Health.

§19 amended, 2008, 215, § 40.

§ 21 amended, 2008, 451 §§ 26 and 27 (See § 187)

§§ 22 through 24, amended, 2008, 321 § 9.

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§13 repealed, 2007, 192 § 3.

§ 16, subsection (a) amended, 2008, 176, § 47.

CHAPTER 19B - Department of Mental Retardation.

(Chapter Title Changed to "DEPARTMENT OF DEVELOPMENTAL SERVICES," 2008, 451 § 28 (See § 187)

§ 1, amended, 2008, 182, § 9

§ 2, amended, 2008, 321 § 10

§ 3 amended, 2008, 451 § 29 (See § 187)

§ 15 amended, 2008, 215 § 41.

§ 18 amended, 2008, 451 §§ 30 and 31 (See § 187)

CHAPTER 19C - Disabled Persons Protection Commission.

CHAPTER 19D - Assisted Living.

(New Chapter inserted, 1994, 354 § 3.)

§ 3 amended, 2008, 451 § 32 (See § 187)

CHAPTER 20 - Department of Food and Agriculture.

§§ 27 through 31 added, 2008, 310 § 1

CHAPTER 21 - Department of Environmental Management.

§ 1 amended, 2008, 451 § 33.

§ 17G added, 2007, 183 § 2.

CHAPTER 21A - Executive Office of Energy and Environmental Affairs.

(Chapter Title amended, 2007, 19 § 11.)

† § 1 amended, 2007, 19 § 12.

CHAPTER 21A - Executive Office of Energy and Environmental Affairs. - continued

- § 2 amended, 2008, 298 § 3.
- § 4C added, 2008, 114 § 2
- § 7 amended, 2007, 19 § 13.
- § 7 amended, 2008, 169 § 6.
- § 7 amended, 2008, 176 § 48.
- § 8 amended, 2008, 298 § 4.
- § 10H amended, 2008, 495 § 1.
- § 16 amended, 2008, 298 § 5.
- § 21 added, 2008, 169 § 7.
- § 22 added, 2008, 169 § 7.
- § 22 amended, 2008, 312 § 4.

CHAPTER 21B - Mining Regulation and Reclamation.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.

CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.

- § 2 amended, 2008, 303, § 7.
- §§ 20 and 21 added, 2008, 295 § 1. (see § 2.)

CHAPTER 21F - Coastal Facilities Improvement.

CHAPTER 21G - Massachusetts Water Management Act.

CHAPTER 21H - Solid Waste Facilities.
(New chapter inserted, 1987, 584 § 3.)

CHAPTER 21I - Massachusetts Toxics Use Reduction Act.
(New chapter inserted, 1989, 265 § 3.)

CHAPTER 21J - Underground Storage Tank Petroleum Product Cleanup Fund.
(New chapter inserted, 1990, 524 § 1).

CHAPTER 21K - Mitigation of Hazardous Material.
(New Chapter inserted, 1998, 194 § 64.)

CHAPTER 21L - ENVIRONMENTAL ENDANGERMENT ACT.
(New Chapter inserted, 2003, 26 § 123. (See 2003, 26 § 715.)

§ 4 amended, 2008, 268 § 1

CHAPTER 21M - (New Chapter inserted, 2004, 251 § 11.)

§ 1 amended, 2008, 268, §§ 2 through 5

§ 8 amended, 2008, 268, §§ 6 and 7, 9 through 12

§ 8 subsection (c) amended, 2008, 268 § 8

§ 9 added, 2008, 268, § 13

CHAPTER 21N - Climate Protection and Green Economy .
(New Chapter inserted, 2008, 298 § 6.)

CHAPTER 22 - Department of Public Safety.

§ 6 amended, 2008, 302, § 4 (see §70)

§ 12 revised, 2007, 61 § 6.

CHAPTER 22A - Central Register for Missing Children.

CHAPTER 22B - Capitol Police.
(Chapter repealed, 1991, 412 § 21.) (See 1991, 412 § 139.)

CHAPTER 22C - The Department of State Police.
(New chapter inserted, 1991, 412 § 22.) (See 1991, 412 § 139.)

§ 59 amended, 2008, 451 § 35 (See § 187)

§ 68 amended, 2008, 176, §49

CHAPTER 22D - Department of Fire Services.
(New chapter inserted, 1996, 151 § 109.) (See 1996, 151 § 690.)

CHAPTER 22E - State DNA Database.
(New chapter inserted, 1997, 106 § 7.)

CHAPTER 23 - Executive Office of Labor and Work Force Development.
(New title inserted, 1996, 196, 151 § 110, Former title, Department of Labor and Industries.) (See 1996, 151 § 690.)

§ 1 third sentence revised, 2007, 39 § 3.

§ 1 revised, 2007, 19 § 15.

§ 1A subsection (c) amended, 2007, 145 § 2. (See § 9)

CHAPTER 23 - Executive Office of Labor and Work Force Development. - continued

§ 3, subsection (a) **revised**, 2007, 145 § 3.

§ 3, subsection (c) **repealed**, 2007, 145 § 4

§§ 9O, 9P, 9Q and 9R **stricken out, replaced** with seven sections, 2007, 145, § 5.

**CHAPTER 23A - Department of Economic Development.
(New title inserted, Former title, Department of Commerce and Development.)**

§ 3 **amended**, 2008, 231 §§ 3 through 5.

§ 3 **amended**, 2008, 522 §§ 1 and 2

§ 3D, clause (ii) of subsection (a) **amended**, 2008, 169 § 8.

§ 3I **amended**, 2008, 303, §§ 8 and 9.

**CHAPTER 23B - Department of Housing and Community Development.
(Title Changed, 1996, 204 § 15, Former Title, Division of Housing and Community Development.)**

§ 1 first paragraph, first and second sentences **amended**, 2007, 19 §16.

§ 27 **amended**, 2007, 140 § 16.

**CHAPTER 23C - Board of Conciliation and Arbitration.
(Chapter Repealed, 2007, 145, §6)**

CHAPTER 23D - Massachusetts Industrial Service Program.

**CHAPTER 23E - Division of Industrial Accidents.
(Former Title, Department of Industrial Accidents)**

**CHAPTER 23F - The Economic Diversification Program.
(New chapter inserted, 1990, 525.)**

**CHAPTER 23G - The Massachusetts Development Finance Agency.
(New chapter inserted, 1998, 289§ 24.) (See 1998, 289 § 33.)**

§ 1 **amended**, 2008, 215 § 42.

**CHAPTER 23H - WORKFORCE DEVELOPMENT.
(New chapter inserted, 2003, 26 § 571.) (See 2003, 26 § 715.)**

§ 1 **amended**, 2007, 19 § 17.

§ 1 subsection (d) **added**, 2007, 19 § 18.

§ 8 **stricken, replaced** with § 8A, 2008, 451 § 34.

CHAPTER 23I – ECONOMIC INVESTMENTS.

- § 2 **revised**, 2008, 130, §3
- § 3, subsection (b), **revised**, 2008, 130, § 4
- § 3, subsection (c), **amended**, 2008, 130, § 5
- § 3, subsection (e), **revised**, 2008, 130, § 6
- § 3, subsection (g), **amended**, 2008, 130, §§ 7 and 8
- § 4, clause 14, **amended**, 2008, 130, §9
- § 4, clause 15, **amended**, 2008, 130, §10
- § 4, clauses 16 and 17, **revised**, 2008, 130, §11
- § 4, clauses 30, 31, 32, **added**, 2008, 130, §12
- §§ 5 through 8 inclusive **stricken out**, 13 sections **added**, 2008, 130, § 13

CHAPTER 23J - Massachusetts Clean Energy Technology Center. (New chapter inserted, 2008, 307 § 2.)

- § 1 through 8 **added**, 2008, 307 § 2(see above chapter addition)

CHAPTER 24 - Department of Industrial Accidents. (Chapter repealed, 1953, 314 § 14.)

CHAPTER 24A - Office of Consumer Affairs and Business Regulation. (New chapter inserted, 1996, 151 § 148.) (See 1996, 151 § 690.)

- § 1, subsection (a), first sentence **amended**, 2007, 19 § 19; subsection (b) first sentence **amended**, 2007, 19 § 20.

CHAPTER 25 - Department of Public Utilities.

- § 1 lines 1 and 2 **amended**, 2007, 19 § 21.
- § 2 first paragraph **revised**, 2007, 19 § 22.
- § 2A **amended**, 2007, 19 § 23.
- § 4 **amended**, 2007, 19 § 24.
- § 5E **added**, 2008, 169 § 9.
- § 18 first paragraph, first sentence **amended**, 2007, 19 § 26; § 18 **amended**, 2007, 19 § 27.
- § 18A **added**, 2008, 169 § 10.
- § 19 **replaced**, 2008, 169 § 11.
- § 20 **replaced**, 2008, 169 § 11.
- § 21 **added**, 2008, 169 § 11.
- § 22 **added**, 2008, 169 § 11.

CHAPTER 25A - Division of Energy Resources. (Formerly, Executive Office of Energy Resources.)

- § 1 **amended**, 2007, 19 § 28.

CHAPTER 25A - Division of Energy Resources. - continued

- § 1 replaced, 2008, 169 § 12.
- § 2 replaced, 2008, 169 § 12.
- § 3 replaced, 2008, 169 § 12.
- § 5 amended, 2008, 169 § 13.
- § 6 amended, 2008, 169 §§ 14 and 15.
- § 7 amended, 2008, 169 §§ 16 through 18.
- § 8 amended, 2008, 169 § 19.
- § 9 amended, 2008, 169 §§ 20 and 21.
- § 10 replaced, 2008, 169 § 22.
- § 10A added, 2008, 169 § 22.
- § 11C replaced, 2008, 169 § 23.
- § 11D amended, 2008, 169 §§ 24 through 27.
- § 11E amended, 2008, 169 §§ 28 through 31.
- § 11F replaced, 2008, 169 § 32.
- § 11F½ added, 2008, 169 § 32.
- § 11G amended 2008, 169 §§ 33 through 35.
- § 11H amended, 2008, 169 § 36.
- § 11I replaced, 2008, 169 § 37.
- § 12 amended, 2008, 169 §§ 38 and 39.
- § 13 amended, 2008, 169 §§ 40 through 43.
- §§ 14, 15 added, 2008, 169 § 44.

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.

- § 2 amended, 2008, 169 § 45.
- § 5 fourth paragraph amended, 2007, 178.

**CHAPTER 25C Department of Telecommunications and Cable.
(New chapter inserted, 2007, 19 § 29.)**

CHAPTER 26 - Department of Banking and Insurance.

- § 7B subsection (b), revised, 2007, 205 § 3.

CHAPTER 27 - Department of Correction.

**CHAPTER 28 - Metropolitan District Commission.
(Chapter repealed, 2003, 26 § 125. (See 2003, 26 § 715.)**

CHAPTER 28A - Office of Child Care Services.

(Former Title, Office For Children.) (See 2000, 313 § 8.)

(Chapter repealed, 2008, 215 § 43.)

§ 9 definition of "Placement agency" **amended**, 2007, 105 § 1.

§ 10 paragraph (a) **amended**, 2007, 105 § 2.

§ 10 **amended**, 2008, 176, § 50.

§ 10, paragraph (f) **replaced**, 2008, 176 § 51.

§ 10 **amended**, 2008, 451 § 36. (See § 187)

CHAPTER 29 - State Finance.

§ 2O **amended**, 2008, 233 § 3.

§ 2JJ **amended**, 2008, 215 § 44.

§ 2EEE **repealed**, 2007 61, § 7.

§ 2PPP **amended**, 2007, 205, § 4.

§ 2QQQ **added**, 2008, 182, § 10.

§ 2QQQ **repealed**, 2008, 451 § 178.

§ 2RRR **amended**, 2008, 451 §§ 37 and 38. (See § 187)

§ 2YYY, **added**, 2008, 304 § 5.

§ 5B, **amended**, 2008, 173 § 1.

§ 5C **amended**, 2008, 302, § 5. (see §69)

§ 5D **amended**, 2008, 302 § 6. (see § 67)

§ 8B **amended**, 2008, 303 § 10.

§ 29H **revised**, 2007, 140 § 17.

§ 38C **amended**, 2008, 304 § 6.

§ 49, sixth paragraph, sentence **added**, 2007, 140 § 18.

§ 53A sentences **added**, 2008, § 3.

CHAPTER 29A - Financing the Judicial System.

CHAPTER 29B - State Revenue Growth Control.

(Chapter repealed, 1998, 194 § 103.) (See 1998, 194 § 433.)

CHAPTER 29C - Water Pollution Abatement Revolving Loan Program.

(New chapter inserted, 1989, 275 § 8.)

§ 6 **amended**, 2008, 312 § 5

CHAPTER 29D - THE HEALTH CARE SECURITY TRUST.

(New chapter inserted, 1999, 127 § 43.)(See 1999, 127 §390.)

CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.

- § 9B amended, 2008, 176, § 52
- § 9B amended, 2008, 451 § 39 (See § 187)
- § 9C amended, 2008, 451 § 40 (See § 187)
- § 9D amended, 2008, 451 § 41 (See § 187)
- § 24A amended, 2008, 451 § 42 (See § 187)
- § 39M amended, 2008, 303, § 11.
- § 39M½ added, 2008, 303, § 12.
- § 61 amended, 2007, 168 § 2.
- § 61 amended, 2008, 298, § 7.
- § 62I added, 2007, 168 § 3.

CHAPTER 30A - State Administrative Procedure.

CHAPTER 30B - Uniform Procurement Act.
(New chapter inserted, 1989, 687 § 3.)

- § 1 amended, 2008, 169 §§ 46 and 47
- § 1 amended, 2008, 445 § 2

CHAPTER 31 - Civil Service.

- § 48 amended, 2008, 176 § 53
- § 58 last sentence amended, 2007, 33.

CHAPTER 31A - Municipal Personnel Systems.

CHAPTER 32 - Retirement Systems and Pensions.

- § 1 amended, 2008, 130 § 15.
- § 3 amended, 2008, 308 § 2.
- § 3 paragraph (3) of subdivision (2) amended, 2008, 467.
- § 4 amended, 2008, 302, §§ 7 and 8. (see §70)
- § 19A paragraph added, 2007, 67 § 2.
- § 22 amended, 2007, 68 § 1.
- § 22 subsection (8), paragraph (c½) added after paragraph (c), 2007, 68 § 2.
- § 22C amended, 2008, 182 § 11.
- § 22C amended, 2008, 377 § 1.
- § 90C amended, 2008, 358.
- § 91 lines 14 and 15, amended, 2007, 140 § 19.
- § 91 amended, 2008, 451 § 43. (See § 187)

CHAPTER 32 - Retirement Systems and Pensions. - continued

- § 94 amended, 2007, 162.
- § 94 amended, 2008, 308 § 3.
- § 94A amended, 2008, 308 § 4.
- § 94B amended, 2008, 308 § 5.
- § 100 amended, 2008, 308 § 6.
- § 100A amended, 2008, 308 § 7.
- § 100A amended, 2008, 245.
- § 100A amended, subsections (c) and (d) replaced, 2008, 443 § 1.
- § 102 amended, 2008, 182 § 12.
- § 105 amended, 2008, 302 § 9. (see § 70)

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

- § 2 paragraph (b) sentence added, 2007, 67 § 3.
- § 2 amended, 2008, 130 § 16
- § 3 revised, 2007, 67 § 3.
- § 2 amended, 2007, 205 § 5.
- § 3B added, 2007, 67 § 3C.
- § 4 amended, 2008, 302 § 10.
- § 17A amended, 2008, 214 § 1.
- § 22 amended, 2008, 256 §§ 1 and 2. (see §§ 16 and 17)
- § 24 added, 2007, 61 § 8.

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.

- § 2 amended, 2007, 67 § 3D.
- § 2 paragraph (a) amended, 2007, 67 § 3E.
- § 18 amended, 2008, 374 § 2.
- § 18A added, 2008, 374 § 1.
- § 19 revised, 2007, 67 § 4.
- § 19 subsection (e) amended, 2008, 377 § 2A. (see § 10)
- § 20 added, 2008, 451 § 479.

CHAPTER 33 - Militia.

- § 138 added, 2008, 308 § 8.

CHAPTER 34 - Counties and County Commissioners.

CHAPTER 34A - County Charter Procedures.

§ 9G clause (8) **added** to fourth paragraph, 2008, 445 § 3

CHAPTER 34B - Abolition of County Government.

(New chapter inserted, 1999, 127 § 53.) (See 1999, 127 § 390.)

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

CHAPTER 36 - Registers of Deeds.

§ 41 **amended**, 2007, 20 § 2.

CHAPTER 37 - Sheriffs.

CHAPTER 38 - Medical Examiners.

§ 2A **replaced**, 2008, 176, § 54.

§ 2A **amended**, 2008, 451 § 44. (See § 187)

§ 3 **amended**, 2008, 176 § 55.

§ 3 **amended**, 2008, 215 § 45.

CHAPTER 39 - Municipal Government.

§ 9 **amended**, 2008, 85 § 1.

§ 9A **amended**, 2008, 85 § 2.

§ 23B clause (10) **added** to fourth paragraph, 2008, 445 § 4.

CHAPTER 40 - Powers and Duties of Cities and Towns.

§ 4A **amended**, 2008, 188, §§ 1 and 2

§ 21 clause 23, paragraph **amended**, 2008, 76 § 1.

§ 21 word **added**, 2008 76 § 2.

§ 22A **amended**, 2008 76 § 3.

CHAPTER 40A - Zoning Regulations.

§ 3 first paragraph **replaced**, 2007, 16 § 4.

§ 3 **amended**, 2008, 215 §§ 46 and 47.

§ 5 **amended**, 2008, 451 § 45. (See § 187)

§ 9C **amended**, 2008, 215 § 48.

§ 11 **amended**, 2008, 239 § 1.

CHAPTER 40B - Regional Planning.

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

§ 1 amended, 2008, 215 § 49.

CHAPTER 40E - Massachusetts Industrial Development Authority.

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

CHAPTER 40G - Massachusetts Technology Development Corporation.

CHAPTER 40H - Community Economic Development Assistance Corporation.

§ 2 amended, 2008, 451 § 46

CHAPTER 40I - THE BAY STATE SKILLS CORPORATION ACT.
(Chapter repealed, 1996, 151 § 196.) (See 1996, 151 § 690.)

CHAPTER 40J - Massachusetts Technology Park Corporation.

§ 3 amended, 2008, 169, § 48

§ 4B amended, 2008, 307, §§ 3 and 4

§ 4E replaced, 2008, 169, § 49

§ 4E amended, 2008, 307, § 5 through 7

§ 6A amended, 2007, 61 §§ 9, 10, 11.

§ 6A line 69, amended, 2007, 140 § 20.

§ 6A amended, 2008, 307, § 8

§§6B and 6C amended, 2008, 231 § 6.

§§ 6D, 6E, 6F, and 6G added, 2008, 305, § 4

CHAPTER 40K - MASSACHUSETTS PRODUCT DEVELOPMENT CORPORATION.
(Chapter repealed, 1996, 58 § 23.) (See 1996, 58 § 105.)

CHAPTER 40L - AGRICULTURAL INCENTIVE AREAS.

CHAPTER 40M - GOVERNMENTAL UNITS POOLED INSURANCE.

CHAPTER 40N - MODEL WATER AND SEWER COMMISSION.
(New chapter inserted, 1992, 343 § 2.)

CHAPTER 40O - BUSINESS IMPROVEMENT DISTRICTS.
(New chapter inserted, 1994, 173.)

CHAPTER 40O - The Massachusetts Rent Control Prohibition Act.
(New chapter inserted, 1994, 368 § 1.) (See 1994, 368 § 2.) (Voted
by the people under Art. 48.) (Chapter stricken out, 1997, 19 § 10.)
(See 1997, 19 § 127.)

CHAPTER 40P - The Massachusetts Rent Control Prohibition Act.
(New chapter inserted, 1997, 19 § 10.) (See 1997, 19 § 127.)

CHAPTER 40Q- DISTRICT IMPROVEMENT FINANCING.
(New Chapter inserted, 2003, 46 § 18.)

CHAPTER 40R- SMART GROWTH ZONING AND HOUSING PRODUCTION.
(New Chapter inserted, 2004, 149 § 92.)(See 2004, 149 § 428.)

CHAPTER 40S- SMART GROWTH SCHOOL COST REIMBURSEMENT.
(New Chapter inserted, 2005, 141 § 1.)

CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.

§ 81T amended, 2008, 239 § 2.

§ 100 G ¼ line 5, amended, 2007 109 §§ 1, 2. (see § 3.)

§ 111F amended, 2008, 308 § 9

CHAPTER 42 - Boundaries of Cities and Towns.

CHAPTER 43 - City Charters.

CHAPTER 43A - Standard Form of Representative Town Meeting Government.

CHAPTER 43B - Home Rule Procedures.

§ 12 amended, 2007, 157 § 1.

§ 2-2, second paragraph amended, 2007, 157 § 2.

§ 2-2 sentence added, 2007, 157 § 3.

§ 2-12, subparagraph (b) amended, 2007, 157, § 4.

§ 12 paragraph (a) section 4-1 revised, 2007, 230 § 1.

§ 4-1 paragraph (b) revised, 2007, 230 § 2.

§§ 6-3, 6-4 paragraphs (a) and (b) revised, 2007, 230 §§ 3, 4

§ 6-9 paragraph (b) revised, 2007, 230 § 5.

§ 6-11 paragraph (d) subsection 4 revised, 2007, 230 § 6.

§ 6-21 paragraphs (a) and (c) revised, 2007, 230 § 7.

CHAPTER 43C - OPTIONAL FORMS OF MUNICIPAL ADMINISTRATION ACT.

(New chapter inserted, 1987, 756.)

CHAPTER 43D - EXPEDITED PERMITTING.

(New chapter inserted, 2004, 149 § 94.)(See 2004, 149 § 428.)

CHAPTER 44 - Municipal Finance.

§ 7, clause (3B) **replaced**, 2008, 169, § 50

CHAPTER 44A - QUALIFIED BOND ACT.

CHAPTER 44B. - COMMUNITY PRESERVATION.

(New chapter inserted, 2000, 267 § 1.)

§ 8, subsection (a) **replaced**, 2008, 182, §13

CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.

§ 18A **added**, 2008, 426

CHAPTER 46 - Return and Registry of Births, Marriages and Death.

§ 1A **amended**, 2008, 176 § 56.

§§ 2B, 2C **added**, 2007, 109 § 2.

§ 6 **amended**, 2008, 176 § 58.

§ 13 paragraph (h) eleventh sentence **stricken out**, two sentences **added**, 2007, 109 § 3.

§ 13, subsection (g) **amended**, 2008, 176 §§ 58 and 59.

§ 31 **added**, 2007, 109 § 4.

CHAPTER 47 - Infirmaries.

CHAPTER 48 - Fires, Fire Departments and Fire Districts.

§ 59A **amended**, 2008, 308 § 10.

CHAPTER 49 - Fences, Fence Viewers, Pounds and Field Drivers.

CHAPTER 49A - Use of Certain Animals for Scientific Investigation, Experiment or Instruction.

CHAPTER 50 - General Provisions relative to Primaries, Caucuses and Elections.

CHAPTER 51 - Voters.

§ 1 last sentence **replaced**, 2008, 369 § 1 (see §§ 3 and 4)

§ 1 last sentence **replaced**, 2008, 369 § 2 (see §§ 3 and 4)

CHAPTER 52 - Political Committees.

CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

CHAPTER 54 - Elections.

CHAPTER 54A - Election of City and Town Officers by Proportional Representation and Preferential Voting.

CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests.

CHAPTER 55A - THE MASSACHUSETTS CLEAN ELECTION LAW.
(Chapter revised, 1998, 395 § 2)(New title inserted, 1998, 395 § 2)
(Former Title, Limited Public Financing of Campaigns for
Statewide Elective Office.)

CHAPTER 55B - The State Ballot Law Commission.

**CHAPTER 55C- LIMITED PUBLIC FINANCING OF CAMPAIGNS FOR
STATEWIDE ELECTIVE OFFICE**
(Chapter added, 2003, 26 § 43(D). (See 2003, 26 § 715.)

CHAPTER 56 - Violations of Elections Laws.

**CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and
Apportionment of Representatives.**

CHAPTER 58 - General Provisions relative to Taxation.

§ 13 amended, 2008, 451 § 47

CHAPTER 58A - Appellate Tax Board.
(Former title, Board of Tax Appeals.) (Chapter revised, 1998, 485
§ 2.) (See 1998, 485 § 23.)

CHAPTER 59 - Assessment of Local Taxes.

§ 2A amended, 2008, 522 § 3.

§5 clause fifth C added, 2008, 61 § 1.

§ 5, amended, 2008, 173 §§ 2 through 6.

§ 5 amended, 2008, 182, § 14.

§ 8A amended, 2008, 310 § 2.

§ 18, amended, 2008, 173 § 7 and 8.

§ 21C amended, 2007, 91 § 1.

§ 21C amended, 2007, 91 § 2.

§ 33, amended, 2008, 173 § 9.

§ 57 first paragraph, last sentence **stricken out**, 2 sentences **added**, 2007, 74 § 1.

§ 57C seventh paragraph, second sentence **stricken out**, 2 sentences **added**, 2007, 73 § 2.

§ 83, amended, 2008, 173 § 10.

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 15 amended, 2008, 182, § 15

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 1, two paragraphs **added**, 2008, 182, § 16

§ 9 **added**, 2008, 182, § 17

CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.

**CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products.
(Former title, Taxation of Forest Products and Classification and
of Forest Lands.)**

CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.

§ 14 amended, 2008, 312 § 6

CHAPTER 61B - Classification and Taxation of Recreational Land.

§ 9 amended, 2008, 312 § 7

CHAPTER 62 - Taxation of Incomes.

§ 1 amended, 2008, 173 § 11.

§ 2 amended, 2008, 173 §§ 12 through 15.

CHAPTER 62 - Taxation of Incomes. - continued

- § 2 subsection (a), paragraph (2), subparagraph (Q) **added**, 2007, 205 § 6.
- § 4 **amended**, 2008, 173 § 16.
- § 6 **amended**, 2007, 63 § 1.
- § 6 subsection (a), **amended**, 2008, 173 § 17.
- § 6 subsection (h), **amended**, 2008, 173 § 18.
- § 6 subsections (m) and (n) **added**, 2008, 130 § 17. (See 2008, 130, § 53)
- § 6 subsections (m) and (n) **stricken out**, 2008, 130 § 18. (See 2008, 130 § 54)
- § 6 subsection (L), paragraph (2), second sentence **revised**, 2007, 63 § 2.
- § 6 subsection (L), paragraph (4), first sentence **revised**, 2007, 63 § 3.
- § 6 subsection (L), paragraph (6) **stricken out**, 2007, 63 § 4.
- § 6 **amended**, 2008, 182 § 18.
- § 6 **amended**, 2008, 310 § 3.
- § 6I subsection (b), paragraph (1) **revised**, 2008, 119 § 4.
- § 6L **added**, 2007, 63 § 5.
- § 6L **amended**, 2008, 310 § 4.
- § 8 **repealed**, 2008, 173 § 19.
- § 17 **amended**, 2008, 173 § 20.
- § 17A **amended**, 2008, 173 § 21.
- § 19 **repealed**, 2008, 173 § 22.

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

- § 2, fifth paragraph **replaced**, 2008, 182 § 19

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

- § 6 **amended**, 2008, 173 §§ 23 and 24.
- § 6 subsection (p)(1) **added**, 2008, 509 § 1. (See § 4)
- § 7 **amended**, 2008, 173 § 25
- § 8B subsection (c) **revised**, 2007, 205 § 7.
- § 11 **amended**, 2008, 173 § 26.
- § 16 subsection (c½) **added**, 2008, 182 § 19.
- § 21 subsection (b), clause 23 **added**, 2007, 205 § 8.
- § 21 **amended**, 2008, 176 § 60.
- § 33 **amended**, 2008, 182 § 21
- § 47A subsection (d) **replaced**, 2008, 182 § 22.
- § 47A subsection (f) **added**, 2008, 182 § 24.
- § 47B **added**, 2008, 182 § 23.

CHAPTER 62C - Administrative Provisions Relative to State Taxation. - continued

§ 50 amended, 2008, 182 § 25.

§ 51 amended, 2008, 173 § 27.

§ 65 first paragraph replaced, 2008, 182 § 26.

§ 67 amended, 2008, 182 §§ 27 through 31.

CHAPTER 62D - SET-OFF DEBT COLLECTION.

§ 1 amended, 2007, 205 § 9.

§ 1 amended, 2008, 182 §§ 32 through 34.

§ 13 clause (viii) revised, 2007, 205 § 10.

CHAPTER 62E - WAGE REPORTING SYSTEM.

§ 12 amended, 2007, 205 § 11.

CHAPTER 62F - LIMITATION ON THE GROWTH OF STATE TAX REVENUES.

CHAPTER 63 - Taxation of Corporations.

§ 1 amended, 2008, 173 § 28.

§ 2 amended, 2008, 173 §§ 29 through 31.

§ 2B amended, 2008, 173 § 32.

§ 22 amended, 2008, 173 § 33.

§ 23 amended, 2008, 173 § 34.

§ 29A amended, 2008, 173 § 35.

§ 29E amended, 2008, 173 § 36.

§ 30 paragraph 17 added, 2008, 130, § 19. (See 2008, 130, § 53)

§ 30 paragraph 17 stricken out, 2008, 130, § 20. (See 2008, 130, § 54)

§ 30 amended, 2008, 173 §§ 37 through 42.

§ 31A amended, 2008, 173 § 43.

§ 31B repealed, 2008, 173 § 44.

§ 31E amended, 2008, 173 § 45.

§ 31H subsection (b), paragraph (1) revised, 2008, 119, § 5.

§ 31M added, 2008, 130 § 21. (See 2008, 130, § 53)

§ 31M repealed, 2008, 130 § 22. (See 2008, 130, § 54)

§ 31M added, 2008, 173 § 46.

§ 32 repealed, 2008, 173 § 47.

§ 32B amended, 2008, 173 § 48.

§ 32D amended, 2008, 173 §§ 49 through 53.

§ 32E added, 2007, 63 § 6.

CHAPTER 63 - Taxation of Corporations. - continued

- § 32E **amended**, 2008, 173 § 54.
- § 32E **amended**, 2008, 310 § 5.
- § 33 **repealed**, 2008, 173 § 55.
- § 38 **amended**, 2008, 130, § 23. (See 2008, 130, § 54)
- § 38 **amended**, 2008, 173 § 56.
- § 38 subsection (a), paragraph (1) **amended**, 2008, 173 § 47.
- § 38 clause (6) **added**, 2008, 130, § 24. (See 2008, 130, § 53)
- § 38 clause (6) **stricken out**, 2008, 130 § 25. (See 2008, 130, § 54)
- § 38 words **stricken out**, 2008, 173 § 58 through 62.
- § 38A **amended**, 2008, 173 § 63.
- § 38B **amended**, 2008, 173 § 64 and 65.
- § 38C paragraph **added**, 2008, 130 § 26. (See 2008, 130, § 53)
- § 38C paragraph **stricken out**, 2008, 130 § 27. (See 2008, 130, § 54)
- § 38C **repealed**, 2008, 173 § 66.
- § 38D **amended**, 2008, 173 §§ 67 and 68.
- § 38E **amended**, 2008, 173 § 69.
- § 38F **amended**, 2008, 173 § 70.
- § 38G **amended**, 2008, 173 § 71.
- § 38H **amended**, 2008, 173 §§ 72 and 73.
- § 38I **amended**, 2008, 173 § 74.
- § 38J **amended**, 2008, 173 § 75.
- § 38M **amended**, 2008, 173 § 76 through 78.
- § 38M subsection (j) **added**, 2008, 130, § 28. (See 2008, 130, § 53)
- § 38M subsection (j) **stricken out**, 2008, 130 § 29. (See 2008, 130, § 54)
- § 38Q **amended**, 2008, 173 §§ 79 and 80.
- § 38S **amended**, 2008, 173 § 81.
- § 38T **amended**, 2007, 63 § 7.
- § 38T subsection (b), second sentence **revised**, 2007, 63 § 8.
- § 38T subsection (d), first sentence **revised**, 2007, 63 § 9.
- § 38T subsection (f), **stricken out**, 2007, 63 § 10.
- § 38T **stricken**, 2008, 173 § 82.
- §§ 38U, 38V, 38W **added**, 2008, 130 § 30. (See 2008, 130, § 53)
- § 38U, 38V, 38W **repealed**, 2008, 130 § 31. (See 2008, 130, § 54)
- § 38X **added**, 2008, 173 § 82.
- § 38Y **added**, 2008, 173 § 83.
- § 38Z **added**, 2008, 310 § 6.
- § 38AA **added**, 2008, 509 § 2. (See § 4)
- § 39 **amended**, 2008, 173 § 84.
- § 42B paragraph **added**, 2008, 130 § 32. (See 2008, 130, § 53)
- § 42B paragraph **stricken out**, 2008, 130 § 33. (See 2008, 130, § 54)

CHAPTER 63 - Taxation of Corporations. - continued

- § 42B amended, 2008, 173 § 85.
§ 52 amended, 2008, 173 §§ 86 and 87.
§ 52A amended, 2008, 173 § 88.
§ 68C added, 2008, 173 § 89.

CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.

- § 2 amended, 2008, 173 § 90

CHAPTER 63B - Declaration of Estimated Tax by Corporations.

- § 10 amended, 2008, 173 § 91

**CHAPTER 63C - Taxation of Income of Certain Corporations.
(Chapter repealed, 1985, 593 § 24.)**

CHAPTER 64 - Taxation of Stock Transfers.

**CHAPTER 64A - Taxation of Sales of Gasoline.
(Former Title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel.)**

- § 1 replaced by §§1, 1A, 2008, 206, § 1
§ 13 amended, 2008, 233, § 4.

CHAPTER 64B - Excise upon Charges for Meals served to the Public.

CHAPTER 64C - Cigarette Excise.

- § 1 amended, 2008, 182 §§ 35 and 36.
§ 2A amended, 2008, 302 § 11.
§ 2C subsection (d) amended, 2007, 228 § 6.
§ 6 sentence replaced, 2008, 168 § 1.
§ 6 paragraph inserted, 2008, 168 § 2.
§ 6 last paragraph stricken out, 2008, 182 § 37
§ 6 paragraph inserted, 2008, 302 § 12. (see §70)
§ 7B replaced, 2008, 182 § 38.
§ 28 words replaced, 2008, 168 § 3.
§ 38A replaced, 2008, 182 § 39.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and used within the Commonwealth.

CHAPTER 64G - Room Occupancy Excise.

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 1 amended, 2007, 63 § 11.

§ 3A added, 2008, 182 § 40.

§ 6 lines 576 and 592 amended, 2007, 63 § 12.

§ 6 paragraph (xx) added, 2008, 130 § 34. (See 2008, 130, § 53)

§ 6 paragraph (xx) stricken out, 2008, 130 § 35. (See 2008, 130, § 54)

§ 6, paragraph (p), clause (3) replaced, 2008 182 § 41.

§ 33 amended, 2008, 182 § 42.

CHAPTER 64I - Tax on storage, Use or Other Consumption of Certain Tangible Personal Property.

§ 34 amended, 2008, 182, § 43

CHAPTER 64J - TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.

CHAPTER 64K - Controlled Substances Tax.

(New Chapter inserted, 1993, 110 § 127.) (See 1993, 110 § 390.)

CHAPTER 65 - Taxation of Legacies and Successions.

CHAPTER 65A - Taxation of Transfers of Certain Estates.

§ 5 repealed, 2008, 521 § 1.

§ 5A repealed, 2008, 521 § .1

CHAPTER 65B - Settlement of Disputes respecting the Domicile of Decedents for Death Tax Purposes.

CHAPTER 65C - Massachusetts Estate Tax.

CHAPTER 66 - Public Records.

§ 8B added, 2007, 82 § 1.

§ 10 amended, 2008, 176 § 61.

CHAPTER 66A - Fair Information Practices.

§ 2 amended, 2007, 82 § 2.

CHAPTER 67 - Parishes and Religious Societies.

CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.

CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.

CHAPTER 69 - Powers and Duties of the Department of Education.

Chapter Title changed, 2008, 27 § 87.

§ 1A title **amended**, 2008, 27, §88

§ 1A paragraph **replaced**, 2008, 27 § 89.

§ 1A words **added**, 2008, 27 § 90.

§ 1A paragraph **replaced**, 2008, 27 § 91.

§ 1A **replace** words, 2008, 27 § 92.

§ 1A **insert** words, 2008, 27 § 93.

§ 1A **amended**, 2008, 215 § 50.

§ 1A, **amended**, 2008, 321 § 11

§ 1B title **changed**, 2008, 27 § 94.

§ 1B words **stricken out**, 2008, 27 § 95.

§ 1B words **stricken out**, 2008, 215 § 51.

§ 1B **amended**, 2008, 311 § 4

§ 1C words **stricken out**, 2008, 215 § 52.

§ 1D words **stricken out**, 2008, 27 § 96.

§ 1E words **stricken out**, 2008, 215 § 53.

§ 1J **amended**, 2008, 311 § 5

§ 1K **amended**, 2008, 311 § 6

CHAPTER 70 - School Funds and State Aid for Public Schools.

(Former title, School Funds and Other State Aid for Public Schools.) (Chapter revised, 1993, 71 § 32.)

CHAPTER 70A - EQUAL EDUCATIONAL OPPORTUNITY GRANTS.

(Chapter repealed, 1993, 71 § 33.)

CHAPTER 70B - SCHOOL BUILDING ASSISTANCE PROGRAM.

(New chapter inserted, 2000, 159 § 140. (See 2000, 159 § 498.)

§ 6 **amended**, 2008, 302, § 13 (see §§ 68, 70)

CHAPTER 71 - Public Schools.

- § 7A amended, 2008, 215 § 54.
- § 7A amended, 2008, 311 § 7
- § 16C amended, 2008, 215 § 55.
- § 37H amended, 2008, 386 § 1
- § 37H amended, 2008, 451 § 50
- § 37L, first paragraph replaced, 2008, § 62
- § 37L, amended, 2008, § 63
- § 41, amended, 2008, 314 § 1
- § 90 added, 2008, 335 § 1 (see § 2)

CHAPTER 71A - TRANSITIONAL BILINGUAL EDUCATION.

(Chapter revised, 2002, 386(See 2002, 386 § 4.) (Chapter Title Changed to "ENGLISH LANGUAGE EDUCATION IN PUBLIC SCHOOLS," 2008, 451 § 51)

- § 7A amended, 2008, 311 § 7

CHAPTER 71B - CHILDREN WITH SPECIAL NEEDS.

- § 1 amended, 2008, 176, § 64
- § 1 amended, 2008, 451 § 52 (See § 187)
- § 2 amended, 2008, 176, § 65
- § 2 amended, paragraph added, 2008, 285
- § 2 amended, 2008, 451 § 53 (See § 187)
- § 3 amended, 2008, 176, § 66
- § 3 fourth paragraph amended, 2008, 363
- § 3 amended, 2008, 451 § 54 (See § 187)
- § 5A amended, 2008, 176, § 67
- § 9 amended, 2008, 451 § 55 (See §§ 187, 191)
- § 10 amended, 2008, 176, § 68
- § 10 amended, 2008, 451 § 56 (See § 187)
- § 12 amended, 2008, 451 § 57 (See § 187)
- § 12B amended, 2008, 176, § 69
- § 12B amended, 2008, 451 § 58 (See § 187)

CHAPTER 72 - School Registers and Returns.

CHAPTER 73 - State Colleges and Community Colleges.

(Former title, State Teachers Colleges and Community Colleges.)

- § 1 amended, 2007, 72 § 4.
- § 1A amended, 2007, 72 § 5.

CHAPTER 73 - State Colleges and Community Colleges. - continued

- § 1B amended, 2007, 72 § 6.
- § 4B amended, 2007, 72 § 7.
- § 8 amended, 2007, 72 § 8.
- § 10 amended, 2007, 72 § 9.
- § 19 amended, 2007, 72 § 10.

CHAPTER 74 - Vocational Education.

- § 7 amended, 2008, 176, § 70
- § 7A amended, 2008, 176, § 71
- § 8A amended, 2008, 176, § 72

CHAPTER 74A - INDEPENDENT AGRICULTURAL AND TECHNICAL SCHOOL.

(Chapter inserted 2000, 159 § 191.)(See 2000, 159 § 498.)
(Chapter repealed, 2004, 463 § 1.) (See 2004, 463 § 18.)

CHAPTER 75 - University of Massachusetts.
(Former title, Massachusetts State College.)

- § 1 words added, 2008, 27 § 97.
- § 1A amended, 2008, 27 §§ 98 through 100.
- § 1A amended, 2008, 27 § 101.
- § 1A amended, 2008, 27 § 102.
- § 1A clause (l) revised, 2008, 27 § 103.
- § 1A words added, 2008, 27 §§ 104 through 109.
- § 2 amended, 2008, 27 § 110.
- § 7 words added, 2008, 27 § 111.
- § 15A amended, 2008, 176, § 73
- § 15A amended, 2008, 215 § 56.

CHAPTER 75A - University of Lowell.
(Former title, Lowell Technological Institute of Massachusetts.)
(Chapter repealed, 1991, 142 § 23.) (See 1991, 142 §§ 4, 50.)

CHAPTER 75B - Southeastern Massachusetts University.
(Former title, South Eastern Massachusetts University) (Former title Southeastern Massachusetts Technological Institute.)
(Chapter repealed, 1991, 142 § 24. (See 1991, 142 §§ 19, 50.)

CHAPTER 75C - Private Correspondence Schools.

CHAPTER 75D - Private Business Schools.

CHAPTER 76 - School Attendance.

§7 amended, 2008, 176, §74

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

§ 19A paragraph added, 2007, 143.

CHAPTER 78A - YOUTH CONSERVATION AND SERVICE CORPS.
(Chapter inserted 1993, 19 § 19.) (Chapter repealed 2007, 192, §4)

CHAPTER 79 - Eminent Domain.

CHAPTER 79A - Relocation Assistance.

CHAPTER 80 - Betterments.

CHAPTER 80A - Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.

CHAPTER 81 - State Highways.

§ 21 amended, 2008, 303, §§ 13 and 14.

CHAPTER 81A - THE MASSACHUSETTS TURNPIKE AUTHORITY AND THE METROPOLITAN HIGHWAY SYSTEM.
(Chapter inserted 1997, 3 § 6.)

§ 2 line 87, amended, 2007, 140 § 21.

§ 4 amended, 2008, 304, § 7.

§32 added, 2008, 86 § 8.

CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

CHAPTER 82A - EXCAVATION AND TRENCH SAFETY.
(New Chapter inserted, 2002, 387 § 2.)

CHAPTER 83 - Sewers Drains and Sidewalks.

§§ 1A through 1H added, 2008, 312 § 10.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

- § 2E replaced, 2008, 523 § 1 (See § 7)
- § 11A **repealed**, 2008, 523 § 2
- § 11B **amended**, 2008, 523 §§ 3 through 5
- § 11C **replaced**, 2008, 523 § 6
- § 11D second paragraph **amended**, 2008, 523 § 7

CHAPTER 86 - Boundaries of Highways and Other Public Places, and Encroachments Thereon.

- § 20 **repealed**, 2008, 233 § 5.

CHAPTER 87 - Shade Trees.

CHAPTER 88 - Ferries, Canals and Public Landings.

CHAPTER 89 - Law of the Road.

- § 2 **amended**, 2008, 525 §§ 8 and 9.
- § 7C **added**, 2008, 418.

CHAPTER 90 - Motor Vehicles and Aircraft.

- § 1 definition **revised**, 2008, 79 § 1.
- § 1 (as amended above) **amended**, 2008, 169 §§ 51 and 52.
- § 1 clause (b), subclause (3), of 'hybrid' definition **amended**, 2008, 169 § 53.
- § 1 words **stricken out**, 2008, 215 § 57.
- § 1 **amended**, 2008, 523 § 2. (See § 7)
- § 1A **amended**, 2008, 303 § 16.
- § 1F through 1I **added**, 2008, 523 § 3. (See § 7)
- § 2 **amended**, 2008, 407 §§ 1 through 3.
- § 2E **amended**, 2008, 303 § 17.
- § 2F **amended**, 2008, 451 § 59. (See § 191)
- § 2G **added**, 2008, 523 § 4. (See § 7)
- § 7 **amended**, 2008, 523 § 5. (See § 7)
- § 7A first paragraph **amended**, 2008, 523 § 6. (See § 7)
- § 7AA paragraphs **revised**, 2008, 79 § 2.
- § 7D **amended**, 2008, 215 § 58.
- § 8A **amended**, 2008, 297 §§ 1 and 2.
- § 8A½ **amended**, 2008, 297 § 3.

CHAPTER 90 - Motor Vehicles and Aircraft. - continued

- § 9 amended, 2008, 310 § 7.
- § 13A first paragraph amended, 2008, 224.
- § 14 amended, 2008, 525 §§ 10 through 13.
- § 16B added, 2008, 386 § 2.
- § 17B first paragraph, second and third sentences revised, 2007, 199.
- § 20 amended, 2008, 182 § 44.
- § 20A amended, 2008, 465 § 1.
- § 20A½ amended, 2008, 465 § 2.
- § 24 amended, 2008, 182, § 45.
- § 24 amended, 2008, 302, §§ 14 and 15. (see §70)
- § 24B amended, 2008, 226.
- § 24I amended, 2008, 303 § 18.
- § 32E½ amended, 2008, 228 §§ 1 and 2.
- § 32E¾ added, 2008, 228 § 3.
- § 34 amended, 2008, 303 § 19.
- § 40H amended, 2008, 522 § 4.

CHAPTER 90A - The Highway Safety Act.

**CHAPTER 90B - Motorboats, Other Vessels and Recreational Vehicles.
(Former title- Motorboats and Other Vessels.) (Title revised, 1998,
463 § 72.)**

- § 1 amended, 2008, 495 § 2
- § 5C added, 2008, 495 § 3

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

- § 1 amended, 2008, 451 § 60 (See § 187)

CHAPTER 90D - Motor Vehicle Certificate of Title.

CHAPTER 90E - Bikeways.

**CHAPTER 90F - UNIFORM OPERATION OF COMMERCIAL MOTOR
VEHICLES ACT.
(New chapter inserted, 1990, 246 § 2.)**

**CHAPTER 90G - CIVIL INFRACTIONS.
(New chapter inserted, 1992, 133 § 452.) (See 1992, 133 § 598.)
(Chapter repealed, 1993, 182 § 8.)**

CHAPTER 90H - GATEWAY ROADS PROGRAM.
(New chapter inserted, 1994, 273 § 26.)

CHAPTER 91 - Waterways.

- § 1 definition of "Landlocked tidelands" **added**, 2007, 168 § 4.
- § 1 definition of "Secretary" **added**, 2007, 168 § 5.
- § 10A second paragraph **replaced**, 2008, 451 § 61.
- § 18 paragraph **added** after third paragraph, 2007, 168 § 6.
- § 18 **amended**, 2007, 168 § 7.
- § 18B **added**, 2007, 168 § 8.

CHAPTER 91A - Port of Boston Commission.
(Former title, Port of Boston Authority.)

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

- § 43 **amended**, 2008, 522 § 5.
- § 44 **amended**, 2008, 522 § 6.

CHAPTER 92A - Commonwealth Zoological Corporation.
(New chapter inserted, 1991, 6 § 24.) (See 1991, 6 § 58.)

CHAPTER 92A½ - WATERSHED MANAGEMENT.
(New chapter inserted, 2003, 26 § 290.) (See 2003, 26 § 715.)

CHAPTER 92B - COMMONWEALTH ZOOLOGICAL CORPORATION.
(New chapter inserted, 1992, 286 § 165.)

CHAPTER 93 - Regulation of Trade and Certain Enterprises.

- § 24 **amended**, 2008, 522 § 7.
- § 50 "Identity Theft Report" definition **inserted**, 2007, 82 § 3.
- § 50 "Lift" definition **inserted**, 2007, 82 § 4.
- § 50 definition of "Password" **inserted**, 2007, 82 § 5.
- § 50 definition of "Proper Identification", "Remove", "Security freeze" **inserted** 2007, 82 § 6.
- § 55 **amended**, 2007, 82 § 7.
- § 56 third paragraph, subsection (b), **amended**, 2007, 82 § 8.
- § 56 last paragraph, subsection (b), last sentence **revised**, 2007, 82 § 9.
- § 56 subsection (b) 4 paragraphs **added**, 2007, 82 § 10.
- § 58 **amended**, 2007, 82 § 11.
- § 58 paragraph **added**, 2007, 82 § 12.

CHAPTER 93 - Regulation of Trade and Certain Enterprises. - continued

§ 62A added, 2007, 82 § 13.

§ 63 amended, 2007, 82 § 14.

§ 64 amended, 2007, 82 § 15.

§ 108 amended, 2008, 522 § 8.

CHAPTER 93A - Regulation of Business Practices for Consumers Protection.

CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers.

(Chapter revised, 2002, 222 § 3. (See 2002, 222 § 7.)

CHAPTER 93C - Protection of Consumers Against Careless and Erroneous Billings.

CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.

CHAPTER 93E - Regulation of Dealers Agreements for the Sale of Gasoline.

CHAPTER 93F - Regulating Certain Business Practices Between Motion Picture Distributors and Exhibitors.

CHAPTER 93G - EQUIPMENT DEALERS.

(New chapter inserted, 1996, 265.)

CHAPTER 93H - SECURITY BREACHES.

(New chapter inserted, 2007, 82 § 16.)

CHAPTER 93I - DISPOSITION AND DESTRUCTION OF RECORDS.

(New chapter inserted, 2007, 82 § 17.)

CHAPTER 94 - Inspection and Sale of Food, Drugs and Various Articles.

§ 1 replace definition, 2008, 79 § 1.

§ 7AA replace paragraphs, 2008, 79 § 2.

§ 249H½ added, 2008, 206, § 2

§ 271A added, 2008, 70

§ 295G½ added, 2008, 206, § 3

CHAPTER 94A - MILK CONTROL.

§ 14 amended, 2008, 310 §§ 9 and 10

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 7 subsection (g) **amended**, 2008, 528 § 1

§ 9 **replaced**, 2008, 528 § 2

§ 32L **added**, 2008, 387 § 2

§ 32M **added**, 2008, 387 § 4

§ 34 **amended**, 2008, 387 § 5

CHAPTER 94D - Controlled Substances Therapeutic Research Act.
(New chapter inserted, 1991, 480 § 1.)

CHAPTER 94E - Provisions Concerning Certain Tobacco Manufacturers.
(New chapter inserted, 2000, 117 § 2.)

CHAPTER 94F - Complementary Provisions Concerning Tobacco Product Manufacturers.
(New chapter inserted, 2004, 90 § 3.)

CHAPTER 95 - Measuring of Leather.

CHAPTER 96 - Measurement of Lumber.

CHAPTER 97 - Surveying of Land.

CHAPTER 98 - Weights and Measures.

CHAPTER 99 - The Metric System of Weights and Measures.

CHAPTER 100 - Auctioneers.

CHAPTER 100A - MOTOR VEHICLE DAMAGE REPAIR SHOPS.
(New chapter inserted, 1988, 273 § 32.) (See 1988, 273 § 77.)

CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.

CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.

§ 19A **added**, 2008, 422 § 3 (See § 4)

CHAPTER 103 - Pilots.

CHAPTER 104 - Agents, Consignees and Factors.

CHAPTER 104A - Consignment of Fine Art.

CHAPTER 105 - Public Warehouses.

CHAPTER 105A - SELF-STORAGE FACILITIES.

CHAPTER 106 - Uniform Commercial Code.

**CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and other Securities, Facsimile Signatures.
(Former title, Money and Negotiable Instruments.)**

CHAPTER 107A - Assignments of Accounts Receivable.

**CHAPTER 108 - Criminal Offences Relative to Bills of Lading.
(Former title, Bills of Lading.)**

CHAPTER 108A - Partnerships.

CHAPTER 109 - Limited Partnerships.

§ 3 amended, 2008, 182, § 46.

§ 4A added, 2008, 182, § 47.

§ 8, clause (3) replaced, 2008, 182 § 48.

§ 49, paragraph 2, clause 7 replaced, 2008, 182, § 49.

§ 52 replaced, 2008, 182, § 50.

§§ 63, 64, 65, 66 added, 2008, 182, § 51.

§ 66 amended, 2008, 302, § 16. (see §70)

**CHAPTER 109A - UNIFORM FRAUDULENT TRANSFER ACT.
(Chapter revised, 1996, 157.)**

CHAPTER 110 - Labels, Trade Marks, Names and Registration Thereof.

CHAPTER 110A - Uniform Securities Act.

CHAPTER 110B - Registration and Protection of Trademarks.

CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.

§ 8 amended, 2008, 522 § 9

CHAPTER 110D - REGULATION OF CONTROL SHARE ACQUISITIONS.
(New chapter inserted, 1987, 272 § 1.)(See 1987, 272 § 3.)

CHAPTER 110E - REGULATION OF CONTROL SHARE ACQUISITIONS OF FOREIGN CORPORATIONS.
(New chapter inserted, 1987, 272 § 2.)

CHAPTER 110F - BUSINESS COMBINATIONS WITH INTERESTED SHAREHOLDERS.
(New chapter inserted, 1989, 242 § 8.)

CHAPTER 110G - UNIFORM ELECTRONIC TRANSACTIONS.
(New chapter inserted, 2003, 133 § 3.)

CHAPTER 110H - REGISTRATION AND PROTECTION OF TRADEMARKS.

§ 9, subclause (iv) of clause (3) of subsection (a) **amended**, 2008, 451 § 62

CHAPTER 111 - Public Health.

§ 2, **amended**, 2008, 321 § 12

§ 4J **amended**, 2008, 176, § 75

§ 4J **amended**, 2008, 215 § 59.

§ 4N **added**, 2008, 305, § 5

§ 4O **added**, 2008, 540 § 3

§ 5R **amended**, 2008, 47 § 1.

§ 5R words **stricken out**, 2008, 47 § 2.

§ 24K **deleted**, § 24L **added**, 2008, 176, §76

§ 25B **amended**, 2008, 305, §§ 6 and 7

§ 25J **added**, 2008, 126

§ 25J **repealed**, 2008, 451 § 63

§ 25L, 25M, and 25N **added**, 2008, 305 § 8

§ 25O **added**, 2008, 451 § 64

§§ 27A through 27C **replaced**, 2008, 529 § 1

§ 51H **added**, 2008, 305 § 9

§ 51H **added**, 2008, 305 § 10 (see § 57)

§ 51H **replaced**, 2008, 451 § 65 (See § 192)

§§ 53E, 53F and 53G **added**, 2008, 305 § 11

§ 67E **amended**, 2008, 451 § 66 (See § 187)

§ 70 **amended**, 2008, 305 § 12 and 13

§ 70 **revised**, paragraph added after Paragraph 13, 2008, 251

§ 70E **amended**, 2008, 451 § 67 (See § 187)

CHAPTER 111 - Public Health.

§ 71 amended, 2008, 451 § 68 (See § 187)
§ 127B½ amended, 2008, 451 §§1 and 2
§ 184C amended, 2008, 342
§ 192B amended, 2008, 215 § 60
§ 197B, subsection (f), paragraph 4 replaced by paragraphs 4 through 7, 2008, 182, §52
§ 219 amended, 2008, 215 § 61
§ 220 amended, 2008, 176, § 77
§ 221 added, 2008, 466

CHAPTER 111A - Drug Addiction Rehabilitation.
(Chapter repealed, 1969, 889 § 23A.)

CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Services System.
Chapter Revised, 2000, 54 § 3.(See 2000, 54 § 12.) (Former title,
Emergency Medical Care.)

§ 2 amended, 2008, 223 § 13A.
§ 3 amended, 2008, 223 § 13B.
§ 13 amended, 2008, 223 § 13C.

CHAPTER 111D - Clinical Laboratories.

CHAPTER 111E - DRUG REHABILITATION.

§ 13A first paragraph amended, 2008, 176, §78

CHAPTER 111F - HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.

CHAPTER 111G - EARLY CHILDHOOD INTERVENTION SERVICES.

§ 3 amended, 2008, 176, §80
§ 3 amended, 2008, 451 § 69 (See § 187)

**CHAPTER 111H - MASSACHUSETTS LOW-LEVEL RADIOACTIVE WASTE
MANAGEMENT ACT.**

CHAPTER 111I - WOMEN'S, INFANTS AND CHILDREN PROGRAM.
(New chapter inserted, 1992, 414 § 3.)

§ 4 amended, 2008, 215 § 62.

CHAPTER 111J - Alcohol and Drug Counselors.

(New chapter inserted, 1999, 127 § 115.) (See 1999, 127 § 390.)

CHAPTER 111K - CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION.

(New chapter inserted, 2000, 159 § 207.) (See 2000, 159 § 498.)

§ 5, clause (h) **replaced** by clauses (h) and (i), 2008, 182, § 53

CHAPTER 111L - BIOTECHNOLOGY.

(New chapter inserted, 2005, 27 § 1.)

CHAPTER 111M - INDIVIDUAL HEALTH COVERAGE.

(New chapter added, 2006, 58, § 12.) (see 2006, 58, § 1.)

§ 1 clause (d) **revised**, 2007, 205 § 12.

§ 2 subsection (b) **revised**, 2007, 205 § 13.

§ 2 first paragraph of paragraph (b) **amended**, 2007, 205 § 14.

§ 2 **amended**, 2007, 205 § 15.

§ 3 **amended**, 2007, 205 § 16.

§ 2 subsection (b), fourth sentence **amended**, 2007, 228 § 7.

CHAPTER 111N - PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURER CONDUCT.

(New chapter added, 2008, 305, § 14.) (see § 62)

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 2 **amended**, 2008, 305 § 15. (see § 58)

§ 5 **amended**, 2008, 451 § 70.

§ 9E **amended**, 2008, 305 § 16.

§ 12J subsections (a) I and (a) II **replaced**, 2008, 333 § 1.

§ 12J subsection (a) IV **replaced**, 2008, 333 § 2.

§ 12J subsection (b) **added**, 2008, 333 § 3.

§ 24B½ **added**, 2008, 528 § 3.

§ 24B¾ **added**, 2008, 528 § 3.

§ 39E **added**, 2008, 305 § 17.

§ 39E **stricken out, replaced** with §39D, 2008, 451 § 71.

§ 43A **amended**, 2008, 530 §§ 4 through 6. (See § 17)

§ 51 **amended**, 2008, 530 §§ 7 and 8. (See § 17)

§ 51½ **added**, 2008, 530 § 9. (See § 17)

§ 52 **amended**, 2008, 530 §§ 10 and 11. (See § 17)

§ 60A **amended**, 2008, 406 § 1.

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 60D amended, 2008, 406 § 2.

§ 60N and 60O stricken, replaced with §§ 60N, 60O, 60P, 2008, 406 § 3.

§ 81R amended, 2008, 522 § 10.

§ 135C added, 2008, 323.

§ 172A added, 2007, 142.

§§ 227 through 233 repealed, 2008, 451 § 72.

§§ 237 through 251 added, 2008, 232 § 2. (see §§ 4 and 5)

§§ 252 through 258 added, 2008, 451 § 73.

CHAPTER 113 - Promotion of Anatomical Science.

CHAPTER 114 - Cemeteries and Burials.

§§ 1, 1A stricken, replaced with §§ 1, 1A, 1B, 2008, 440 § 1

§ 32 replaced, 2008, 521 § 2

§ 43M amended, 2008, 322 § 1

CHAPTER 115 - Veteran's Benefits.

(Former title, State and Military Aid, Soldier's Relief, etc.)

§ 8 amended, 2008, 440 § 2

CHAPTER 115A - Soldier's Homes.

CHAPTER 116 - Settlement.

CHAPTER 117 - Support by the Commonwealth.

(Former title, Support by the Cities and Towns.)

CHAPTER 117A - SUPPORT BY THE COMMONWEALTH.

(New chapter inserted, 1991, 255 § 4.) (See 1991, 255 § 7.)

CHAPTER 118 - Aid to Families with Dependent Children.

(Former title, Aid to Dependent Children.)

§ 4B amended, 2008, 176, §81

CHAPTER 118A - Assistance to the Aged and Disabled.

(Former title, Old Age Assistance and Medical Assistance for the Aged.)

CHAPTER 118B - The Merit System in the Administration of Aid to Families with Dependent Children and Old Age Assistance.

CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.

CHAPTER 118D - Assistance to Persons who are Disabled.

CHAPTER 118E - Medical Care and Assistance.
(Chapter revised, 1993, 161 § 17.)

- § 2A **added**, 2008, 530 § 12.
- § 9A subsection (16) **added**, 2007, 61 § 12.
- § 9C **amended**, 2007, 205 § 17.
- § 10F subsection (d) **revised**, 2007, 61 § 13.
- § 19 **amended**, 2008, 451 § 74. (See § 187)
- § 23 clause (a), subclause (ii), first sentence, eighth paragraph, **amended**, 2007, 205 §§ 18, 19.
- § 23 **revised**, 2007, 42 § 4.
- § 23A **revised**, 2008, 125.
- § 54 second and third sentences **stricken out**, 3 sentences **added**, 2007, 205 § 20.
- § 55 **added**, 2008, 305 § 18. (see § 59)
- § 55 **amended**, 2008, 305 § 19. (see § 60)
- § 55 **repealed**, 2008, 451 § 75.
- § 61 **added**, 2008, 217.
- § 62 **added**, 2008, 451 § 76.
- § 62 subsection (d) **amended**, 2008, 451 § 78. (See § 193)

CHAPTER 118F - DEPARTMENT OF MEDICAL SECURITY.
(New chapter added, 1988, 23 § 45.) (See 1988, 23 § 45.) (Chapter repealed, 1996, 151 § 274.) (See 1996, 151 § 690.)

CHAPTER 118G - HEALTH CARE FINANCE AND POLICY.
(New chapter added, 1996, 151 § 275.) (See 1996, 151 § 690.)

- § 1 **amended**, 2008, 257 §§ 2 and 3.
- § 1 **amended**, 2008, 305 §§ 20 and 21.
- § 2 **amended**, 2008, 305 § 22.
- § 2A **amended**, 2008, 257 § 4.
- § 5 **amended**, 2007, 205, § 21.
- § 6 **amended**, 2008, 305 § 23.
- § 6C **amended**, 2007, 205, §§ 22, 23.

CHAPTER 118G - HEALTH CARE FINANCE AND POLICY. - continued

- § 6½ **added**, 2008, 305 § 24.
- § 7 **amended**, 2008, 257 § 5.
- § 18B **amended**, 2007, 205 §§ 24, 25.
- § 22 **amended**, 2008, 176 § 81.
- § 24A **added**, 2008, 257 § 6. (see § 20.)
- § 25 **amended**, 2007, 61 § 14.
- § 27 **amended**, 2008, 451 § 79. (See § 187)
- § 29 **repealed**, 2008, 451 § 80.
- § 31 subsection (b) **revised**, 2007, 42 § 5.
- § 32 subsection (d) **amended**, 2007, 42 § 6.
- § 35 subsection (c), **added**, 2007, 205 § 26.
- § 34 through 39 **added**, 2007, 61 § 15.
- § 40 **added**, 2008, 302 § 17.
- § 41 **added**, 2008, 451 § 81.

CHAPTER 118H - COMMONWEALTH CARE HEALTH INSURANCE PROGRAM. **(New chapter added, 2006, 58, § 45. (See 2006, 58 § 141.)**

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

- § 1 **replaced**, 2008, 176 § 82.
- § 21 **amended**, 2008, 215 §§ 63, 64, 64½, 64A. (see § 90)
- § 21A **amended**, 2008, 215 § 64B.
- §§ 21 through 23 inclusive **replaced** by §§ 21, 21A, 22, 23, 2008, 176, § 83.
- § 23 paragraph (3) of subsection (a) **amended**, 2008, 451 (See § 187)
- §§ 24 through 26A **replaced** by §§ 24, 25, 26, 26A, 26B, 26C, 2008, 176 § 84.
- § 24 **amended**, 2008, 215 § 64C.
- § 26 **amended**, 2008, 215 § 64D.
- §§ 28 and 29 **replaced**, 2008, 176 § 85.
- § 29B 2nd paragraph **revised**, 2008, 4 § 1.
- § 29B **amended**, 2008, 4, § 2.
- § 29B first paragraph **replaced**, 2008, 176, § 86.
- § 29C **replaced**, 2008, 176 § 87.
- § 32 paragraph **added**, 2008, 176, § 88.
- § 38 **replaced** by §§ 38, 38A, 2008, 176 § 89.
- § 39½ **paragraph added**, 2007, 86 § 1.
- § 39½ **amended**, 2008, 176 §§ 90 and 91.
- § 39E **amended**, 2008, 176 § 92.
- § 39G **amended**, 2008, 176 § 93.
- § 39H **amended**, 2008, 176 § 94.
- § 39H **amended**, 2008, 215 § 65.

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them. - continued

§ 51A **replaced**, 2008, 176 § 95.

§ 51A subsection (c) **replaced**, 2008, 176 § 96. (see 2008, 176, §139)

§ 51A subsection (k) **added**, 2008, 176 § 97. (see 2008, 176, § 138)

§ 51B **replaced**, 2008, 176 § 98.

§ 51B subsection (l) **amended**, 2008, 451 § 83. (See § 187)

§ 51D **replaced**, 2008, 176 § 99.

§ 51E **insert** word, 2008, 3 §§ 1, 2.

§ 51F **insert** word, 2008, 3 § 3.

§§ 51E and 51F **replaced**, 2008, 176 § 100.

§ 51 H **added**, 2008, 176 § 101.

§ 63A **added**, 2008, 176 § 102.

CHAPTER 119A - CHILD SUPPORT ENFORCEMENT.

§ 2 **amended**, 2008, 176 § 103.

§ 3 **amended**, 2008, 176 § 104.

§ 5 **amended**, 2008, 176 § 105.

§ 5A **amended**, 2008, 176 § 106.

**CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.
(Former title, Youth Service Board and Massachusetts Training Schools.)**

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

CHAPTER 121A - Urban Redevelopment Corporations.

CHAPTER 121B - Housing and Urban Renewal.

CHAPTER 121C - Economic Development and Industrial Corporations.

**CHAPTER 121D - Affordable Housing Trust Fund.
(New chapter inserted, 2000, 159 § 227.) (See 2000, 159 § 498.)**

**CHAPTER 121E - Housing Innovations Trust Fund
(New chapter inserted, 2008, 119 § 6.)**

CHAPTER 121F - Housing Stabilization and Investment Trust Fund.
(New chapter inserted, 2008, 119 § 6.)

CHAPTER 121G - Capital Improvement and Preservation Trust Fund.
(New chapter inserted, 2008, 119 § 6.)

CHAPTER 122 - Tewksbury Hospital.
(Former title, Tewksbury State Hospital and Infirmary.)

CHAPTER 123 - Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.

§ 36 amended, 2008, 305, § 25

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.
(Former title, Care, Treatment and Rehabilitation of Sexual Offenders and Victims of such Offenders.)

§ 1 amended, 2008, 451 § 84

CHAPTER 123B - MENTAL HEALTH.

§ 1 amended, 2008, 451 § 85 (See § 187)

§ 8 amended, 2008, 451 § 86 (See § 187)

CHAPTER 124 - Powers and Duties of the Department of Correction.

CHAPTER 125 - Correctional Institutions of the Commonwealth.
(Former title, Penal and Reformatory Institutions of the commonwealth.)

CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.

CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.

§ 49B amended, 2008, 451 § 87 (See § 187)

CHAPTER 128 - Agriculture.

CHAPTER 128A - Horse and Dog Racing Meetings.

§ 14E added, 2008, 388 § 2

CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.

CHAPTER 128C - SIMULCAST WAGERING OF HORSE AND DOG RACING.
(New chapter inserted, 1992, 101 § 5.)

CHAPTER 129 - Livestock Disease Control.
(Former title, Animal Industry.)

CHAPTER 129A - Marine Fish and Fisheries, Inland Fish and Fisheries, Birds and Mammals, General Provisions.

CHAPTER 130 - Marine Fish and Fisheries.
(Former title, Marine Fish and Fisheries Including Crustacean and Shellfish.)

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.
(Former title, Powers and Duties of the Division of Fisheries and Game.)

§ 2B amended, 2008, 451 § 88.

§ 4 amended, 2008, 451 § 89.

§ 65A added, 2007, 83.

CHAPTER 131A - MASSACHUSETTS ENDANGERED SPECIES ACT.
(New chapter added, 1990, 408 § 4.) (See 1990, 408 § 5.)

CHAPTER 132 - Forestry.

§ 11 amended, 2008, 493 § 1.

§ 12 stricken out, replaced, 2008, 493 § 2.

§ 34A amended, 2008, 522 §§ 11 through 13.

CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District.
(Former title, State Parks and Reservations outside of the Metropolitan Parks District.)

§ 12B amended, 2008, 114 § 4.

§ 12C amended, 2008, 114 § 5.

**CHAPTER 132A - State Recreation Areas outside of the Metropolitan Parks District. -
continued**

- § 14 amended, 2008, 114 § 6.
- § 15 revised, 2008, 114 § 7.
- § 16 amended, 2008, 114 §§ 8 through 10.
- § 16 amended, 2008, 522 § 14.
- §16A amended, 2008, 114 § 11.
- §16B amended, 2008, 114 § 12.
- § 16C amended, 2008, 114 § 13.
- § 16E amended, 2008, 114 §§ 14 and 15.
- § 16F amended, 2008, 114 §§ 16 and 17.
- § 18 amended, 2008, 114 §§ 18 and 19.
- § 18 paragraph added, 2008, 114 § 20.

CHAPTER 132B - Massachusetts Pesticide Control Act.

- § 2 amended, 2008, 215 § 66.
- § 6C amended, 2008, 215 § 67.
- § 6D amended, 2008, 215 § 68.
- § 6E amended, 2008, 215 § 69.
- § 6F amended, 2008, 215 § 70.
- § 6G amended, 2008, 215 § 71.
- § 6H amended, 2008, 215 § 72.
- § 6I amended, 2008, 215 § 73.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

CHAPTER 135 - Unclaimed and Abandoned Property.

- § 8 amended, 2008, 463

**CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.
(Former title, Observance of the Lord's Day and Legal Holidays.)**

CHAPTER 137 - Gaming.

**CHAPTER 138 - Alcoholic Liquors.
(Former title, Intoxicating Liquors and Certain Non-intoxicating
Beverages.)**

- § 12 amended, 2008, 303, § 20.

CHAPTER 139 - Common Nuisances.

CHAPTER 140 - Licenses.

§ 6B added, 2008, 527 § 1 (See § 3)

§ 46R amended, 2008, 182, § 54

§ 131 amended, 2008, 224.

CHAPTER 140A - Regulation of Certain Credit Transactions.

CHAPTER 140B - Control of Certain Junkyards.

CHAPTER 140C - Consumer Credit Cost Disclosure.
(Chapter repealed, 1981, 733 § 1.)

CHAPTER 140D - CONSUMER CREDIT COST DISCLOSURE.
(New chapter inserted, 1981, 733 § 2.)

CHAPTER 140E - CONSUMER ACCOUNT DISCLOSURE.

CHAPTER 141 - Supervision of Electricians.

§ 7 amended, 2008, 522 § 15

CHAPTER 142 - Supervision of Plumbing.

CHAPTER 142A- REGULATION OF HOME IMPROVEMENT CONTRACTORS.
(New chapter inserted, 1991, 453.)

**CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings,
Elevators and Cinematographs.**

§ 3 amended, 2008, 169 § 54

§ 71E replaced, 2008, 500

§ 94 paragraphs (m) and (n) added, 2008, 78 § 1

§ 94, clauses o, p, q, and r added, 2008, 169, §55

§ 96 amended, 2008, 232 § 3

CHAPTER 144 - Tenement Houses in Cities.

CHAPTER 145 - Tenement Houses in Towns.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

§ 49 sentence **replaced**, 2008, 149 § 1

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety

§ 57 **amended**, 2008, 522 § 16

CHAPTER 148 - Fire Prevention.

§ 1 **amended**, 2008, 308 § 11

§ 26G **amended**, 2008, 508 §§ 1 through 4 (See § 6)

§ 38J **added**, 2008, 453 § 3 (See § 9)

§ 59 **amended**, 2008, 223 § 13D.

**CHAPTER 148A - (New chapter inserted, 2004, 304 § 7.)
(See 2004, 304 § 12.)**

CHAPTER 149 - Labor and Industries.

§ 6½ **added**, 2008, 182 § 55.

§ 27 paragraph **replaced**, 2008, 80 § 1.

§ 27 **amended**, 2008, 303 §§ 21, 22.

§ 27F paragraph **replaced**, 2008, 80 § 2.

§ 27G paragraph **replaced**, 2008, 80 § 3.

§ 27H paragraph **replaced**, 2008, 80 § 4.

§ 30A **amended**, 2008, 308 § 12.

§ 44D½ **amended**, 2008, 303 § 23.

§ 44D¾ **amended**, 2008, 303 § 24.

§ 44E **amended**, 2008, 303 § 25.

§ 44J **amended**, 2008, 303 § 26.

§ 52D **amended**, 2008, 215 §§ 74, 75.

§ 148 **amended**, paragraph added, 2008, 532.

§ 150 paragraph **replaced**, 2008, 80 § 5.

§ 187 **amended**, 2008, 451 § 90. (See § 187)

§ 188, subsection (a) definition of "employer" **revised**, 2007, 205 § 27.

§ 188, subsection (b) last sentence **amended**, 2008, 302 § 18. (see § 71)

§ 188 subsection (d) **amended**, 2007, 61 § 16.

§ 188 subsection (d) sentence **added**, 2007, 205 § 28.

§ 188 subsection (d) first sentence **amended**, 2008, 302 § 19. (see § 71)

CHAPTER 149A. -PUBLIC CONSTRUCTION ALTERNATIVE DELIVERY METHODS.

(New Chapter added, 2004, 193 § 27.) (See 2004, 193 § 34.)

§ 15½ added, 2008, 303, § 27.

CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

CHAPTER 150A - Labor Relations.

§ 2 subsection (12) added, 2007, 120 § 1.

§ 3 amended, 2007, 120 § 1A.

§ 4A amended, 2007, 120 § 1B.

§ 5 subsection (c) paragraph added, 2007, 120 § 2.

CHAPTER 150B - Peaceful Settlement of Industrial Disputes Dangerous to Public Health and Safety.

CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.

CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.

CHAPTER 150E - Labor Relations; Public Employees.

§ 1 definition of "Employer" amended, 2007, 42 § 7.

§ 7 amended, 2007, 42 § 8.

§ 1 definition of "written majority authorization" added, 2007, 120 § 3.

§ 4 paragraph added, 2007, 120 § 4.

§ 11 revised, 2007, 145 § 7. (See § 9)

CHAPTER 151 - Minimum Fair Wages.

(Former title, Minimum Fair Wages for Women and Minors.)

§1B amended, 2008, 80 § 6.

§20 amended, 2008, 80 § 7.

CHAPTER 151A - EMPLOYMENT AND TRAINING.

(Title revised, 1990, 177 § 247. Former title, Employment Security.)

§46 subsection (c), clause (7) added, 2007, 194.

CHAPTER 151B - Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry Or Sex.

(Former title, Unlawful Discrimination Against Race, Color, Religious Creed, National Origin or Ancestry.)

CHAPTER 151C - Fair Education Practices.

CHAPTER 151D - Health, Welfare and Retirement Funds.

CHAPTER 151E - Prohibition of Certain Discrimination by Business.

CHAPTER 151F - EMPLOYER-SPONSORED HEALTH INSURANCE ACCESS.

(New Chapter Added, 2006, 58 § 48.) (See 2006, 58 § 142.)

§ 1 definition of “employer” revised, 2007, 205 § 29.

§ 2 revised, 2007, 205 § 30.

CHAPTER 152 - Workers’ Compensation.

(Former title: Workmen’s Compensation.)

§ 1 amended, 2008, 215 § 76.

§ 25B amended, 2008, 303, § 28.

§ 28 amended, 2008, 451 § 91

CHAPTER 153 - Liability of Employers to Employees for Injuries not resulting in Death.

CHAPTER 154 - Assignment of Wages.

CHAPTER 155 - General Provisions Relative to Corporations.

§ 4 amended, 2008, 522 § 17

§ 5 amended, 2008, 522 § 18

§ 5A amended, 2008, 522 § 19

CHAPTER 156 - Business Corporations.

CHAPTER 156A - Professional Corporations.

CHAPTER 156B - Certain Business Corporations.

CHAPTER 156C - LIMITED LIABILITY COMPANY ACT.

(New chapter inserted, 1995, 281 § 18.) (See 1995, 281 § 22.)

§ 4 amended, 2008, 182, § 56

§ 5A added, 2008, 182, § 57

§ 12, clause 3 replaced, 2008, 182, § 58

§ 48, clause 7 replaced, 2008, 182, § 59

CHAPTER 156C - LIMITED LIABILITY COMPANY ACT. - continued

- § 51 replaced, 2008, 182, § 60**
- §§ 70, 71, 72 added, 2008, 182, § 61**
- § 70 amended, 2008, 302, § 20 (see §70)**
- § 72 amended, 2008, 302, § 21 (see §70)**

CHAPTER 156D - BUSINESS CORPORATIONS.

(New chapter inserted, 2003, 127 § 17.)(See 2003, 127 § 24.)

- § 1.22 amended, 2008, 451 § 92**
- § 1.40 amended, 2008, 451 §§ 93 through 96**
- § 1.50 amended, 2008, 451 § 97**
- § 4.01 amended, 2008, 451 §§ 98 and 99**
- § 5.02 amended, 2008, 451 § 100**
- § 6.23 subsection (b) amended, 2008, 451 § 101**
- § 6.23 amended, 2008, 451 § 102**
- § 6.27 amended, 2008, 451 §§ 103 and 104**
- § 6.30 amended, 2008, 451 § 105**
- § 6.40 amended, 2008, 451 §§106 and 107**
- § 6.41 amended, 2008, 451 § 108**
- § 7.04 amended, 2008, 451 § 109**
- § 7.24 amended, 2008, 451 § 110**
- § 7.25 amended, 2008, 451 § 111**
- § 7.40 amended, 2008, 451 § 112**
- § 7.47 amended, 2008, 451 § 113**
- § 8.50 amended, 2008, 451 § 114**
- § 8.55 amended, 2008, 451 § 115**
- § 8.56 amended, 2008, 451 § 116**
- § 8.58 amended, 2008, 451 §§ 117 through 119**
- § 8.59 amended, 2008, 451 § 120**
- § 9.21 amended, 2008, 451 § 121**
- § 9.22 amended, 2008, 451 § 122**
- § 9.30 amended, 2008, 451 § 123**
- § 9.32 amended, 2008, 451 § 124**
- § 9.40 amended, 2008, 451 § 125**
- § 9.52 paragraph (6) amended, 2008, 451 § 126**
- § 9.55 amended, 2008, 451 § 127**
- § 10.22 amended, 2008, 451 § 128**
- § 11.03 amended, 2008, 451 §§ 129 and 130**
- § 11.04 amended, 2008, 451 § 131**
- § 13.20 amended, 2008, 451 § 132**

CHAPTER 156D - BUSINESS CORPORATIONS. - continued

§ 14.20 amended, 2008, 451 § 133

§ 15.01 amended, 2008, 451 § 134

CHAPTER 157 - Co-operative Corporations.

CHAPTER 157A - EMPLOYEE COOPERATIVE CORPORATIONS.

CHAPTER 157B - Cooperative Housing Corporations.

CHAPTER 158 - Certain Miscellaneous Corporations.

§ 16 amended, 2008, 522 § 20

CHAPTER 159 - Common Carriers.

§ 10 amended, 2007, 19 § 30.

§ 10 replaced, 2008, 169, § 56.

CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.

§ 3 amended, 2007, 19 § 31.

CHAPTER 159B - Carriers of Property by Motor Vehicle.

§ 10 revised, 2007, 61 § 18.

CHAPTER 159C - TELEMARKETING SOLICITATION.

(New Chapter inserted, 2002, 265 § 1.) (See 2002, 265 § 2.)

CHAPTER 160 - Railroads.

§ 1 definition of department revised, 2007, 19 § 32.

CHAPTER 161 - Street Railways.

§ 1 amended, 2007, 19 § 33.

CHAPTER 161A - Massachusetts Bay Transit Authority.

(Chapter revised, 1999, 127 § 151.) (See 1999, 127 § 385.)

§ 9 amended, 2008, 182, § 62

§ 24 amended, 2008, 303, § 29.

§35, paragraph added, 2008, 86, §9

§ 46 amended, 2008, 465 § 3 (See § 4)

CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.

§ 9 amended, 2008, 182, § 63

§ 9A added, 2008, 182, § 64

§ 10 paragraph added, 2008, 182, § 65

§ 12 amended, 2008, 182, § 66

CHAPTER 161C - Rail Transportation in the Commonwealth.

CHAPTER 161D - THE MASSACHUSETTS INTERCITY BUS CAPITAL ASSISTANCE PROGRAM.

CHAPTER 162 - Electric Railroads.

§ 1 amended, 2007, 19 § 34.

CHAPTER 163 - Trackless Trolley Companies.

§ 1 amended, 2007, 19 § 35.

CHAPTER 164 - Manufacture and Sale of Gas and Electricity.

§ 1 definition of "department" revised, 2007, 19 § 36.

§ 1 replaced, 2008, 169 § 57.

§ 1A subsection (f) added, 2008, 169 § 58.

§ 1A subsection (f) repealed, 2008, 169 § 59. (see 2008, 169, § 122)

§ 1D 3 paragraphs added, 2008, 169 § 60.

§ 1E subsection (c) amended, 2008, 169 § 61.

§ 1F amended, 2008, 169 § 62.

§ 1F paragraph (4), subparagraph (i) amended, 2008, 169 § 63.

§ 1F paragraph (4), subparagraphs (ii) and (iii) replaced, 2008, 169 § 64.

§ 1G amended, 2008, 169 § 65.

§ 47C subsection (l) added, 2008, 169 § 66.

§ 69H second paragraph amended, 2007, 19 § 37.

§ 69H third paragraph, 1st sentence stricken out, 2007, 19 § 38.

§ 69H amended, 2007, 19 § 39.

§ 76D amended, 2008, 169 §§ 67, 68

§ 96 replaced, 2008, 169 § 69

§ 116 amended, 2008, 169 §§ 70 through 73

§ 134 amended, 2008, 169 §§ 74 through 77

§§ 138 through 143 added, 2008, 169 § 78.

CHAPTER 164A - New England Power Pool.

§ 1 definition of "department" revised, 2007, 19 § 40.

CHAPTER 164B - REGULATION OF STEAM DISTRIBUTION COMPANIES.
(New chapter inserted, 2008, 169, § 79)

CHAPTER 165 - Water and Aqueduct Companies.

§ 1 definition of "department" revised, 2007, 19 § 41.

CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

§ 4 amended, 2007, 19 § 42.

§ 5 sentence added, 2007, 19 § 43.

§ 7 amended, 2007, 19 § 44.

§ 8 amended, 2007, 19 § 45.

§ 11 amended, 2007, 19 § 46.

§ 14A Revised, 2008, 223 § 14.

§ 15E amended, 2007, 19 § 47.

§ 15E Revised, 2008, 223 § 15. (see § 21).

§ 44 amended, 2007, 19 § 48.

CHAPTER 166A - Community Antenna Television Systems.

§ 1 amended, 2007, 19 § 49.

§ 1 amended, 2008, 522 § 21.

§ 2 amended, 2008, 522 § 22.

§ 2 first paragraph revised, 2007, 19 § 50.

§ 2A amended, 2008, 522 §§ 23 through 25.

§ 4 amended, 2008, 522 § 26.

§ 7 amended, 2008, 522 § 27.

§ 8 amended, 2008, 522 § 28.

§ 10 amended, 2008, 522 § 29.

§ 11 amended, 2008, 522 § 30.

§ 13 amended, 2008, 522 § 31.

§ 14 amended, 2008, 522 § 32.

§ 15 amended, 2008, 522 §§ 33 and 34.

§ 16 amended, 2008, 522 § 35.

§ 17 amended, 2008, 522 § 36.

CHAPTER 167 - Supervision of Banks.

CHAPTER 167A - Bank Holding Companies.

CHAPTER 167B - ELECTRONIC BRANCHES AND ELECTRONIC FUND TRANSFERS.

§ 5 amended, 2008, 522 § 37

§ 20 amended, 2008, 522 § 38

CHAPTER 167C - BANK LOCATIONS.

(Chapter Revised, 2004, 461 § 13.)

CHAPTER 167D - DEPOSITS AND ACCOUNTS.

§ 2 subparagraph 1 replaced, 2008, 276.

CHAPTER 167E - MORTGAGES AND LOANS.

(Chapter Revised, 2004, 461 § 15.)

CHAPTER 167F - INVESTMENTS AND OTHER POWERS.

CHAPTER 167G - TRUST DEPARTMENT.

CHAPTER 167H - MUTUAL HOLDING COMPANIES.

(New chapter inserted, 1987, 630.)

CHAPTER 168 - Savings Banks.

§ 9A amended, 2008, 252 § 1.

§ 11 amended, 2008, 252 § 2.

§ 11 second paragraph stricken out, 2 paragraphs added, 2008, 252, §6.

§ 12 amended, 2008, 252 § 3.

§ 13 amended, 2008, 252 § 4.

§ 15 amended, 2008, 252 § 5.

§ 34F amended, 2008, 423 § 1

CHAPTER 169 - Deposits with Others than Banks.

(Chapter revised, 1995, 337 § 1.)

CHAPTER 169A - LICENSING OF CHECK CASHERS.

(New chapter inserted, 1993, 308 § 1.) (See 1993, 308 § 2.)

CHAPTER 170 - Co-operative Banks.

§ 11 amended, 2008, 252 § 6.

CHAPTER 170 - Co-operative Banks. - continued

§ 14 amended, 2008, 252 § 7.

§26F amended, 2008, 423 § 2

CHAPTER 171 - Credit Unions.

§10 amended, 2008, 423 § 3

§13 amended, paragraph added, 2008, 423 § 4

§ 29 amended, 2008, 423 § 5

§ 59A, amended, 2008, 423 § 6

§ 59A, amended, 2008, 423 § 7

§ 65 stricken out, replaced with §§ 65 and 65A through E, 2008, 451 § 1

§ 66 replaced, 2008, 451 § 2

§75 amended, 2008. 423 § 8

§ 75B, subsection (g) added, 2008, 423 § 9

§ 78 amended, 2008, 423 § 10

§ 81 amended, 2008, 423 § 11

§ 80A subsection (a), 3 sentences added, 2008, 238

§ 80B added, 2008, 462

CHAPTER 172 - Trust Companies.

§9A amended, 2008, 357

§ 13 amended, 2008, 252 § 8.

§ 16 amended, 2008, 252 § 9.

CHAPTER 172A - Banking Companies.

(Chapter repealed, 2004, 461 § 24.)

CHAPTER 173 - Mortgage Loan Investment Companies.

CHAPTER 174 - BOND AND INVESTMENT COMPANIES.

(Chapter repealed, 1950, 822 § 1.)

**CHAPTER 174A - Regulation of Rates for Fire, Marine and Inland Marine Insurance,
and Rating Organizations.**

CHAPTER 174B - Regulation of Automobile Clubs.

CHAPTER 174C - VEHICLE PROTECTION PRODUCT WARRANTIES ACT.

(New Chapter inserted, 2006, 438, § 1.)

CHAPTER 175 - Insurance.

- § 4D added, 2008, 451 § 4. (See § 9)
- § 9 amended, 2008, 230 §§ 1 through 3.
- § 24E amended, 2008, 451 § 135.
- § 47B amended, 2008, 256 §§ 3 through 5. (see §§ 16 and 17)
- § 47I amended, 2008, 214 § 2.
- § 108 amended, 2007, 205 § 31.
- § 110 amended, 2007, 205 § 32.
- § 110 amended, 2008, 256 § 6. (see §§ 16 and 17)
- § 113W added, 2008, 139 § 1.
- § 120F added, 2008, 230 § 4.
- § 132B amended, 2008, 230 § 5.
- § 133 amended, 2008, 519 §§ 1 through 9.
- § 186 replaced, 2008, 376 § 1.
- § 186A amended, 2008, 376 § 2.
- § 193U amended, 2008, 444 §§ 1 and 2.
- § 195 replaced, 2008, 182 § 67.

CHAPTER 175A - Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.

CHAPTER 175B - Unauthorized Insurer's Process Act.

CHAPTER 175C - Urban Area Insurance Placement Facility.

CHAPTER 175D - Massachusetts Insurers Insolvency Fund.

CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.

CHAPTER 175F - Medical Malpractice Self-Insurance Trust Funds.

CHAPTER 175G - POLLUTION LIABILITY REINSURANCE CORPORATION. (New chapter inserted, 1987, 650 § 2.)

CHAPTER 175H - FALSE HEALTH CARE CLAIMS. (New chapter inserted, 1988, 295.)

CHAPTER 175I - INSURANCE INFORMATION AND PRIVACY PROTECTION. (New chapter inserted, 1991, 516 § 1.) (See 1991, 516 § 6.)

**CHAPTER 175J - ADMINISTRATIVE SUPERVISION AND HAZARDOUS
FINANCIAL CONDITIONS OF INSURITIES.**
(New chapter inserted, 1993, 226 § 52.)

CHAPTER 175K - INSURANCE COMPACT.
(New chapter inserted, 2006, 223 §1.)

CHAPTER 176 - Fraternal Benefit Societies.

§ 8Z stricken out, 2007, 205, § 33.

CHAPTER 176A - Non Profit Hospital Service Corporations.

§ 8A amended, 2008, 256 §§ 7 and 8. (see §§ 16 and 17)

§ 8L amended, 2008, 214 § 3.

§ 8Z repealed, 2008, 451 § 136.

§ 8BB added, 2007, 205 § 34.

§ 8CC added, 2008, 451 § 137.

§ 10 amended, 2008, 256 § 9. (see §§ 16 and 17)

CHAPTER 176B - Medical Service Corporations.

§ 4A amended, 2008, 256 §§ 10, 11. (see §§ 16 and 17)

§ 4A½ repealed, 2008, 256 § 12. (see §§ 16 and 17)

§ 4K amended, 2008, 214 § 4.

§ 4Z stricken out, 2007, 205 § 35.

§ 4Z repealed, 2008, 451 § 138.

§ 4BB added, 2007, 205 § 36.

§ 4CC added, 2008, 451 § 139.

CHAPTER 176C - Non-Profit Medical Service Plans.

**CHAPTER 176D - UNFAIR PRACTICES AND UNFAIR DECEPTION ACTS AND
PRACTICES IN THE BUSINESS OF INSURANCE.**

§ 11 amended, 2008, 399

CHAPTER 176E - Dental Service Corporations.

§ 10 revised, 2007, 219.

CHAPTER 176F - Optometric Service Corporations.

CHAPTER 176G - Health Maintenance Organizations.

- § 4 **amended**, 2008, 256 § 13. (see §§ 16 and 17)
- § 4D **amended**, 2008, 214 § 5.
- § 4M **amended**, 2008, 256 §§ 14 and 15. (see §§ 16 and 17)
- § 4R **stricken out**, 2007, 205 § 37.
- § 4R **repealed**, 2008, 451 § 140.
- § 4T **added**, 2007, 205 § 37.
- § 4U **added**, 2008, 451 § 141.

CHAPTER 176H - Legal Service Plans.

CHAPTER 176I - PREFERRED PROVIDER ARRANGEMENTS.

(New chapter inserted, 1988, 23 § 65.) (See 1988, 23 § 92.)

CHAPTER 176J - SMALL GROUP HEALTH INSURANCE.

(New chapter inserted, 1991, 495 § 42.)

- § 1 definition of "group health plan" **amended**, 2007, 205 § 39.

- § 10 **amended**, 2007, 205 § 40.

CHAPTER 176K - MEDICARE SUPPLEMENT INSURANCE PLANS.

(New chapter inserted, 1993, 495 § 45.)

CHAPTER 176L - RISK RETENTION AND RISK PURCHASING GROUPS.

(New chapter inserted, 1993, 226 § 53.)

CHAPTER 176M - NONGROUP HEALTH INSURANCE.

(New chapter inserted, 1996, 297 § 29.) (See 1997, 297 § 34.)

CHAPTER 176N - PORTABILITY OF HEALTH INSURANCE.

(New chapter inserted, 1996, 297 § 30.) (See 1996, 297 § 34.)

CHAPTER 176O - HEALTH INSURANCE CONSUMER PROTECTIONS.

(New chapter inserted, 2000, 141 § 27.) (See 2000, 141 § 35.)

- § 1, **amended**, 2008, 321 § 13
- §§ 5A and 5B **added**, 2008, 305, § 26 (see § 61)
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§ 10 2nd paragraph **amended**, 2008, 246, § 3.

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§ 2 **amended**, 2007, 206 § 12.

§ 3 **revised**, 2007, 223 § 2.

§ 5 first 6 sentences **revised**, 2007, 223 § 3.

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§ 8 first sentence **revised**, 2007, 223 § 4.

§ 8 paragraph **added**, 2007, 223 § 5.

§ 10 first sentence **amended**, 2007, 206 § 14.

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