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ACTS AND RESOLVES

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

2009

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH



The General Court, which was chosen November 4, 2008, assembled on Wednesday, the seventh day of January 2009 for the first session.

His Excellency Deval L. Patrick and the Honorable Timothy P. Murray served as Governor and Lieutenant Governor respectively for the political year of 2009.



2009 ACTS AND RESOLVES

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Secretary of the Commonwealth

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

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to enable the Governor to address forthwith the current fiscal crisis, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. The first paragraph of section 9B of chapter 29 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:- Notwithstanding any general or special law to the contrary, except an appropriation act or other law expressly citing and prohibiting the application of this section, any monies appropriated by the general court and any funds distributed in accordance with section 3 of chapter 182 of the acts of 2008, but excluding monies otherwise appropriated to the general court, the courts, the office of the comptroller, the office of inspector general or constitutional officers, shall be expended only in such amounts as may be allotted as provided in this section.

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

SECTION 3. Any allotment reduction in item 0611-5500 or item 7061-0008 or in lottery distributions in sections 2 and 3, including the General Fund supplement to hold harmless lottery aid, of chapter 182 of the acts of 2008, shall be not more than 1/3 of the total reductions made by the governor in the current fiscal year.

SECTION 4. The governor shall not reduce the allocation to a city, town or regional school district of state school aid funds appropriated in item 7061-0008 of section 2 of chapter 182 of the acts of 2008, as allocated by section 3 of said chapter 182, so as to reduce the sum of those allocated state school aid funds and the minimum required local contribution below foundation budget for that city, town or regional school district, as calculated pursuant to said section 3 of said chapter 182.

SECTION 5. In any reduction in payments to a municipality or regional school district pursuant to item 0611-5500 or item 7061-0008 or in lottery distributions in sections 2 and 3, including the General Fund supplement to hold harmless lottery aid, of chapter 182 of the acts of 2008, from the amounts appropriated in said chapter 182, the governor shall consider the following: (1) the impact on the annual budget of each municipality or regional

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school district; (2) the percentage of the municipality's or regional school district's budget that comes from the state; and (3) any other factor that he considers important.

SECTION 6. Section 2 shall take effect on July 1, 2009.

Approved January 22, 2009.

Chapter 2. AN ACT TO PROVIDE THE VOTERS OF THE TOWN OF RANDOLPH A CHOICE OF CHARTERS FOR A NEW FORM OF GOVERNMENT.

Be it enacted, etc., as follows:

SECTION 1. At the first regular or special municipal election held in and for the town of Randolph after the effective date of this act, including a special election solely for the purpose of placing the questions set forth in this act on the ballot, the voters of the town of Randolph shall be afforded an opportunity to vote on the following ballot questions; provided, however, that the town of Randolph may hold such election on April 7, 2009 for the purpose of placing such questions on the ballot notwithstanding the time periods set forth in section 42C of chapter 54 of the General Laws to the contrary.

Question One: Shall the town adopt a new Charter for a Town Manager – Town Council form of Government? Yes _____ No _____

Question Two: Shall the town adopt a new Charter for a Town Manager – Selectmen – Representative Town Meeting form of Government? Yes _____ No _____

A summary of each form of government shall be provided with the ballot questions as may be prepared by attorneys for the town. Instructions to voters regarding the effect of their vote shall also be included on the ballot.

SECTION 2. If neither question one nor question two set forth in section 1, passes by a majority of the votes cast, then neither form of government shall take effect and the town of Randolph shall continue with its present form of town meeting – selectmen form of government as provided in special acts including, but not limited to, chapter 49 of the acts of 1792, chapter 324 of the acts of 1947 and chapter 460 of the acts of 1989. If either question one or question two set forth in said section 1, passes by a majority of the votes cast, that form of government that has obtained the majority favorable vote shall take effect in accordance with the terms set forth in the charter so approved.

If both question one and question two pass by a majority of the votes cast, that charter for a new form of government that obtains the highest number of votes cast in favor shall take effect in accordance with the terms set forth in the charter so approved.

SECTION 3. Charter for a TOWN MANAGER – TOWN COUNCIL form of government. In the event that the voters of the town of Randolph adopt the charter for a town manager – town council form of government pursuant to section 2, the following charter shall become effective in accordance with its terms:

TOWN MANAGER – TOWN COUNCIL CHARTER
ARTICLE 1
INCORPORATION; SHORT TITLE; POWERS; DEFINITIONS

Section 1-1 Incorporation

The inhabitants of the town of Randolph, within its territorial limits as now or may hereafter be established by the laws of the commonwealth, shall continue to be a body politic and corporate, known as the “town of Randolph.”

Section 1-2 Short Title

This instrument may be cited and shall be known as the Randolph Charter.

Section 1-3 Division of Powers

All legislative powers of the town shall be exercised by a town council hereafter established. The administration of all town fiscal, prudential and municipal affairs shall be vested in the executive branch headed by the town manager.

Section 1-4 Powers of the Town

The intent and purpose of this charter is to secure for the voters of the town of Randolph, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were 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 is not intended to limit in any way the general powers of the town as provided in section 1-4.

Section 1-6 For the purposes of classifying Randolph in those instances in which the laws of the commonwealth may distinguish between municipalities classified as “towns” and other municipalities classified as “cities,” it is intended that this charter shall be construed as providing a city form of government.

Section 1-7 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.

ARTICLE 2
LEGISLATIVE BRANCH

Section 2-1 Composition, Term of Office

(a) Composition - There shall be a town council consisting of 9 members which shall exercise the legislative powers of the town. Five of these members, to be known as councillors-at-large, shall be nominated and elected by and from the voters-at-large. Four of these members, to be known as district councillors, shall be nominated and elected by and

from the voters of each district, 1 such district councillor to be elected from each of the 4 council districts into which the town is divided, in accordance with section 7-4.

(b) Term of Office - The terms of town councillors shall be for 2 years each and shall begin following such town councillors' election on the first day of January that does not fall on a weekend or holiday and shall continue until their successors are qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councillor-at-large. A district councillor shall, at the time of his election, be a voter of the district from which he is elected; provided, however, that if any such district councillor shall, during the term for which he was elected, remove to another district in the town, or be so removed by a revision of district lines, such councillor may continue to serve for the balance of the term for which he was elected. If a councillor-at-large or a district councillor removes from the town during the term for which elected, the office shall be considered vacant and filled in the manner provided in section 2-10. Councillors shall not serve as the chairman of any appointed board, committee or commission.

Section 2-2 Council President

(a) Election and Term - As soon as practical after the councillors-elect have been qualified following each biennial election, the members of the town council shall elect from among its members a council president who shall serve during the current term of office.

(b) Powers and Duties - The council president shall preside at all meetings of the town council, regulate its proceedings and shall decide all questions of order. The council president shall appoint all members of all committees of the town council, whether special or standing. The council president shall have the same powers to vote upon all measures coming before the town council as any other member of the town council. The council president shall perform such other duties consistent with the office as may be provided by charter, by ordinance or by other vote of the town council. The council president shall be recognized as the official head of the town for all ceremonial purposes and shall be recognized by the courts for the purposes of serving civil process.

(c) Council Vice-President - The members of the town council shall also elect from among the council's members a council vice-president who shall serve as acting president during the temporary absence or disability of the council president during the current term of office. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others.

Section 2-3 Conflict of Interest

No person shall simultaneously hold more than 1 elective town office. Unless such service may otherwise be authorized by the charter, no member of the town council shall, while a member of the town council hold any other town office or employment for which a salary or other emolument is payable from the town treasury; but this restriction shall not apply to an office or position under the school committee. No councillor shall hold any compensated appointed town office or employment until 1 year following the date on which his council service has terminated. This provision shall not prevent a town officer or town

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employee who has taken a leave of absence from such office or employment from resuming the same office or employment following service as a member of the town council.

Section 2-4 Compensation, Expenses

(a) Salary - The town council shall serve without compensation.

(b) Expenses - Subject to appropriation, the council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Section 2-5 General Powers

Except as otherwise provided by general law or by this charter, all powers of the town shall be vested in the town council which shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the town by such law. The town may enter into contracts for the exercise of its corporate powers on such terms and conditions as are authorized by the town council by ordinance. The town council shall be the licensing authority of the town of Randolph and shall, as authorized by the laws of the commonwealth, have all the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, to attach conditions and restrictions to such licenses as it deems to be in the public interest and to enforce all laws relating to such licensed businesses.

Section 2-6 Exercise Of Powers; Quorum; Rules

(a) Exercise of Powers - Except as otherwise provided by general law or by this charter, the legislative powers of the town council may be exercised in a manner determined by it.

(b) Quorum - The presence of 5 members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. Except as otherwise provided by the charter, the affirmative vote of 5 members shall be required to adopt any ordinance or appropriation order.

(c) Rules of Procedure - The town council shall, from time to time, adopt rules regulating its procedures which shall be in addition to the following:

i. Regular meetings of the town council shall be held at a time and place fixed by ordinance.

ii. Special meetings of the town council shall be held at the call of the council president, or, on the call of any 3 or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. A copy of the notice to members shall, forthwith, be posted upon the town bulletin board.

iii. All sessions of the town council and of every committee or subcommittee thereof, shall meet subject to sections 23A to 23C; inclusive, and section 24 of chapter 39 of the General Laws.

Section 2-7 Access to Information

(a) In General - The town council may make investigations into the affairs of the town and into the conduct and performance of any town agency and for this purpose may subpoena witnesses, administer oaths and require the production of evidence.

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(b) Town Officers, Members of Town Agencies, Employees - The town council may require any town officer, member of a town agency or town employee to appear before it to give such information as the town council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of such person.

(c) Town Manager - The town council may require the town manager to appear before it at any time to provide specific information on the conduct of any aspect of the business of the town which is within his control under this charter or under any law of the commonwealth.

The town manager may bring with him on any such occasion any assistant, department head or other town officer or employee to assist him in responding to questions which may be posed to him.

(d) Notice - Except in cases of emergency the town council shall give not less than 5 days notice in writing to any person it may request to appear before it under this section. The notice shall include specific questions on which the town council seeks information and no person called to appear before the town council under this section shall be required to respond to any question not relevant or related to those presented to him in advance and in writing. Notice shall be by delivery in hand, or by registered or certified mail to the last known place of residence of any such person.

Section 2-8 Officers Appointed by the Council or Council President

(a) The town council, by the affirmative vote of at least 5 members, shall appoint a town accountant, a town attorney and a board of registrars.

(b) Clerk of the Council - The council president shall appoint, subject to the approval of the town council, a clerk of the council, who may be the town clerk, to serve for a term of 3 years and until his successor is chosen and qualified. The clerk of the council shall give notice of council meetings to the members thereof and to the public, keep the journal of its proceedings and perform such other duties as may be provided by ordinance or by other vote of the town council.

(c) Salaries - The officers appointed by the council president shall receive such salaries as may, from time to time, be provided for such office by ordinance.

Section 2-9 Ordinances and Other Measures

(a) Emergency Ordinances - No ordinance shall be passed finally on the date it is introduced, except in case of special emergency involving the health or safety of the people or their property.

No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to such ordinance, separately voted upon and receiving the affirmative vote of 6 members of the town council.

No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege of any kind or nature shall be passed as an emergency measure, and, except as provided in sections 70 and 71 of chapter 164 and in chapter 166 of the General Laws, no such grant, renewal or extension shall be made otherwise than by ordinance.

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Emergency ordinances shall stand repealed on the sixty-first day following the adoption thereof, unless an earlier expiration date is specified in the emergency ordinance, or unless a measure passed in conformity with the procedures for measures generally has been passed extending it.

(b) Measures, In General - Excepting only proposed ordinances, appropriation orders and loan authorizations, the town council may pass any other measure through all of its stages at any 1 meeting, unless a member of the town council objects; but, if a single member objects, a vote on the measure shall be postponed to the next meeting of the town council.

On the first occasion that the question of adopting any measure is put to the town council, except an emergency measure as defined in subsection (a), if a single member objects to the taking of a vote, the vote shall be postponed until the next meeting of the town council regular or special meeting. If, when the matter is next taken up for a vote, 4 or more members object to the taking of the vote, the matter shall be further postponed for not less than an additional 5 days. This procedure shall not be used more than once for any measure, notwithstanding any amendment made to the original measure.

(c) Publication - Every proposed ordinance, appropriation order or loan authorization except emergency ordinances as provided in subsection (a), shall be published once in full in a local newspaper and in any additional manner as may be provided by ordinance, at least 5 days before its final passage. After final passage the proposed ordinance shall be posted on the town bulletin board and otherwise published as may be required by ordinance; provided, however, that whenever a proposed ordinance or codification of ordinances or other measure would exceed in length 10 column inches, in lieu of publication in a local newspaper, the same may be published and made available at the office of the town clerk in booklet or pamphlet form and if so published and available at least 10 days before its final passage shall be deemed sufficient notice. Whenever the town council provides for publication in a booklet or pamphlet form in lieu of the newspaper publication, it shall, at least 5 days before final passage, publish in a local newspaper a general summary of the proposed ordinance, or ordinances and a notice stating the times and places at which copies of the booklet or pamphlet may be obtained or reviewed by the public.

Section 2-10 Filling of Vacancies

(a) Councillor-at-Large - If a vacancy shall occur in the office of councillor-at-large during the first 18 months of the term for which councillors are elected, the vacancy shall be filled in descending order of votes received by the candidate for the office of councillor-at-large at the preceding town election who received the largest number of votes without being elected, provided, however, that such person remains eligible and willing to serve, and provided, further, that such person received votes at least equal to 30 per cent of the vote total received by the person receiving the largest number of votes for the office of councillor-at-large at said election. The town clerk shall certify such candidate to the office of councillor-at-large to serve for the balance of the then unexpired term.

If a vacancy shall occur in the office of councillor-at-large during the last 6 months

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of the term for which councillors-at-large are elected, the vacancy shall be filled by the person who receives the highest number of votes for the office of councillor-at-large at the biennial town election and who is not then serving as a member of the town council. Such person shall forthwith be certified and shall serve for the last 2 months of the concluding term in addition to the term for which such person was elected.

(b) District - If a vacancy shall occur in the office of district councillor, the vacancy shall be filled in the same manner as provided in subsection (a) for the office of councillor-at-large except that the list shall be of the candidates for the office of district councillor in the district in which the vacancy occurs; provided, however, if there exists no candidate on such list who remains eligible and willing to serve, the next highest ranking candidate from among the candidates for election as councilor-at-large who is a resident of the district in which the vacancy exists shall be certified and shall serve until the next regular election if such candidate remains a resident of the district, is willing to serve as a district councillor and received votes in the district at least equal to 30 per cent of the vote total received by the person receiving the largest number of votes for the office of district councillor at said election. The town clerk shall certify such candidate to the office of district councillor to serve for the balance of the then unexpired term.

(c) Filling of Vacancies By Town Council - Whenever a vacancy shall occur in the office of councillor-at-large or in that of district councillor and there is no available candidate to fill such vacancy in the manner provided in subsections (a) or (b), the vacancy shall be filled by the remaining members of the town council. Persons elected to fill a vacancy by the town council shall serve only until the next regular election or, if so decided, a special election, at which time the vacancy shall be filled by the voters and the person chosen to fill such vacancy shall forthwith be sworn and shall serve for the remainder of the unexpired term. Persons serving as town councillors under this section shall not be entitled to have the words "candidate for re-election" printed against their names on the election ballot.

ARTICLE 3 TOWN MANAGER

Section 3-1 Appointment, Term of Office, Qualifications

(a) Appointment, Term of Office - The town council, by the affirmative vote of at least two-thirds of the members, shall appoint a town manager to serve for a term of office of up to 5 years.

(b) Qualifications - The town manager shall be a person of proven administrative ability, specially qualified by education and training with at least 5 years full-time paid experience as a city or town manager, or an assistant city or town manager or the equivalent public or private sector level experience. The town council may, from time to time, establish such additional qualifications as it deems necessary and appropriate.

The town manager shall devote his full-time to the office and shall not hold any other public office, elected or appointed, nor shall he engage in any other business, occupation or

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profession during his term unless such action is approved, in advance, by the town council.

The town council may, by ordinance, establish other qualifications for the office of town manager.

Section 3-2 Powers and Duties

The town manager shall be the chief administrative officer of the town and shall be responsible to the town council for the proper administration of all town affairs placed under his charge under the charter. The powers and duties of the town manager shall include, but are not intended to be limited to, the following:

He shall supervise, direct and be responsible for the efficient administration of all town activities placed under his control by the charter, by ordinance, or otherwise, including all officers appointed by him and their respective agencies.

He shall be responsible for the coordination of the activities of all agencies under his control with the activities of all other town agencies, including those elected by the voters of Randolph and those appointed by other elected officials.

Except as otherwise provided by this charter and subject to the civil service law and any collective bargaining agreements as may be applicable, the town manager shall appoint, based upon merit and fitness alone, all department heads, officers, subordinates, employees and all appointed multiple member bodies for whom no other method of selection is provided in this charter except employees of the school department. Appointments made by the town manager shall become effective upon the approval of the council; provided, however, that such approval is received within 15 days of filing such notice of appointment. If the town council shall fail to act, appointments made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with the town council. For the purpose of this section, notice of appointment shall be considered filed with the town council when such notice is filed at an open meeting of the town council. Department heads shall appoint all officers, subordinates and employees within their department subject to the approval of the town manager.

He shall administer all personnel policies, practices, or rules and regulations, any compensation plan and any related matters for all municipal employees and administer all collective bargaining agreements, except for school department agreements, entered into by the town.

He shall be responsible for the negotiation of all union and non-union contracts with town employees over wages and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the town council, employ special counsel to assist in the performance of these duties. Contracts shall be subject to the approval of the town council.

He shall be responsible for making sure that all of the provisions of the laws of the commonwealth, the town charter, town ordinances and other votes of the town council which require enforcement by him, or by officers or employees subject to his supervision, are faithfully carried out and enforced.

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He shall prepare and submit an annual operating budget and a capital outlay program as provided in article 5.

He shall be responsible for making sure that a full and complete record of the financial and administrative activities of the town is kept and shall render a complete report to the town council at the end of each fiscal year and at such times as the town council may reasonably require.

He shall execute contracts, subject to such prior town council approval as may be prescribed by ordinance.

He shall have full jurisdiction over the rental and use of all town facilities, except school or library buildings and grounds and properties under the jurisdiction of the conservation commission pursuant to section 8C of chapter 40 of the General Laws. He shall be responsible for the maintenance and repair of all town-owned property, including school or library buildings and grounds, but not including vacant land under the jurisdiction of the conservation commission pursuant to said section 8C of said chapter 40, if a town ordinance authorizing a central town maintenance department is created.

He may at any time inquire into the conduct of office of any officer, employee or department under his supervision.

He shall be responsible for ensuring that a full and complete inventory of all property owned by the town, both real and personal, is kept.

He shall keep the town council fully advised as to the financial condition of the town and of the administration of the town's affairs by filing written reports with the town council not less than quarterly throughout the year.

He shall, from time to time, as in his judgment the needs of the town require, make such recommendations to the town council for action to be taken by it as he may deem to be necessary or desirable.

He may authorize any subordinate officer or employee to exercise any power or perform any function which he is authorized to exercise or perform; provided, however, that all acts performed under any such delegation shall be deemed to be acts of the town manager.

He shall determine the existence of a public emergency or danger and shall assume responsibility for the maintenance of public safety, public order and enforcement of the laws of the commonwealth. The manager shall notify the council president as soon as practical, but within 24 hours, of such a public emergency or danger and of the actions taken. Should the public emergency continue more than 24 hours, the town council may meet to review, ratify or terminate such public emergency.

He shall execute all deeds conveying town real property; provided, however, that any such conveyance shall have been previously authorized by the vote of the town council pursuant to the applicable provisions of the laws of the commonwealth.

He shall publish an annual report comprised of the complete statistical record of the operations of every town department, commission and committee for the preceding year and such report shall be published annually and made available for distribution to the public not later than 4 months after the end of the period on which the report is based.

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He shall perform such other functions as may, from time to time, be assigned to the office of town manager by ordinance or other vote of the town council, or otherwise.

Section 3-3 Compensation

The town manager shall receive compensation as may be established by the town council, from time to time, for the office of town manager.

Section 3-4 Removal

The person serving as town manager shall cease to be town manager upon expiration of his contract or term of office.

Earlier in time than the expiration described in the preceding sentence, the town council, by affirmative vote of a two-thirds majority of the full board, may vote to terminate, remove or suspend the town manager from office in accordance with the following procedure.

Before the town manager may be removed, if he so demands, he shall be given a written statement of the reasons alleged for his removal and shall have a right to be heard thereon at a meeting of the town council prior to the final vote on the question of his removal, but pending and during such hearing the town council may suspend him from office. The action of the town council in suspending or removing the town manager shall be final, it being the intention of this section to vest all authority and to fix all responsibility for such suspension or removal in the town council. The town manager shall continue to receive his salary until the effective date of a final vote of removal. The town council may, by ordinance, establish a procedure governing the removal from office of a town manager in such detail as it may deem necessary or desirable.

No contract of employment for a town manager shall be inconsistent with this section.

Section 3-5 Acting Town Manager

(a) Temporary Absence - The town manager shall, by letter filed with the town council and a copy filed with the town clerk, designate a qualified town officer or administrative employee to exercise the powers and perform the duties of his office during a temporary absence. During the first 10 working days of a temporary absence of the town manager, the town council may revoke such designation by a two-thirds vote and, after the expiration of 10 working days, by a majority vote, whereupon it may appoint another qualified town officer or employee to serve as acting town manager until the town manager shall return and resume his duties.

(b) Vacancy - Any vacancy in the office of town manager shall be filled as soon as possible by the town council but pending such appointment, the town council shall designate a qualified town officer or administrative employee to exercise the powers and perform the duties of the town manager on an acting basis. The appointment of an acting town manager shall be for a term not to exceed 4 months; provided, however, 1 renewal, not to exceed a second 4 months, may be permitted.

(c) Powers and Duties - The powers of a temporary or acting town manager shall be limited to matters not admitting of delay; provided, however, that no temporary town manager acting under subsection (a) shall have authority to make any permanent appointment

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to, or removal from, any office or position under the town.

Section 3-6 Evaluation of Town Manager

There shall be an annual review of the town manager's job performance conducted by town council.

ARTICLE 4 OTHER ELECTED OFFICES

Section 4-1 School Committee

(a) Composition - There shall be a school committee of 7 members, 6 of whom shall be nominated and elected by and from the voters at large and the seventh member shall be the council president or a designee from the town council.

(b) Terms of Office - At each biennial election, 3 school committee members shall be elected at large and shall serve for a 4-year term. The terms of school committee members shall begin following their election on the first day of January that does not fall on a weekend or holiday and shall continue until their successors are qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of school committee member.

(d) Powers and Duties - The school committee shall have general charge and superintendence of the public schools and for this purpose shall have all of the powers and duties which are given to school committees under the Constitution of the Commonwealth and laws of the commonwealth and such additional powers and duties as may be authorized by the charter, by-law or by the vote of the town council.

(e) Expenses - Subject to school department appropriation, members of the school committee shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

(f) Conflict of Interest - Unless such service may otherwise be authorized by the charter, no member of the school committee, including the council representative, shall hold any other office or position under the school committee for which a salary or other emolument is payable from the town treasury; provided, however, that if the council president shall hold such an office or position, the town council shall, by vote, designate another member of the town council not so ineligible to serve as school committee member in his place and all references in this section to the powers of the council president serving as school committee member shall apply to such person.

No person shall simultaneously hold more than 1 elective town office. No school committee member shall hold any compensated employment until 1 year following the date on which his service as a member of the school committee has terminated.

(g) Council Representative - The council president shall have the same power to vote on every matter coming before the school committee as any other member.

Section 4-2 Trustees of The Stetson Fund

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(a) Term of Office - There shall be a 3-member board of trustees of the Stetson School Fund elected by the voters for a term of 4 years, so arranged that the term of 1 member shall expire at the first biannual election and the term of 2 members shall expire at the next biennial election and continuing thereafter.

(b) Powers and Duties – Except as provided in subsection (a), the trustees shall be governed in accordance with the document entitled “The Stetson Donation of a Town House and Fund for a high school to the Town of Randolph”, voted on February 18, 1843 and article 18 of the Special Town Meeting of November 13, 1996.

(c) The terms of Stetson Fund trustees shall begin following their election on the first day of January that does not fall on a weekend or holiday and shall continue until their successors are qualified.

ARTICLE 5 FINANCIAL PROCEDURES

Section 5-1 Budget Hearing and Goal Setting

The president of the town council shall call a meeting of the town council prior to the commencement of the budget process, but not later than November 30, to review the financial condition of the town, revenue and expenditure forecasts and other information relevant to the budget process. The president also shall invite representatives of the school committee and trustees of the Stetson Fund to attend this meeting. Subsequent to this meeting, the town council shall meet to set policy goals with input from the town manager and the community. Based on these goals, the town manager shall develop budgetary goals and the town budget.

Section 5-2 Submission of Budget Message

The town manager shall, within 7 days after the receipt of departmental budget proposals, but in no event later than February first, prepare and submit to the town council a synopsis of all proposed budget initiatives and requests for additional funding for its review and prioritization. The synopsis shall include a summary of each initiative, its justification and the estimated costs therefor. Councillors may also propose budget initiatives for review and prioritization. Any such proposal shall include a summary, justification and estimate of costs. The town manager shall provide an estimate of projected revenues.

By the first regularly scheduled town council meeting in April, or a later date if approved by a vote of the town council, the town manager shall submit to the town council a proposed operating budget for the ensuing fiscal year, which shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents. The preliminary budget, as adopted by the school committee, shall be submitted to the town manager at least 90 days before the town manager’s presentation of the budget to the council to enable the town manager to consider the effect of the school department’s requested appropriation upon the total town budget.

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The message of the town manager shall explain the proposed budget for all town agencies, both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current fiscal year in terms of financial policies, expenditures or revenues, together with the reasons for such changes, summarize the town's debt position and include such other material as the town manager deems desirable or that the town council may reasonably require.

Section 5-3 Action on The Budget

(a) Public Hearing - The town council shall, within 7 days following its receipt of the proposed budget, publish in 1 or more local newspapers the general summary of the proposed budget as submitted by the town manager and a notice stating: (1) the times and places where complete copies of the proposed budget and supporting documents shall be available for examination by the public; and (2) the date, time and place, not less than 10 days after such publication, when the town council, or a standing committee of the town council, shall hold a public hearing on the proposed budget as submitted by the town manager.

(b) Adoption - The town council shall adopt the budget, with or without amendments, within 60 days following the day the proposed budget is received by it, or such other period as may be provided by general law. In amending the budget, the town council may delete or decrease any programs or amounts, except expenditures required by the laws of the commonwealth or for debt service. If the town council fails to take any action with respect to any item in the proposed budget within 60 days following the date of its receipt of the proposed budget, or such other period as may be provided by general law, such amount shall, without any action by the town council, become a part of the appropriations for the ensuing fiscal year and shall be available for the purposes specified.

Section 5-4 Independent Audit

Each year an outside audit of the books and accounts of the town shall be conducted. In the event that the commonwealth shall fail in any such period to provide for such an audit to be conducted, within 60 days following the date the town council makes a written request therefor, the town council shall provide for such an audit to be conducted by a certified public accountant, or firm of such accountants.

Section 5-5 Capital Outlay Program

(a) Submission - The town manager shall prepare and submit to the town council a 5-year capital outlay program at least 3 months prior to the final date for submission of a proposed annual operating budget.

(b) Contents - The capital outlay program in the form submitted shall include:
a clear general summary of its contents;

a listing of all capital expenditures which are proposed to be made during the 5 fiscal years next ensuing, with appropriate financial and other details concerning each such expenditure;

cost estimates, proposed methods of financing and a time schedule for each such expenditure; and

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the estimated annual cost of operating or maintaining any facilities to be acquired or constructed.

The information required by this subsection shall be revised and extended annually.

ARTICLE 6 ADMINISTRATIVE ORGANIZATION

Section 6-1 Reorganization Plans by Ordinance

Except as to types of reorganizations otherwise expressly prohibited by general law or by the charter, the town council may, by ordinance, reorganize, consolidate or abolish any existing town agency, in whole or in part, establish new town agencies and prescribe the functions of any town agency. All town agencies under the direction and supervision of the town manager shall be headed and administered by officers appointed by the manager.

Section 6-2 Reorganization Plans By Administrative Code

(a) Submission - The town manager may, from time to time, prepare and submit to the town council reorganization plans which may, unless expressly prohibited by general law or this charter, reorganize, consolidate or abolish any existing town agency, in whole or in part, establish new town agencies and prescribe the functions of any town agency. Each such reorganization plan shall be accompanied by an explanatory message when submitted to the town council.

(b) Council Action - Every such reorganization plan shall, upon receipt by the town council, be referred to an appropriate standing committee of the town council for study and report. Within 30 days following its referral to a committee, a public hearing shall be held concerning the proposal, either before the standing committee or before the full town council. Within 14 days following the conclusion of the public hearing, the standing committee to which such matter was referred shall file a report stating either that it approves of the reorganization plan or that it disapproves of it. A reorganization plan shall become effective on the sixtieth day following the date of its receipt by the town council, unless a later date is specified in the reorganization plan, or unless the town council has, within such period, voted to disapprove of it. A reorganization plan submitted by the town manager under this section may not be amended by the town council and shall either be approved or disapproved in the form as submitted.

Section 6-3 Publication of Reorganization Plans

An up-to-date record of reorganization plans under section 6-2(b) shall be kept on file in the office of the town clerk and copies of all such plans shall be published as an appendix to any publication of the ordinances of the town.

ARTICLE 7 NOMINATIONS, ELECTIONS, INITIATIVE AND REFERENDUM

Section 7-1 Town Elections: General

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The regular general town election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

Section 7-2 Non-Partisan Elections

All elections for town offices shall be non-partisan and election ballots shall be printed without any party mark, emblem or other designation whatsoever.

Section 7-3 Signature Requirements

The number of signatures of voters required to place the name of a candidate on the official ballot to be used at an election shall be as follows: for councillor-at-large, school committee member, or Stetson Fund trustee, 50 signatures, not more than 25 of which shall be from any 1 district; for the office of district councillor, 50 signatures from the district from which the nomination is sought.

Section 7-4 Districts

The territory of the town shall be divided into 4 districts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. Each such district shall be composed of voting precincts established in accordance with the General Laws. The town council shall, from time to time, but at least once in each 10 years, review such districts.

Section 7-5 Application of General Laws

Except as expressly provided in this charter and authorized by general law, all town elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of general and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes and the determination of results.

Section 7-6 Petitions To Council Or School Committee

The town council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by 150 voters, or more, and which seeks the passage of a measure. The hearing shall be held by the town council or the school committee, or, in either case, by a committee or subcommittee thereof and the action by the town council or the school committee shall be taken not later than 3 months after the petition is filed with the clerk of the council or the administrative assistant to the superintendent, as may be appropriate. Hearings on 2 or more petitions filed under this section may be held at the same time and place. The clerk of the council or the administrative assistant to the superintendent shall mail notice of the hearing to the 10 persons whose names appear first on the petition at least 48 hours before the hearing. Notice, by publication of all such hearings, shall be at public expense.

Section 7-7 Citizen Initiative Measures

(a) Commencement - Initiative procedures shall be started by the filing of an initiative petition with the clerk of the council or the administrative assistant to the superintendent, as the case may be. The petition shall be addressed to the town council or to the school committee, shall contain a request for the passage of a particular measure, which shall be set

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forth in full in the petition, and shall be signed by at least 5 per cent of the total number of voters as of the date of the most recent town election. Signatures to an initiative petition need not all be on 1 paper, but all such papers pertaining to any 1 measure shall be fastened together and shall be filed as a single instrument, with the endorsement thereon of the name and residence address of the person designated as filing the same. With each signature on the petition, there shall also appear the street and number of the residence of each signer.

The clerk of the council or the administrative assistant to the superintendent, as the case may be, shall forthwith deliver a copy of the petition to the board of registrars. Within 10 days following the filing of the petition, the board of registrars shall ascertain by what number of voters the petition has been signed and what percentage that number is of the total number of voters as of the date of the most recent town election. The board of registrars shall attach its certificate to the petition, which shall certify the signatures and addresses of those voters to the clerk of the council or the administrative assistant to the superintendent according to how the petition is addressed. A copy of its certificate shall also be mailed to the person designated upon such petition as having filed the same.

(b) Referral to Town Attorney - If the board of registrars determines that a petition has been signed by a sufficient number of voters, the clerk of the council or the administrative assistant to the superintendent, as the case may be, shall forthwith following receipt of such certificate deliver a copy of the petition to the town attorney. Within 15 days following the date a copy of the petition is delivered to him, the town attorney shall, in writing, advise the town council or the school committee, as may be appropriate, whether the measure, as proposed, may lawfully be proposed by the initiative process and whether, in its present form, it may be lawfully adopted by the town council or by the school committee. If the opinion of the town attorney is that the measure is not in proper form, he shall state his reasons in full in his reply. A copy of the opinion of the town attorney shall also be mailed to the person designated on the petition as having filed the same.

(c) Action on Citizen Initiative Petitions - Within 30 days following the date a citizen initiative petition has been returned to the clerk of the council or to the administrative assistant to the superintendent by the town attorney as being lawful, and after publication in accordance with section 2-9(c), the town council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of an initiative measure, or by rejecting it. The passage of a measure which is in lieu of the initiative measure shall be deemed to be a rejection of the initiative measure. If, at the expiration of such 30 days, the town council or the school committee has not voted on such petition, no other business of said council or committee shall be in order or lawfully acted upon until a vote to approve of the measure, to disapprove of the measure, or to adopt some other measure in lieu thereof, has been taken.

(d) Supplementary Petitions - Within 45 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the clerk of the council or the administrative assistant to the superintendent. The clerk of the council or the administrative assistant to the superintendent, as the case may be, shall forthwith deliver a

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copy of the supplemental initiative petition to the board of registrars. The supplemental initiative petition shall be signed by a number of additional voters which is equal to 5 per cent of the total number of voters as of the date of the most recent town election, which may include the signatures of voters who signed the original petition if they sign the supplemental petition, or other additional voters. If the number of signatures to such supplemental petition is found to be sufficient by the board of registrars, the town council shall call a special election to be held on a date fixed by it not less than 35 nor more than 45 days following the date of the certificate of the board of registrars that a sufficient number of voters has signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination; provided, however, that if any other town election is to be held within 120 days following the date of said certificate, the town council may omit the calling of such special election and cause such question to appear on the election ballot at such approaching election for determination by the voters.

(e) Publication - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper not less than 7 nor more than 14 days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the board of registrars.

(f) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure which was proposed by voters in an initiative petition take effect?

(Here insert the full text of the proposed measure, or a fair, concise summary prepared by the town counsel.)

YES ____ NO ____

(g) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective forthwith, unless a later date is specified in such measure; provided, however, that no such measure shall be deemed to be adopted if fewer than 20 per cent of the total number of voters of the town, as of the date of the most recent town election, participated at such election.

Section 7-8 Citizen Referendum Procedures

(a) Petition, Effect on Final Vote - If, within 20 days following the date on which the town council or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to 5 per cent of the total number of voters as of the date of the most recent town election and addressed to the town council or to the school committee, as the case may be, against the measure, or any part thereof, is filed with the administrative assistant to the superintendent or clerk of the council, the effective date of such measure shall be temporarily suspended. The school committee or the town council shall forthwith reconsider its vote on such measure, or part thereof, and, if such measure is not rescinded, the town council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience,

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or within such time as may be requested by the school committee, or at the next regular town election. Pending such submission and determination, the effect of such measure shall continue to be suspended.

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and insofar as applicable, section 7-7 (a), (b), (e) and (f) shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" in said sections wherever it may occur and the word "referendum" shall be deemed to replace the word "initiative" wherever it may occur in said sections.

Section 7-9 Ineligible Measures

None of the following shall be subject to the initiative or the referendum procedures: (1) proceedings relating to the internal organization or operation of the town council or of the school committee; (2) an emergency measure adopted in conformity with the charter; (3) the town budget or the school committee budget as a whole; (4) revenue loan orders; (5) any appropriation for the payment of the town's debt or debt service; (6) an appropriation of funds to implement a collective bargaining agreement; (7) proceedings relating to the election, appointment, removal, discharge, employment, promotion, transfer, demotion or other personnel action of municipal employees; (8) any proceedings repealing or rescinding a measure or part thereof which is already undergoing challenge by referendum procedures; and (9) any proceedings providing for the submission or referral of any measure to the voters at an election.

Section 7-10 Submission of Other Matters to Voters

The town council may, on its own motion and shall, at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular town election for adoption or rejection any measure in the same manner and with the same force and effect as is hereby provided for submission by petitions of voters.

Section 7-11 Conflicting Provisions

If 2 or more measures passed at the same election contain conflicting provisions, only the 1 receiving the greatest number of affirmative votes shall take effect.

Section 7-12 Recall of Elected Officials

(a) Any holder of elective office may be recalled therefrom by the registered voters of the town of Randolph as provided in this charter.

(b) Any 500 registered voters of the town of Randolph may file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The registrars of voters shall, within 5 days, certify thereon the number of signatures which are names of registered voters of the town. The town clerk shall, upon certification by the board of registrars, deliver to the first 10 persons named on the affidavit copies of petition blanks demanding such recall, copies of which shall be kept available. The blanks shall be issued by the town clerk with the clerk's signature and official seal attached thereto. They shall be dated, addressed to the town council and contain the names of the 10

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persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit and the demand for the election of a successor to said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 21 days after the certification of the affidavit and shall have been signed by at least 20 per cent of the registered voters of the town who shall add to their signatures the street and number, if any, of their residences. The town clerk shall, within 24 hours of receipt, submit the petition to the registrars of voters in the town and the registrars shall, within 14 days, certify thereon the number of signatures which are names of registered voters of the town.

For the recall of a district councillor, the above procedures shall apply, except that: all signatures shall be obtained from the affected district; 150 signatures shall be required on the initial affidavit; the recall petition shall be signed by at least 20 per cent of the registered voters of the district; and an election held for the recall of a district councillor shall be held only in the affected district.

(c) If the petition shall be found and certified by the registrars of voters to be sufficient, the registrars shall submit the same with their certificate to the town council without delay and said council shall, within 7 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 days thereafter, order an election to be held on a date fixed by them not less than 64 nor more than 90 days after the date of the registrar'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 certification, the town council shall postpone the holding of the recall election to the date of such other election.

If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(d) An officer sought to be removed may be a candidate to succeed himself and, unless the officer requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. 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 general laws relating to elections, unless otherwise provided in the charter.

(e) The incumbent shall continue to perform the duties of his office until the recall election. If the recall fails or the incumbent is re-elected, he shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in subsection (g). If not re-elected in the recall election, the officer shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within 5 days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

(f) Ballots used in a recall election shall submit the following proposition in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

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Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross mark "X", may vote for either proposition. Under the proposition there shall appear the word "Candidates," the direction to voters required by section 42 of chapter 54 of the General Laws and beneath this the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted.

(g) No recall affidavit shall be filed against an officer within 6 months after he takes office, nor in the case of an officer subject to a recall election, until at least 6 months after the election at which his recall was submitted to the voters.

ARTICLE 8 GENERAL PROVISIONS

Section 8-1 Charter Changes

(a) In General - This charter may be replaced, revised or amended in accordance with any procedure made available under the Constitution of the Commonwealth, or by general or special law.

(b) Periodic Review - The town council shall provide, in every year ending in a 0, for a review of the charter by the entire council and 6 additional persons to be appointed by the council president. The committee shall file a report within the year recommending any changes to the charter which it deems necessary or desirable, unless an extension is authorized by vote of the town council.

Section 8-2 Severability

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

Section 8-3 Specific Provision to Prevail

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

Section 8-4 Rules and Regulations

A copy of all rules and regulations adopted by town agencies shall be placed on file in the office of the town clerk and shall be available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any town agency shall become effective until 5 days following the date it is so filed.

Section 8-5 Review of Ordinances

The town council shall provide, by appointment of a committee, or as it may determine, that in each year ending in 6 or 1, for a review of the ordinances of the town for the purpose of determining if any amendments or revisions thereto may be necessary or desirable. Such review shall be completed within the year and shall be conducted under the

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supervision of the town attorney or as the town council so directs by special counsel appointed for that purpose. The impact of any charter amendments, revisions and special acts of the legislature shall be examined to determine the effect on the town's ordinances.

Section 8-6 Uniform Procedures Applicable to Multiple Member Bodies

(a) Meetings - All multiple-member bodies of the town shall meet regularly at such times and places as they may, by their own rules, prescribe, unless some other provision is made by ordinance or by-law. Special meetings of any multiple-member body shall be held subject to the call of the chair or by one-third of the members thereof, by written notice delivered in hand or to the place of residence of each member and which contains a list of the item or items to be acted upon. Except in case of an emergency, such notice shall be delivered at least 48 hours in advance of the time set for such meeting. A copy of such notice to members shall, forthwith, be posted upon the town bulletin board.

(b) Rules and Journals - Each multiple-member body shall determine its own rules and order of business unless another provision is made by ordinance or by-law and shall provide for the keeping of a journal of its proceedings. These rules and journals shall be a public record and certified copies shall be kept on file in the office of the town clerk and in the Turner Free Public Library.

(c) Voting - If requested by any member, any vote of any multiple-member body shall be taken by a call of the roll and the vote of each member shall be recorded in the journal; provided, however, that if the vote is unanimous only that fact need be recorded.

(d) Quorum - A majority of the members of a multiple-member body shall constitute a quorum, but a smaller number may meet and adjourn from time to time.

Section 8-7 Number and Gender

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

Section 8-8 References to General Laws

All references to General Laws contained in the charter refer to the General Laws of the commonwealth and are intended to refer to and to include any amendments or revisions to such chapters or sections, or to the corresponding chapters and sections of any rearrangement, recodification or revision of such statutes enacted or adopted subsequent to the adoption of this charter.

Section 8-9 Certificate of Election or Appointment

Every person who is elected, including those elected by the town council, or appointed to an office of the town shall receive a certificate of such election or appointment from the town clerk. Except as otherwise provided by the laws of the commonwealth, before performing any act under an appointment or election, all elected or appointed persons shall take and subscribe to an oath of office and be sworn to the faithful performance of their duties.

Section 8-10 Notice of Vacancies

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Whenever a vacancy shall occur in any town office or in the employment of the town, or, when by reason of a retirement, resignation, expiration of a fixed term, or otherwise, a vacancy can be anticipated, the town manager or other appointing authority shall forthwith cause public notice of such vacancy or impending vacancy to be publicly posted on the town bulletin board and website for not less than 10 days. Each such notice shall contain a brief description of the duties of the office or position and shall indicate a list of necessary or desirable qualifications for the office or position. Any person who desires to be considered for an appointment to fill such vacancy may, within 10 days following the date the notice is posted, or such longer period as may be indicated in such announcement, file with the appointing authority a statement setting forth with reasonable clarity and specificity, the qualifications of such person for such appointment. No permanent appointment to fill any position shall be effective until at least 14 days have elapsed following such posting to permit the reasonable consideration of all applicants. This section shall not apply to positions covered under the civil service law and rules or if in conflict with the provisions of a collective bargaining agreement.

Section 8-11 Definitions

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

- (a) "Charter", this charter and any amendment to it hereafter adopted.
- (b) "Emergency", a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.
- (c) "Local newspaper", a newspaper of general circulation within the town of Randolph, with either a weekly or daily circulation.
- (d) "Majority vote", a majority of those present and voting, unless another provision is made by ordinance, by-law or by its own rules.
- (e) "Measure", any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted, by the town council or the school committee.
- (f) "Multiple-member body", any board, commission, committee, subcommittee, or other body consisting of 2 or more members whether elected, appointed or otherwise constituted, but not including the town council, the school committee or the trustees of the Stetson Fund.
- (g) "Town", the town of Randolph.
- (h) "Town agency", any multiple-member body, any department, division or office of the town of Randolph.
- (i) "Town bulletin board", the bulletin board in the administration building on which the town clerk posts official notices of meetings and upon which other official town notices are posted and the bulletin boards at any other locations as may be designated town bulletin boards by the town council.
- (j) "Town officer", a person having charge of an office or department of the town who in the exercise of his powers or duties exercises some portion of the sovereign power

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of the town, unless the term “town officer” is used with qualification or description.

(k) “Voters”, registered voters of the town of Randolph.

ARTICLE 9 TRANSITIONAL PROVISIONS

Section 9-1 Continuation of Existing Laws

All by-laws, resolutions, rules, regulations and votes of the town meeting which are in force at the time this charter is adopted, not inconsistent with this charter, shall continue in full force until amended or repealed.

If provisions of this charter conflict with provisions of town by-laws, rules, regulations, orders, or special acts or acceptances of laws, the charter provisions shall govern. All provisions of town by-laws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

Section 9-2 Existing Officials and Employees

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of such duties by another person or agency.

Section 9-3 Continuation of Government

All town offices, boards, commissions or agencies shall continue to perform the duties thereof until re-appointed or re-elected, or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

Section 9-4 Transfer of Records and Property

All records, property and equipment whatsoever of any office, board, commission, committee or agency or part thereof, the powers and duties of which are assigned, in whole or in part, to another town office, board, commission or agency, shall be transferred forthwith to such office, board, commission or agency.

Section 9-5 Continuation of Personnel

Any person holding a town office, or a position in the administrative service of the town, or any person holding full-time employment under the town, shall retain such office, position or employment and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, that no person in the permanent full-time service of the town shall forfeit his pay grade or time in service of the town.

Section 9-6 Incumbent officer holders

Upon the adoption of this charter, the incumbents serving in the office of treasurer-collector, town clerk and the incumbent assessor serving as a full-time assessor shall be subject to the town’s personnel by-law and shall be granted all benefits and rights provided

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by said by-law. The incumbents shall be granted sick leave, vacation leave or other such leave based upon the number of years such incumbents have served in an elective office and as an employee of the town of Randolph. Such incumbents shall be entitled to and credited with retroactive sick leave at the rate of 9 days for each year of full-time service as an elected official and as an employee of the town.

Section 9-7 Effect On Obligations, Taxes, Etc.

All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the town before the adoption of this charter and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter. No legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

Section 9-8 Time of Taking Effect

This charter shall take effect such that elections for office shall be held on the first Tuesday following the first Monday in November beginning in the first year when no regular state election in November is scheduled following adoption of this charter and biannually thereafter, unless the date of such election would be more than 3 months after the adoption of the charter, in which case the board of selectmen then in office may schedule a special transition election as promptly as possible after adoption, but not later than 180 days after the adoption of the charter. The officials so elected shall take office on the first day in January that does not fall on a weekend or holiday, of the year after adoption by the voters of the town. The initial transitional term expires when the successors to those officials initially elected by the charter take office after the date of the next election to be scheduled for the first Tuesday following the first Monday in November beginning in the first year when no regular state election in November is scheduled.

Section 9-9 Town Manager Transition Selection Process

Forthwith following the election at which this charter is adopted, the town moderator, or if the position of town moderator is not in effect, the person to last hold the position, shall initiate proceedings whereby a screening committee shall be established to review applicants for the position of town manager. The screening committee shall consist of 9 persons, representing as nearly as possible the town demographic and occupational base.

Not more than 30 days following the election at which this charter is adopted, the 9 persons appointed as aforesaid shall meet to organize and to plan a process for the selection of the town manager.

The committee shall review and screen all applications and provide for interviews with such candidates for the position as it deems necessary.

Not more than 120 days following the date the committee meets to organize, the committee shall submit to the town council the names of not less than 3, but not more than 5 candidates for the position. Within 60 days following the date the list of nominees is submitted, the town council shall choose 1 of the nominees to be appointed to the office of

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town manager.

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

(a) Upon the appointment of the town manager the office of executive secretary shall be abolished.

(b) Until such time as the town manager is appointed, the town council shall exercise all the powers, duties and responsibilities necessary to insure orderly operation of town government.

SECTION 4. In the event that the voters of the town of Randolph adopt the charter for a town manager – selectmen – representative town meeting form of government, pursuant to sections 1 and 2, the following charter shall become effective in accordance with its terms:

ARTICLE 1 INCORPORATION AND AUTHORITY

Section 1-1 Incorporation

The inhabitants of the town of Randolph, 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 Randolph.”

Section 1-2 Short Title

This instrument may be cited and shall be known as the Randolph Home Rule Charter.

Section 1-3 Division of Powers

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

Section 1-4 Powers of the Town

The intent and purpose of this charter is to secure for the voters of the town of Randolph, through the adoption of this charter, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution of the Commonwealth and laws of the commonwealth, as fully and as though each such power were 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 is not intended to limit in any way the general powers of the town as provided 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.

ARTICLE 2

LEGISLATIVE BRANCH/REPRESENTATIVE TOWN MEETING

Section 2-1 Town Meeting Composition

The legislative body of the town shall be a representative town meeting consisting of 120 members who shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town. There shall be 15 members elected from each of the 8 districts. Members shall be elected for terms of 3 years each, so arranged that the terms of one-third of the members shall expire each year.

Section 2-2 Establishment of Districts

The territory of the town shall be divided into 8 districts so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. Each such district shall be composed of voting precincts established in accordance with general laws. The boundaries of the districts shall be reviewed and wholly or partially revised by the board of selectmen; (a) at least once every 10 years; (b) whenever it is directed to do so by vote of the town meeting; and (c) whenever required to do so by the General Laws.

The board of selectmen shall, within 20 days after any revision of districts, but not later than January twentieth of the succeeding year, file a report of its doings with the town clerk and the assessors with a map or maps or description of the districts and the names and addresses of the voters therein. The board shall cause to be posted in at least 1 public place in each district a map or description of that district with the names and addresses of the voters therein. Whenever the districts are revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of such districts.

Section 2-3 Town Meeting Membership

(a) Eligibility. Any voter shall be eligible to be a candidate, to be elected and to serve as a town meeting member.

(b) Nomination Procedures. Nomination of candidates for town meeting member shall be made by nomination papers signed by 10 voters of the district in which the candidate resides and from which the candidate seeks election in accordance with the General Laws.

Section 2-4 Election

The voters in every district shall, at the first annual town election held following any district revision that affects them, elect, by ballot, the number of voters of the district prescribed in this section to be town meeting members. The first third in order of votes received shall serve for 3 years; the second third of such order shall serve for 2 years and the remaining third in such order shall serve for 1 year from the date of the annual town election. In case of a tie vote affecting the division into thirds, the members elected from the district shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual election the voters of each district shall, in like manner, elect for 3-year terms one-third of the number of town meeting members to which each district is entitled and shall

fill for the unexpired terms any such vacancies then existing. In the event of a tie vote for the office of town meeting member, the town clerk shall, within 7 days following the election, call all of the town meeting members of that district together at a convenient place. Under the supervision of the town clerk, any such tie shall then and there be broken by ballots cast by the elected town meeting members present.

Section 2-5 Vacancies

(a) Resignation. A town meeting member may resign by filing a written resignation with the town clerk. Such resignation shall take effect upon the date of such filing unless a date certain is specified therein when it shall take effect.

(b) Removal from Town or District. A town meeting member who moves from the town shall forthwith cease to be a town meeting member. A town meeting member who moves from 1 district to another, or who is so removed by a revision of district lines, may continue to serve as a town meeting member from the district from which the member was elected until the next annual town election at which the remainder of the member's term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a town meeting member from the district to which the member has moved.

(c) Forfeiture of Office. If any person elected as a town meeting member shall fail to take the oath of office within 30 days following the election of such person, or shall fail to attend more than one-half of the sessions of the town meeting held in a calendar year, the member shall, upon certification by the town clerk of such attendance, be deemed to have resigned and the member's place shall be declared vacant. Any such vacancy shall be filled as provided in subsection (e).

Any town meeting member who shall fail to attend more than one-half of the sessions of the town meeting held in a calendar year, may appeal the declaration of vacancy by requesting a hearing on removal. The member who files such an appeal shall continue to serve until the outcome of the appeal has been determined. A request for hearing shall be in writing and shall be filed with the town clerk on or before January fifteenth of the following calendar year. A hearing shall be held before a committee consisting of the town clerk, town moderator and town counsel to be held not later than January twenty-fifth of such year. Upon a showing of good cause by the member, the committee may excuse 1 or more absences and may rescind the declaration of vacancy provided the town meeting member has attended at least one-half of the unexcused sessions of the town meeting during such calendar year.

(d) Write-in candidates. A write-in candidate for the office of town meeting shall receive 10 or more votes in the district in which they are eligible to vote in order to be elected to that district.

(e) Filling vacancies. Any town meeting member vacancy from any district, whether arising from a failure of the registered voters thereof to elect, or from any other cause, may be filled by the remaining members of the district from among the registered voters thereof, until the next annual election. Upon petition therefor, signed by not less than 10 town meet-

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ing members from the district, notice of any vacancy shall promptly be given by the town clerk to the remaining members from the district in which the vacancy or vacancies exist and he shall call a special meeting of such members for the purpose of filling such vacancy or vacancies. The town clerk shall cause to be mailed to every such member, not less than 5 days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the meeting, a majority of the members from such district shall constitute a quorum, and they shall elect from their own number a chairman and a clerk. The choice to fill any vacancy shall be by ballot, and a majority of the votes cast shall be required for such choice. The chairman and clerk shall count the ballots and shall make a certificate of the choice and forthwith file the same with the town clerk, together with a written acceptance by the member or members so chosen, who shall thereupon be deemed elected and qualified as a town meeting member or members.

Section 2-6 Compensation

Representative town meeting members shall serve without compensation.

Section 2-7 Presiding Officer

All sessions of the town meeting shall be presided over by a town moderator, elected as provided in article 3. The town moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The town moderator shall perform such other functions as may be authorized by charter, by-law or other town meeting vote.

Section 2-8 Clerk to the Meeting

At the annual and special town meetings a stenographer shall record the entire proceedings and furnish transcripts thereof to the town clerk and other town officials.

The town clerk, or his designee, shall serve as the clerk of the town meeting. The clerk shall give notice of all town meetings to the members and to the public, keep the journal of such proceedings, cause the publication of town meeting attendance and perform such other functions as may be provided by charter, by-law or other town meeting vote.

Section 2-9 Participation by Non-Town Meeting Members

(a) Residents. Any resident of the town who is not an elected town meeting member may attend sessions of the town meeting but may not vote. However, subject to such rules as may, from time to time, be adopted, any resident may participate in proceedings.

(b) Representatives of Town Agencies. Each town agency may designate a representative to attend all sessions of the representative town meeting for the purpose of providing town meeting members with information pertinent to warrant articles concerning such agencies.

Section 2-10 General Powers and Duties of the Town Meeting

The representative town meeting shall be vested with all the legislative powers of the town, as provided by charter or general laws. The representative town meeting shall provide for the exercise of all powers of the town and for the performance of all duties and obligations imposed upon the town.

Section 2-11 Warrant Articles

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(a) Initiation. Except procedural matters, all subjects to be acted upon by any town meeting shall be placed on warrants issued by the board of selectmen in accordance with section 10 of chapter 39 of the General Laws; provided, however, that the board of selectmen shall place on the warrant all petitions which are addressed to it and which request the submission of a particular subject matter to the representative town meeting and filed by: (i) any elected town officer including a member of a multiple-member body; (ii) any appointed multiple member body acting by a majority of its members; (iii) any 10 voters; (iv) the office of town manager; and (v) any other person, persons or town agency as authorized by by-law. All such requests for the inclusion of subjects shall be in writing, but shall not be required to conform to any particular style or form, except that each request for a particular subject shall be submitted as a separate petition.

(b) Publication. Publication and distribution of the warrant shall be determined by by-law.

Section 2-12 Procedures

(a) Time of Meeting. The representative town meeting shall meet at least twice each calendar year or as may be otherwise determined by the board of selectmen. These 2 meetings shall be held in 2 sessions to be known as the spring annual town meeting and the fall town meeting. Each session of the town meeting shall be called by separate warrant. The spring annual town meeting shall be held as specified by by-law and shall be primarily concerned with the determination of matters involving the expenditure and commitment of town funds including, but not limited to, the adoption of an annual operating budget for all town agencies.

The fall town meeting shall be held on such date and time as specified by by-law and shall be deemed to have all the powers of an annual town meeting.

(b) Quorum. Sixty-one town meeting members shall constitute a quorum for the transaction of all business to come before the representative town meeting, but a smaller number may adjourn; provided, however, that if an insufficient number of town meeting members are present at the first session of a duly called town meeting, a majority of the members present may vote to recess and reconvene when a quorum is present.

(c) Duty of Town Meeting Member. It shall be the duty of town meeting members to keep abreast of town business and review materials forwarded to members by the board of selectmen and the town manager. It is expected that town meeting members will attend selected meetings of multiple-member bodies, attend hearings held by the finance committee and actively prepare for each session of the town meeting.

(d) Establishment of Committees. The representative town meeting may, by vote or by-law, establish committees for the review of warrant articles, consideration and study of any subjects of concern to the town meeting and the discussion of town business. The representative town meeting members in any precinct may organize, meet and confer on town business, subject to sections 23A to 23C, inclusive and section 24 of chapter 39 of the General Laws.

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(e) Meetings of Town Boards, Committees and Commissions. No multiple-member body of the town shall schedule a meeting to be held during the time the town meeting is in session for the transaction of business except for meetings at town meeting itself.

Section 2-13 Referendum Procedures

(a) Effective Date of Final Votes. No final affirmative vote of a town meeting on any warrant article, except a vote to adjourn or dissolve, votes appropriating money for the payment of notes or bonds of the town and interest thereon becoming due within the then current fiscal year, votes for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds vote of the town meeting to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town shall be operative until after the expiration of 7 days, exclusive of Sundays and holidays, from the dissolution of the town meeting. If a referendum petition is not filed within such 7-day period, the vote of the town meeting shall become operative.

(b) Referendum Petition. If, within such 7-day period, a petition signed by not less than 5 per cent of the registered voters of the town, containing the voters' names and addresses as they appear on the list of registered voters, is filed with the board of selectmen requesting that any question, not yet effective as defined in subsection (a) be submitted to the voters of the town at large, the operation of such vote shall be suspended pending its determination as provided herein. The board of selectmen shall forthwith submit the petition to the board of registrars who, within 5 days, shall ascertain by what number of voters the petition has been signed and what percentage that number is of the total number of voters as of the date of the most recent town election. The board of registrars shall attach its certificate to the petition, which shall certify the signatures and addresses of those voters to the board of selectmen. The board of selectmen shall, within 5 days after the certification of such a petition, call a special election in accordance with the general laws relative to elections, for the purpose of presenting to the voters at large the question or questions which are the subject of a petition. If, however, a regular or special election is to be held between 35 and 45 days following the date the petition is certified, the board of selectmen may provide that any such questions be presented to the voters at the same election.

(c) Referendum Election. The polls shall be opened not later than 2 o'clock in the afternoon and shall be closed not later than 8 o'clock in the evening and all votes upon the question or questions so submitted shall be taken by ballot and the conduct of such election shall be in accordance with the general laws relative to elections. The questions so submitted shall be determined by a majority vote of the voters voting thereon, but no action of the representative town meeting shall be reversed unless at least 15 per cent of the registered voters vote on the question.

(d) Format of Questions. Each question so submitted shall be in the form of the following question which shall be placed upon the official ballot: "Shall the town vote to approve the action of the representative town meeting whereby it was voted (brief description of the substance of the vote and by what vote thereon if such vote was tabulated prepared by the town counsel)?"

**ARTICLE 3
ELECTED TOWN OFFICERS**

Section 3-1 Elected Town Officers, In General

(a) **Elective Offices** - The offices to be filled by the voters shall be a board of selectmen, a school committee, a town moderator and trustees of the Stetson Fund. Such other regional authorities, districts, or committees as may be established by the laws of the commonwealth or interlocal agreement may also be filled by the voters.

(b) **Eligibility** - Any voter shall be eligible to hold any elective town office. No person shall simultaneously hold more than 1 elective town office; provided, however, that any person elected to a town office may be a candidate and be elected to serve as a representative town meeting member.

(c) **Vacancies in Office** - Any vacancy in any elective office shall be filled in the manner provided by chapter 41 of the General Laws.

Section 3-2 Board of Selectmen

(a) **Composition, Term of Office** - 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, with the terms of 2 expiring in 1 year, 2 in the next year and 1 in the third year. Selectmen shall not serve as the chairman of any appointed board, committee or commission.

(b) **Powers and Duties** - The executive authority of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office in the town. The board of selectmen shall be the chief policymaking agency of the town and shall have all the powers and duties of boards of selectmen as may be authorized by charter, general law, by-law or town meeting vote, except those powers granted to the town manager under this charter. The board of selectmen shall prepare reports of town business and distribute such reports to all town meeting members. The board of selectman shall act by the issuance of policy guidelines and directives. The board of selectmen shall act only through the adoption of policy directives and guidelines which are to be implemented by the officers and employees appointed by or under its authority. The town manager shall be the primary officer responsible for the implementation of policy directives and guidelines adopted by the board of selectmen. The daily administration of the affairs of the town shall be the exclusive responsibility of the town manager.

(c) **Appointment Powers** - The board of selectmen shall appoint a town manager, a town counsel, a town accountant and a board of registrars of voters. The board of selectmen shall also appoint such other multiple-member bodies as may be provided by general law or by-law. No selectman shall hold any compensated town office or employment until 1 year following the date by which his selectman service has been terminated. Unless such service is otherwise authorized by the charter, no member of the board of selectmen shall, while a member of the board, hold any other town office or employment for which a salary or other emolument is payable from the town treasury.

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(d) Licensing Authority - The board of selectmen shall be the licensing authority of the town and shall have all the power to issue licenses as authorized by the laws of the commonwealth, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and restrictions on any such license it may issue as it deems to be in the public interest and to enforce all the laws of the commonwealth relating to all such businesses for which it issues licenses.

(e) Salary - The board of selectmen shall serve without compensation.

Section 3-3 School Committee

(a) Composition, Terms of Office - There shall be a school committee composed of 7 members, 6 elected for terms of 3 years each and the chairman of the board of selectmen or another member of such board, as designated by the board of selectmen, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - No member of the school committee shall hold any compensated town office or employment until 1 year following the date on which his school committee service terminated. The school committee shall have general charge and superintendence of the public schools and for this purpose shall have all of the powers and duties which are given to school committees under the Constitution and laws of the commonwealth and such additional powers and duties as are authorized by this charter, by-law or vote of town meeting.

Section 3-4 Town Moderator

(a) Term of Office - A town moderator shall be elected by the voters for a term of 3 years.

(b) Powers and Duties - The town moderator shall preside and regulate the proceedings at all town meetings, decide all questions of order and make a public declaration of all votes. No person may address a town meeting without leave of the moderator. The moderator shall appoint a finance committee as provided by by-law. The town moderator shall have all the powers and duties provided that office by the General Laws, this charter, by-law or other town meeting vote.

Section 3-5 Trustees of the Stetson Fund

(a) Term of Office - There shall be a 3-member board of trustees of the Stetson School Fund elected by the voters for a term of 3 years, so arranged that the term of 1 member shall expire each year.

(b) Powers and Duties - Except as provided in subsection (a), the trustees shall be governed in accordance with the document titled, The Stetson Donation of a Town House and Fund for a high school to the town of Randolph, voted on February 18, 1843 and by article 18 of the special town meeting of November 13, 1996.

Section 3-6 Recall of Elected Officers

(a) Any holder of elective office, except a representative town meeting member, may be recalled therefrom by the registered voters of the town of Randolph as provided in this section.

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(b) Any 500 registered voters of the town of Randolph may file with the town clerk of said town an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The registrars of voters shall, within 5 days, certify thereon the number of signatures which are names of registered voters of the town. The town clerk shall, upon certification by the board of registrars, deliver to the first 10 persons named on the affidavit copies of petition blanks demanding such recall, copies of which shall be kept available. The blanks shall be issued by the town clerk with the clerk's signature and official seal attached thereto. The blanks shall be dated, addressed to the board of selectmen and contain the names of the 10 persons to whom they are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit and the demand for the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 21 days after the certification of the affidavit and shall have been signed by at least 20 per cent of the registered voters of the town who shall add to their signatures the street and number, if any, of their residences.

The town clerk shall, within 24 hours of receipt, submit the petition to the registrars of voters in the town and the registrars shall, within 14 days, certify thereon the number of signatures which are names of registered voters of the town.

(c) If the petition shall be found and certified by the registrars of voters to be sufficient, the registrars shall submit the same with their certificate to the board of selectmen without delay and the board shall, within 7 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 days thereafter, order an election to be held on a date fixed by them not less than 64 nor more than 90 days after the date of the registrars' certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within 100 days after date of certification, the board of selectmen shall postpone the holding of the recall election to the date of such other election.

If a vacancy occurs in such office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(d) An officer sought to be removed may be a candidate to succeed himself and, unless the officer requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. 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 General Laws relating to elections, unless otherwise provided in this charter.

(e) The incumbent shall continue to perform the duties of his office until the recall election. If the recall fails or the incumbent is re-elected, he shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in subsection (g). If not re-elected in the recall election, the officer shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within 5 days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

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(f) Ballots used in a recall election shall submit the following proposition in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Immediately at the right of each proposition, there shall be a square in which the voter, by making a cross mark "X", may vote for either proposition. Under the proposition there shall appear the word "Candidates," the direction to voters required by section 42 of chapter 54 of the General Laws and beneath this the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative, the ballots for candidates need not be counted.

(g) No recall affidavit shall be filed against an officer within 6 months after he takes office, nor in the case of an officer subject to a recall election, until at least 6 months after the election at which his recall was submitted to the voters.

ARTICLE 4 TOWN MANAGER

Section 4-1 Appointment, Qualifications, Term of Office

The board of selectmen shall appoint by a four-fifths vote a town manager for a period not longer than a 5-year term. The town manager shall be a person of proven administrative ability, especially qualified by education and training with at least 5 years full-time paid experience as a city or town manager, or an assistant city or town manager or the equivalent public or private sector level experience. The board of selectmen may, from time to time, establish such additional qualifications as it deems necessary and appropriate. The town moderator shall appoint a screening committee to assist in the recruitment and selection of the town manager. The screening committee shall present at least 3 candidates to the board of selectmen for consideration.

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 4-2 Powers of Appointment.

Except as otherwise provided by this charter and subject to the civil service law and any collective bargaining agreements as may be applicable, the town manager shall appoint, based upon merit and fitness alone, all department heads, officers, subordinates, employees and all appointed multiple-member bodies for whom no other method of selection is provided in this charter except employees of the school department.

Appointments made by the town manager shall become effective upon the approval of the board of selectmen; provided, however, that such approval is received within 15 days of filing such notice of appointment. If the board of selectmen shall fail to act, appointments

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made by the town manager shall become effective on the fifteenth day following the day on which notice of the proposed appointment is filed with the board of selectmen. For the purpose of this section, notice of appointment shall be considered filed with the board of selectmen when such notice is filed at an open meeting of the board of selectmen.

Department heads shall appoint all officers, subordinates and employees within their department subject to the approval of the town manager.

Section 4-3 Administrative 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 proper operation of town affairs for which the town manager is given responsibility under this charter. The powers, duties and responsibilities of the town manager shall include, but are not intended to be limited to, the following:

(a) To supervise, direct and be responsible for the efficient administration of all officers 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 this charter, by by-law, by town meeting vote, or by vote of the board of selectmen.

(b) To administer, either directly or through a person or persons supervised by the town manager, in accordance with this charter, the laws of the commonwealth 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 town manager and the board of selectmen with the activities of departments under the control of officers, boards or commissions elected directly by the voters of the town.

(d) To attend all regular and special meetings of the board of selectmen, unless excused.

(e) To attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and matters under the general supervision of the town manager.

(f) To keep the board of selectmen fully informed as to the needs of the town and recommend to the selectmen for adoption such measures requiring action by them or by the town as the town manager deems necessary or expedient.

(g) To insure 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.

(h) To be responsible for the management, rental, use, maintenance and repair of all town facilities and land, except those under the jurisdiction of the school committee, the board of library trustees and the conservation commission.

(i) To be responsible for the purchase of all supplies, materials and equipment, except books and other educational materials for schools and books and other media materials for libraries and approve the award of all contracts for all town departments with the exception of the school department, subject to the approval of the board of selectmen.

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(j) To develop and maintain a full and complete inventory of all town-owned real and personal property.

(k) To administer, in cooperation with the personnel board, if any, personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and all collective bargaining agreements entered into by the town, except for school department agreements.

(l) To fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan.

(m) To be responsible for the negotiation of all union and non-union contracts with town employees over wages and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties. Contracts shall be subject to the approval of the board of selectmen and such other approvals as required by chapter 150E of the General Laws.

(n) To prepare and submit an annual operating budget and capital improvement program as provided in article 6.

(o) To keep the board of selectmen and the finance committee fully informed as to the financial condition of the town and make recommendations to the board of selectmen and other elected and appointed officials as the town manager deems necessary or expedient.

(p) 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.

(q) To delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town manager is authorized to exercise. All acts performed under such delegation shall be deemed to be the acts of the town manager.

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

(s) To determine the existence of a public emergency or danger and shall assume responsibility for the maintenance of public safety, public order and enforcement of the laws of the commonwealth. The manager shall notify the chairman of the board of selectmen as soon as practical, but within 24 hours, of such a public emergency or danger and of the actions taken. Should the public emergency continue for more than 24 hours, the board of selectmen may meet to review, ratify or terminate the public emergency.

Section 4-4 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 as approved by town meeting.

Section 4-5 Vacancy in Office

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Any 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 or the filling of any vacancy, the board of selectmen shall forthwith appoint some other qualified person to perform the duties of the town manager. The appointment of the acting town manager shall be for a term not to exceed 4 months, provided however, that a renewal, not to exceed an additional 4 months may be provided.

Section 4-6 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. In the event of failure of the town manager 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 4-7 Removal of Town Manager

The person serving as town manager shall cease to be town manager upon expiration of his contract or term of office, which ever occurs earlier.

Earlier in time than the expiration described in the preceding sentence, the board of selectmen by affirmative vote of a four-fifths majority of the full board may vote to terminate, remove or suspend the town manager from office, in accordance with the following procedure:

Prior to removal or termination, the board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of the full board. 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 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 such a hearing is requested, the hearing shall be held at a meeting of the board of selectmen not later than 20 days from 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 affirmative vote of four-fifths 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 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 of four-fifths of its members.

The board of selectmen may suspend the town manager by an affirmative vote of a majority of the full board, pending and during any public hearing as requested by the town

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manager. The town manager shall continue to receive a salary until the final date of removal shall become effective unless the board of selectmen otherwise provides. The action of the board of selectmen in terminating, removing or suspending the town manager shall be final.

No contract of employment for a town manager shall be inconsistent with this section.

Section 4-8 Evaluation of Town Manager

There shall be an annual review of the town manager's job performance conducted by the board of selectmen.

ARTICLE 5 ADMINISTRATIVE ORGANIZATION

Section 5-1 Powers of Organization

Except as to types of reorganizations otherwise expressly prohibited by general law or the charter, the town manager, subject to the approval of the board of selectmen, may reorganize, create, consolidate or abolish committees, commissions, offices, departments and agencies under the supervision of the town manager, in whole or in part, may establish new committees, commissions, offices, departments and agencies as deemed necessary and may, for such purposes, transfer the duties and powers and so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of 1 committee, commission, office, department or agency to another.

ARTICLE 6 FINANCIAL PROVISIONS

Section 6-1 Annual Budget Policy

The board of selectmen and school committee shall meet and confer, prior to and during the budget process, to review the financial condition of the town, revenue and expenditure forecasts and other relevant information in order to develop a coordinated and balanced budget. The finance committee shall participate in the discussions with the board of selectmen and the school committee in an advisory capacity. The school superintendent and the town manager shall jointly develop guidelines consistent with policies developed by the board of selectmen and school committee.

Section 6-2 Budget Process

The town manager shall annually submit to the finance committee a proposed budget and capital improvement program for the ensuing fiscal year with an accompanying budget message and supporting documents before February first. The budget message submitted by the town manager shall explain the budget in fiscal terms and in terms of work programs for all town agencies. The budget message shall outline the proposed fiscal policies of the town for the ensuing fiscal year; describe important features of the proposed budget and indicate any major variations from the current budget, fiscal policies, expenditures and revenues, together with the reasons for such change. The proposed budget shall provide a complete

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fiscal plan of all town funds and activities and shall be in the form the town manager deems desirable.

The preliminary budget, as adopted by the school committee, shall be submitted to the town manager at least 14 days prior to the town manager submitting the proposed budget to the finance committee to enable the town manager to consider the effect of the school department's requested appropriation upon the total town budget which is required to be submitted under this section.

Section 6-3 Finance Committee Action

The finance committee shall, upon receipt of the budget and capital improvement program, consider in public meetings the detailed expenditures for each town agency proposed by the town manager. The finance committee may confer with representatives from any town agency in connection with its deliberations. The finance committee may request the town manager or any town agency to provide additional information. The finance committee shall file a proposed budget and report its recommendations for action 7 days prior to the date on which the town meeting is to act on the proposed budget. The budget to be acted upon by the town meeting shall be the budget proposed by the town manager with the accompanying recommendations of the finance committee.

Section 6-4 Capital Improvement Program and Long Term Financial Plan

The town manager shall, in conjunction with the capital planning committee, submit a capital improvement program to the board of selectmen and finance committee at the date fixed by by-law for the submission of the proposed operating budget unless some other time is provided by the laws of the commonwealth. Annually the board of selectmen, in conjunction with the town manager, shall prepare a 5-year financial forecast of town revenue, expenditures and the general financial condition of the town. The plan shall be submitted to the finance committee and shall be available to the public.

Section 6-5 Approval of Warrants

Warrants for payments of town funds prepared by the town accountant shall be submitted to the town manager for approval.

Section 6-6 Management of Town Funds

The treasurer shall be responsible for the management of all town funds.

Section 6-7 Annual Audit

The board of selectmen shall provide for an annual audit of the books and accounts of the town to be made by a certified public accountant, or firm of accountants, who have no personal interest, direct or indirect, in fiscal affairs of the town government or any of its offices.

ARTICLE 7 GENERAL PROVISIONS

Section 7-1 Charter Revision or Amendment

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(a) In General - This charter may be replaced, revised or amended in accordance with any procedure made available under the Constitution of the Commonwealth, or by general or special law.

(b) Periodic Review - The board of selectmen shall provide, in every year ending in a 0, for a review of the charter by the entire board and 6 additional persons to be appointed by the board. The committee shall file a report within the year recommending any changes in the charter which it may deem to be necessary or desirable, unless an extension is authorized by vote of the board of selectmen.

Section 7-2 Severability

The provisions of this charter are severable. If any of the provisions of this charter are held to be unconstitutional, or invalid, the remaining provisions of this charter shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstances is held to be invalid, the application of said charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 7-3 Rules of Interpretation

The following rules shall apply when interpreting the charter:

(a) Specific provisions to prevail. 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) Number and Gender. Words imparting the singular number may extend and be applied to several persons or things; words imparting the plural number may include the singular; words imparting the masculine gender shall include the feminine gender.

(c) References to General Laws. All references to the General Laws contained in the charter refer to the General Laws of the commonwealth and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections of any rearrangement of the general laws enacted subsequent to the adoption of the charter.

(d) Computation of time. Time shall be computed in accordance with the General Laws.

Section 7-4 Definitions

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meanings:

(a) "Charter", this charter and any amendments to it made through any methods provided under Article LXXXIX of the Amendments to the Constitution of the Commonwealth.

(b) "Majority vote", a majority of those present and voting, provided a quorum is present when a vote is taken, unless a higher number is required by the laws of the commonwealth, this charter, or by the town meeting's own rules.

(c) "Multiple-member body", any board, commission or committee but not including the board of selectmen, the school committee or the trustees of the Stetson Fund.

(d) "Town", the town of Randolph.

(e) "Town agency" or "agency", any board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

(f) "Voters", registered voters of the town.

ARTICLE 8

TRANSITIONAL PROVISIONS

Section 8-1 Continuation of Existing Laws

All by-laws, resolutions, rules, regulations and votes of the town meeting which are in force at the time this charter is adopted, not inconsistent with this charter, shall continue in full force until amended or repealed.

If provisions of this charter conflict with provisions of town by-laws, rules, regulations, orders and special acts and acceptances of general or special laws, the charter provisions shall govern. All provisions of town by-laws, rules, regulations, orders and special acts not superseded by this charter shall remain in force.

Section 8-2 Existing Officials and Employees

Any person holding a town office or employment under the town shall retain such office or employment and shall continue to perform the duties of the office until provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency.

Section 8-3 Continuation of Government

All town offices, boards, commissions or agencies shall continue to perform the duties therefore until re-appointed, re-elected, until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another town office, board, commission or agency.

Section 8-4 Transfer of Records and Property

All records, property and equipment whatsoever of any office, board, commission, committee or agency or part thereof, the powers and duties of which are assigned in whole or in part to another town office, board, commission or agency, shall be transferred forthwith to such office, board, commission or agency.

Section 8-5 Continuation of Personnel

Any person holding a town office, or a position in the administrative service of the town, or any person holding full-time employment under the town, shall retain such office or position or employment and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent, full-time service of the town shall forfeit his or her pay grade, or time in service of the town.

Section 8-6 Time of Taking Effect

This charter shall become fully effective upon ratification by the voters, except as otherwise provided in this section:

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(a) A special election for the purpose of electing 120 persons to serve as representative town meeting members, in the manner provided in article 2, shall be held within 180 days of the adoption of this charter. The term of office of persons so elected shall be extended so that the terms of office of the first third, in order of votes received, shall expire at the town election held in the fourth year following the year in which the charter is adopted; the terms of office of the second third, in such order of votes received, shall expire at the town election held in the third year following the year in which the charter is adopted; and the terms of office of the remaining third, in such order of votes received, shall expire at the town election held in the second year following the year in which the charter is adopted. At the expiration of terms of office, town meeting members shall be elected for terms of 3 years as provided in article 2. At the same election, 1 additional member of the school committee shall be elected. The additional school committee member shall serve a term that shall result in 2 members of the school committee being elected each year.

(b) Forthwith following the election at which the charter is adopted the town moderator shall initiate proceedings whereby a screening committee shall be established to review applicants for the position of town manager. The screening committee is to consist of 9 persons, representing as nearly as possible the town demographic and occupational base.

Not more than 30 days following the election at which this charter is adopted the 9 persons appointed as aforesaid shall meet to organize and to plan a process for the selection of the town manager.

The committee shall review and screen all applications and provide for interviews with such candidates for the position as it deems to be necessary.

Not more than 120 days following the date the committee meets to organize, the committee shall submit to the board of selectmen the names of not less than 3 nor more than 5 candidates for the position. Within 60 days following the date the list of nominees is submitted to it, the board of selectmen shall choose 1 of the nominees to be appointed to the office of town manager.

Upon the appointment of a town manager, the committee established hereunder shall be considered discharged. Until such time as another screening committee is established by by-law, a screening committee, as called for by the town moderator and members selected as herein provided, shall serve whenever the office of town manager shall become vacant.

(c) Upon the appointment of the town manager, the office of executive secretary shall be abolished.

(d) Until such time as the town manager is appointed, the board of selectmen shall exercise all the powers, duties and responsibilities necessary to insure orderly operation of town government.

(e) Upon the adoption of this charter, the incumbents serving in the office of treasurer-collector, town clerk and the incumbent assessor serving as a full-time assessor shall be subject to the town's personnel by-law and shall be granted all benefits and rights provided by such by-law. The incumbents shall be granted sick leave, vacation leave or other such leaves based upon the number of years the incumbents have served in an elective office

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and as an employee of the town of Randolph. Such incumbents shall be entitled to, and be credited with, retroactive sick leave at the rate of 9 days for each year of full-time service as an elected official and as an employee of the town.

(f) At the next annual town meeting following the adoption of this charter, the town moderator shall appoint a committee of 5 members to review town by-laws and report back to the town meeting with recommendations to bring by-laws into conformity with this charter.

(g) Unless otherwise provided by this charter, the composition and term of office of any town agency, board, commission, committee or department existing at the time of the adoption of this charter shall continue to exist until such time as a different form of organization is provided in accordance with the procedures made available under section 5-1.

(h) Unless otherwise provided by by-law, the personnel board shall continue to be composed of the same number of members as currently constituted; provided, however, that the appointments made by the selectmen shall, upon the expiration of the term of office of such members, or if a vacancy shall sooner occur, be made by the town manager.

(i) The moderator shall, as soon as practical, after the election of the representative town meeting appoint a 7-member committee to prepare a code of ethics for the town of Randolph. Said committee shall be composed of 1 elected town official, 1 appointed town official, 1 town employee and 4 voters at-large from the town. The code of ethics shall be applicable to all elected and appointed officials and town employees. The committee shall report back to the town meeting within 12 months after the committee has been appointed with a recommended code of ethics for consideration by the representative town meeting.

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

Approved March 9, 2009.

Chapter 3. AN ACT AUTHORIZING THE TOWN OF FRAMINGHAM TO ERECT A MAINTENANCE FACILITY.

Be it enacted, etc., as follows:

SECTION 1. The park and recreation commission of the town of Framingham may construct, maintain and use a maintenance facility on land located at the corner of Dudley road and Fountain street in said town.

SECTION 2. As a condition of the change to the park land authorized in section 1, the town of Framingham shall transfer a parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the park and recreation commission and such parcel shall be dedicated for park purposes. If no suitable parcel can be transferred to that commission, the town shall acquire a parcel of land or a conservation restriction, as defined in section 31 of chapter 184 of the General Laws, upon private or public land. Such land shall be dedicated or restricted to park purposes and

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under the jurisdiction of the park and recreation commission. The parcel of land dedicated pursuant to this section shall be of equal or greater size and value for park purposes to the portion of the parcel described in section 1.

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

Approved March 11, 2009.

Chapter 4. AN ACT REORGANIZING CERTAIN AGENCIES OF THE EXECUTIVE DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Section 16 of chapter 21 of the General Laws, as appearing in the 2006 Official Edition, is hereby repealed.

SECTION 2. Section 14 of chapter 21G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The orders shall include, but shall not be limited to, orders modifying, suspending or revoking permits, well driller certifications under section 20 of this chapter, and orders requiring persons to cease any activity which is in violation of the provisions of this chapter or any regulation adopted hereunder.

SECTION 3. Chapter 21G of the General Laws, as so appearing, is hereby amended by inserting after Section 19 the following section:-

Section 20. Persons engaged in business of digging or drilling wells; certification; reports

Section 20. No person shall engage in the business of digging or drilling wells within the commonwealth unless he has filed a certification with the department. Each person intending to engage in said business shall certify annually with said department and upon payment of a fee determined annually by the department shall be issued a certificate indicating that he is so certified. Said certification shall be sufficient authority for any said person to engage in the business of digging or drilling wells anywhere within the commonwealth and no further licensing or certification shall be required; provided, however, that nothing contained herein shall prohibit the appropriate local authority in any city or town from requiring any person engaged in the digging or drilling of private wells to obtain a site permit in accordance with terms and conditions which ensure health and safety and said city or town may charge said person a reasonable fee for said site permit as determined by the city or town.

Pursuant to chapter thirty A, the department shall adopt such regulations as it deems necessary to carry out the purposes of this section. Such regulations shall not be subject to section 3 of this chapter. Within thirty days after completion of any well by digging or drilling, the person engaged in the business of digging or drilling wells shall submit a report

to the department setting forth such information as may be required under said rules and regulations.

SECTION 4. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of conservation and recreation that relate to the administration and enforcement of the well driller registration program, as the transferor agency, to the department of environmental protection, as the transferee agency;

(b) To the extent that employees of the transferor agency, including those who were appointed immediately before the effective date of this act and who hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are transferred to the respective transferee agency, such transfers shall be effected without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any other general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of the transferor agency shall continue in effect but shall be assumed by the transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

Transfer of the Underground Storage Tank Program from the Department of Fire Services to the Department of Environmental Protection

SECTION 5. Sections 38A through 38I, inclusive, of chapter 148 of the General Laws, as appearing in the 2006 Official Edition, are hereby repealed.

SECTION 6. The General Laws, as appearing in the 2006 Official Edition, are hereby amended by inserting after Chapter 21N the following chapter:-

Chapter 21O OPERATION AND REMOVAL OF UNDERGROUND STORAGE TANKS

Section 1: Removal or relocation of underground flammable or combustible fluid tanks; permits; abandoned underground residential tanks

Section 1. No underground tank which has been used for the keeping or storage of flammable or combustible fluids shall be removed or relocated unless a permit for such removal or relocation has first been obtained from the state fire marshal or the official designated by it to grant permits in the city, town or district where such tank is located. If the permit is issued by an official of a city, the fee for such permit shall be established by action of the city council or board of aldermen in the form of a duly adopted ordinance.

If the permit is issued by an official of a town, the fee for such permit shall be established by action of the town meeting or, if the town has no town meeting, by action of the town council, in either case in the form of a duly adopted bylaw. In no event shall any such ordinance or bylaw establish a fee greater than two hundred dollars nor require payment of such fees by the commonwealth or any of its departments, boards, commissions, authorities, or political subdivisions.

The board of fire prevention regulations may from time to time, adopt, amend or repeal regulations, in accordance with the provisions of chapter thirty A, to insure that the removal, abandonment, or decommissioning of underground storage tanks which have been used for the keeping or storage of flammable or combustible fluids is done in a manner which protects public health, safety, welfare and the environment. Any violation of any regulation adopted by the board shall be presumed to constitute irreparable harm to public health, safety, welfare and the environment. Any person who violates any provisions of this section or any regulation, rule, order, permit or approval issued or adopted under the provisions of this section shall be subject to the penalties specified in section eight; provided, however, that such person shall have thirty days upon notification of the violation to begin compliance procedures with such provisions before any penalty may be imposed.

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Upon abandonment of a tank, notice of such abandonment shall be reported to the board of health for the city or town in which such tank is located.

Section 2: Notification of operation of underground storage tanks; definitions

Section 2. As used in sections 3 through 9, the following terms shall have the following meanings:

"CERCLA", the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, 12 U.S.C. section 9601 et seq., as may be amended from time to time.

"Department", the department of environmental protection.

"Guarantor", any person, other than a person liable pursuant to section five of chapter twenty-one E, who provides evidence of financial responsibility pursuant to this chapter.

"Regulated Substance", (a) any substance defined in section 101(4) of the Comprehensive Environmental Response Compensation and Liability Act of nineteen hundred and eighty, including waste oil but not including any other substance regulated as a hazardous waste under chapter twenty-one C, and (b) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute).

"Operator", (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person in control of, or having responsibility for, the daily operation of an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owns the land on or in which such tank is or was located.

"Owner", (1) in the case of an underground storage tank in use on November eighth, nineteen hundred and eighty-four, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances or (2) in the case of any underground storage tank in use before November eighth, nineteen hundred and eighty-four, but not in use at any time on or after that date, any person who owned such tank immediately before the discontinuance of such use.

"Person", any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the United States Government, state, municipality, commission, political subdivision of a state, interstate body, consortium, joint venture, commercial entity.

"RCRA", the Solid Waste Disposal Act, as revised by the Resource Conservation and Recovery Act, as may be further amended from time to time.

"Release", any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into the ground water, surface water or subsurface soil.

"Head of Fire Department" the chief executive officer of the fire department in a city,

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town or fire district having such an office otherwise the fire commissioner, board of fire commissioners or fire engineers and, in towns not having a fire department the chief engineer, if any, otherwise the chairman of the board of selectmen.

"Trade Secret", anything tangible which constitutes, represents, evidences, or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention, or improvement.

"Underground storage tank", any one or combination of tanks, including, without limitation, underground pipes connected thereto, used to contain an accumulation of regulated substance and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term shall not include any of the following or any pipes connected to any of the following: (1) any septic tank; or (2) any pipeline facility, including gathering lines, which is regulated under (a) the Natural Gas Pipeline Safety Act of nineteen hundred and sixty-eight; or (b) the Hazardous Liquid Pipeline Safety Act of nineteen hundred and seventy-nine; or (3) any surface impoundment pit, pond, or lagoon; or (4) any storm water or waste water collection system; or (5) any flow through process tank; or (6) any liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or (7) any storage tank situated in an underground area, including without limitation, a basement, cellar, or mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor, and all sides are accessible and visible.

Section 3: Notification of operation of underground storage tanks; requirements; exceptions

Section 3. Nothing in this chapter shall be construed to limit the authority that the department, the head of a fire department, any other department or agency of the Commonwealth, or a city, town, district, or other body politic has pursuant to any law.

(1) Each owner of an underground storage tank first put into operation on or after January first, nineteen hundred and ninety-one shall, within thirty days after the tank is first put into operation, notify the department of the existence of such tank, specifying the age, size, type, location, and uses of such tank. The requirements of this subsection (1) shall not apply to any underground storage tank that is (a) a farm or residential tank of one thousand and one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive purposes where stored. In prescribing the form of such notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(2) The requirements of this subsection (2) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than January thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was in operation at any time after January first, nineteen hundred and seventy-four and before January first,

nineteen hundred and ninety-one, regardless of whether or not such tank was removed from beneath the surface of the ground at any time, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the quantity of substances stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department, such notice shall also specify, to the extent known to the owner, the date the tank was removed from beneath the surface of the ground, prior to the submittal of such notice to the department. In prescribing the form of such notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

(3) The requirements of this subsection (3) shall not apply to any underground storage tank that is (a) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes, or (b) a tank used for storing heating oil for consumptive use on the premises where stored. By no later than December thirty-first, nineteen hundred and ninety-one, each owner of an underground storage tank that was not in operation at any time after January first, nineteen hundred and seventy-four and that was not removed from beneath the surface of the ground on or before January first, nineteen hundred and seventy-four, or the operator of any such tank that has no owner or whose owner cannot be definitely ascertained, shall notify the department of the existence of such tank, specifying, to the extent known to the owner, the size, type, and location of the tank, and the type and quantity of substance stored in such tank before the tank ceased being in operation if the tank was removed from beneath the surface of the ground. If the tank was not removed from beneath the surface of the ground prior to the submittal of such notice to the department such notice shall also specify, to the extent known to the owner or operator, the date the tank was removed from beneath the surface of the ground and age of the tank and all methods used to stabilize the tank after the tank ceased being in operation. In prescribing the form of the notice, the department shall take into account the form of the notice prescribed pursuant to section 9002 of RCRA and the effect on small businesses and other owners and operators.

Section 4: Notification of operation of underground storage tanks; enforcement; safety regulations

Section 4. The department shall enforce the provisions of this chapter and may, subject to the provisions contained herein, take all action necessary and appropriate to secure to the commonwealth the benefits of subtitle I of RCRA, including without limitation, obtaining federal grants. The department may, from time to time, adopt, amend, or repeal regulations as it deems necessary to accomplish the following purposes: (1) provide for the safe storage, use, handling and manufacturing of regulated substance(s) in or about any underground storage tank; or (2) protect public health, safety, and welfare, and the environment, from any release of a regulated substance from any underground storage tank; or (3) implement, administer, and enforce any provisions of this chapter.

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Section 5: Notification of operation of underground storage tanks; regulations for requirements and standards of tanks

Section 5. The department may, from time to time, adopt, amend, or repeal regulations, as it deems necessary to establish the following requirements and standards for underground storage tanks:

(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with protection of human health and the environment;

(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

(3) requirements for reporting of any releases and corrective action taken in response to a release from an underground tank;

(4) requirements for taking corrective action in response to a release from an underground storage tank; provided, that such requirements shall be consistent with and not duplicative of the Massachusetts Contingency Plan pursuant to chapter twenty-one E;

(5) requirements for the closure of tanks to prevent future releases of regulated substance into the environment;

(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental release arising from operating an underground storage tank;

(7) standards of performance for new underground storage tanks; and

(8) requirements (a) for notifying the department and the head of the fire department designated according to section 9002-(b) (1) of the existence of any operational or nonoperational underground storage tank; and (b) for providing the information required on the form issued pursuant to section 9002 (b) (2).

Section 6: Notification of operation of underground storage tanks; furnishing information; inspections

Section 6. For any of the purposes set forth in this chapter, and for the purposes of developing or assisting in the development of any regulation pursuant to this chapter, or conducting any study mandated by Congress or by the General Court, any owner or operator of an underground storage tank shall upon request of the department, the head of the fire department, and their personnel or authorized agents, furnish information relating to such tanks, their associated equipment and their contents, conduct monitoring or testing, and permit the department, the head of the fire department, and their personnel or authorized agents, to have access to, and to copy all records relating to, such tanks. For any of the purposes set forth in section four, and for the purposes of developing or assisting in the development of any regulation pursuant to this chapter, or conducting any study mandated by Congress or by the General Court, the department, the head of the fire department, and their personnel or authorized agents, are authorized (1) to enter at reasonable times any establishment or other place where an underground storage tank is located; and (2) to inspect

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and obtain samples from any person of any regulated substance contained in such tank; and (3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water. Each such inspection shall be commenced and completed with reasonable promptness.

Section 7: Notification of operation of underground storage tanks; violation prevention; orders

Section 7. Whenever it appears that there is a violation of any provision of this chapter or any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, the department or head of the fire department may issue to a person causing or contributing, or likely to cause or contribute, to such violation or potential violation an order requiring the production or analysis of samples, or the production of records, or imposing such restraints on or requiring such action by said person, as the department or the head of the fire department reasonably deems necessary or desirable to abate or to prevent such violation or potential violation. Issuance of an order under this section shall not preclude, and shall not be deemed an election to forego, any other remedy authorized by law.

Section 8: Notification of operation of underground storage tanks; violation of statutes; penalties

Section 8. No person shall violate, or allow or suffer any employee, agent, or contractor to violate, any provision of this chapter, or of any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter. Any violation of any provision of this chapter, or of any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter shall be presumed to constitute irreparable harm to public health, safety and welfare, and to the environment. Such presumption may be rebutted by the introduction of competent evidence. Any person who violates any provisions of this chapter, or any regulation, rule, order, permit or approval issued or adopted under the provisions of this chapter, (a) shall be punished by a fine not to exceed twenty-five thousand dollars, or by imprisonment for not more than two years, or both; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each such violation. Each day each such violation occurs or continues shall be deemed a separate offense. This shall be in addition to any other penalty or remedy prescribed by law.

The superior court department of the trial court shall have jurisdiction to assess civil penalties as set forth in this section, and to enjoin violations of, and grant such additional relief as it deems necessary or appropriate to secure compliance with, the provisions of this chapter, or any regulation, rule, order, permit or approval adopted or issued pursuant to this chapter, upon petition of the attorney general, a district attorney, the department, the head of the fire department, or a city or town.

Section 9: Notification of operation of underground storage tanks; confidentiality of information; exclusivity of remedy

Section 9. Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department or by the head of the fire department or by their respective personnel or contractors pursuant to

the provisions of this chapter, upon request, shall be confidential and not be considered to be a public record when it is determined by the department or by the head of the fire department, as the case may be, that such information, record, or particular part thereof, if made public, would divulge a trade secret. This section shall not prevent disclosure of any information necessary for an enforcement action or to comply with Federal law or regulations. The exclusive remedy for any person aggrieved by a determination of the department or of the head of the fire department, as the case may be, pursuant to this section shall be a civil action in the nature of certiorari pursuant to section four of chapter two hundred and forty-nine; provided, that the action shall be commenced within thirty days of the date of the determination. Notwithstanding the provisions of any general or special law to the contrary, any information, record, or particular part thereof, obtained by the department, or by the head of the fire department or by their respective personnel or contractors pursuant to the provisions of this chapter shall be a public record unless it is not a public record pursuant to this section or pursuant to any other law.

SECTION 7. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of fire services and the board of fire prevention regulations that relate to the administration and enforcement of the underground storage tank program, previously codified as sections 38A through 38I, inclusive, of chapter 148 of the General Laws, as the transferor agency, to the Department of Environmental Protection, as the transferee agency.

(b) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(c) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(d) All books, papers, records, documents, and equipment, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

Transfer of the Home Improvement Contractor Program from the Department of Public Safety to the Office of Consumer Affairs and Business Regulation

SECTION 8. Section 1 of chapter 142A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of "Administrator."

SECTION 9. Section 2 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 31, 32 and 33, the word "administrator" and inserting in place thereof the following word:- director.

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SECTION 10. Section 7 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 27 and 28, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 11. Section 9 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “bureau of building regulations and standards” and inserting in place thereof the following words:- office of consumer affairs and business regulation.

SECTION 12. Section 9 of chapter 142A, as so appearing, is hereby further amended by striking out, in line 5, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 13. Section 10 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 14. Section 11 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 26, 31, 35, 37, 39 and twice in line 13, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 15. Section 12 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3 and 20, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 16. Section 13 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 10, 11, 13, 17, 19, and 20, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 17. Section 15 of chapter 142A, as so appearing, is hereby amended by striking out, in line 2, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 18. Section 15 of chapter 142A, as so appearing, is hereby further amended by striking out, in lines 2 and 3, the words “upon recommendation by the advisory board and”.

SECTION 19. Section 16 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 20. Section 17 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 3, 4, and 35, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 21. Section 17 of chapter 142A, as so appearing, is hereby further amended by striking out, in line 45, the words “administrator or fund administrator” and inserting in place thereof the following words:- director or fund administrator.

SECTION 22. Section 18 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 2, 3, 4, 6, 11, and 12, the word “administrator” and inserting in place thereof the following word:- director.

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SECTION 23. Section 20 of chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 10, the word “administrator” and inserting in place thereof the following word:- director.

SECTION 24. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

(1) the functions of the department of public safety and the board of building regulations and standards that relate to the administration and enforcement of the home improvement contractor program, as the transferor agency, to the office of consumer affairs and business regulation, as the transferee agency;

(b) The employees of the transferor agency, including those who were appointed immediately before the effective date of this act and who hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding any other general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

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(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of the transferor agency shall continue in effect but shall be assumed by the transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

Transfer of the State Racing Commission to the Division of Professional Licensure

SECTION 25. Chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 48 and inserting in place thereof the following section:-

Section 48. There shall be within the division of professional licensure a commission to be known as the state racing commission, in this section and in chapters 128A and 128C inclusive called the commission. The commission shall be deemed a board serving in the division of professional licensure, within the meaning of sections 8, 9, 9A, 9B and 9C of chapter 13.

The commission shall consist of three commissioners, a chairman and two associate commissioners, all to be appointed by the governor and serve coterminous with him. Not more than two of such commissioners shall be of the same political party. The day-to-day operations and general administration of the commission, including all administrative functions of the commission and all actions not expressly required by statute or regulation to be carried out by the commission itself, shall, at the direction and under the control of the director of the division of professional licensure, be under the supervision of an executive director, who shall be appointed by the director of the division of professional licensure with the approval of the director of consumer affairs and business regulation. The executive director shall devote his full time during business hours to his duties hereunder. The director of the division of professional licensure may employ, as employees of the division of professional licensure, such other persons, in addition to the aforementioned executive director, as the director of the division of professional licensure may determine to be necessary to carry out such day-to-day operations and general administration of the commission.

Each commissioner shall hold office until the appointment and qualification of his successor. The governor may remove any commissioner for cause and shall fill any vacancy for the unexpired term. Whenever any action by the commission is required to be in writing, such writing shall be sufficient when signed by the commission chairman.

The commission shall make an annual report in January of each year to the general

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court. That report shall include the following information with respect to the previous calendar year: statements of monies deposited in the Running Horse Capital Improvements Trust Fund and the Running Horse Promotional Trust Fund, each established under section 11 of chapter 494 of the acts of 1978, the Harness Horse Capital Improvements Trust Fund and the Harness Horse Promotional Trust Fund, each established under section 12 of said chapter 494, together with a detailed account of monies disbursed from the funds, the specific capital improvements and promotions for which the disbursements were intended, and a report on which of the improvements and promotions have been accomplished; a statement of racing dates awarded to licensees, including those awarded in connection with a state or county fair; and a statement of the total amounts wagered at each race track, together with the monies paid to the commonwealth and the commission, purses paid to horse owners and monies retained by each licensee, together with a statement of the net profit of each licensee taken from the financial statements filed under section 6 of chapter 128A. Copies of the report shall be transmitted to the governor, the president of the senate, the speaker of the house of representatives, the chairmen of the house and senate committees on ways and means, the joint committee on government regulations and the joint committee on taxation.

SECTION 26. Section 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “the state racing commission,”.

SECTION 27. Subsection (c) of section 16G of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 18, the words “the state racing commission,”.

SECTION 28. Section 22B½ of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 25 and 26, the words “Massachusetts Racing Commission,”.

SECTION 29. Subsection (b) of section 9 of chapter 13 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “chapter”, in line 9, the following words:- , as well as the state racing commission established by section 48 of chapter 6,.

SECTION 30. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby amended by inserting after the word “chapter”, in line 47, the following words:- , as well as the state racing commission established by section 48 of chapter 6,.

SECTION 31. Subsection (e) of section 9B of chapter 13, as so appearing, is hereby further amended by inserting after the word “chapter”, in line 49, the following words:- or regulated by the state racing commission, as established by section 48 of chapter 6.

SECTION 32. Subsection (b) of section 1 of chapter 24A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 22, the words “the state racing commission;”.

SECTION 33. Section 7 of chapter 30 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 8 and 9, the words “the alcoholic beverages control commission and the state racing commission” and inserting in place thereof the following words:- and the alcoholic beverages control commission.

Consolidation of Homeless Shelter Programs Under the Department of Housing and Community Development

SECTION 34. Section 2 of chapter 18 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the words “as needed”, in line 10, the following words:- except with respect to housing needs as provided for under section 30 of chapter 23B.

SECTION 35. Section 2 of chapter 18, as so appearing, is hereby further amended by striking out lines 94 through 138.

SECTION 36. Section 2 of chapter 18, as so appearing, is hereby further amended by inserting, in line 139, at the beginning of the sentence, the following word:- (D).

SECTION 37. Chapter 23B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 29 the following section:-

Section 30. Subject to appropriation, the department shall administer a program of emergency housing assistance to needy families with children and pregnant woman with no other children. The commonwealth shall accept funds from the appropriate federal authorities for said program.

(A) The department shall promulgate rules and regulations to establish the levels of benefits available under the program and to ensure simplicity of administration in the best interest of needy recipients. Such benefits shall include, but not be limited to, the following:-

(a) for the prevention of the loss of housing, the actual liability up to three times the monthly rental or mortgage liability;

(b) for the prevention of utility shutoffs or for the resumption of utility services, up to three months of the actual service liabilities;

(c) for the provision of home heating assistance, up to three months of the actual fuel liabilities.

(d) The department shall promulgate regulations which would authorize the department to make payments for a fourth month of rent, utility or fuel arrearages if the director certifies in writing that the family would otherwise become homeless, or be without utilities or fuel.

(e) for the prevention of homelessness, temporary shelter as necessary to alleviate homelessness when such family has no feasible alternative housing available, storage of furniture for up to thirty days; moving expenses; advance rent payments of one month's rent; and security deposit not to exceed one month's rent.

The department shall establish procedures, consistent with federal law, to require applicants for the program to also submit an application for federal energy assistance where appropriate. No benefits for a particular emergency shall be provided to an applicant family under the emergency assistance program when benefits are available within seven days of

application under the federal assistance program to meet such particular emergency.

(B) The department shall promulgate rules and regulations to establish the requirements and standards for eligibility. Subject to appropriation, such regulations shall provide that a needy family shall be eligible for assistance under the emergency assistance program if its income is within the income limits for the program of aid to families with dependent children established pursuant to chapter one hundred and eighteen.

Emergency housing assistance shall not be granted to a family who, but for the assignment or transfer of real or personal property at any time within one year immediately prior to the filing of an application for emergency housing assistance, would not be eligible for such assistance.

The department shall take all reasonable actions to minimize abuse and errors. Such activities shall include:-

- (a) the collection and analysis of data regarding utilization patterns;
- (b) the recording and tracking of use of this program by individual recipients, including, but not limited to, the utilization of a year to year cross check of recipients to determine if a person or persons has received similar benefits in the previous year or years;
- (c) the utilization by the department of mechanisms, such as payment of all or part of a regular assistance grant directly to vendors, to prevent the misuse of this program, provided, however, that such mechanisms are authorized under federal or state law;
- (d) the utilization of wage reporting and bank matching systems, provided, however, that the provision of assistance shall not be delayed by such utilization;
- (e) the verification of all elements of eligibility. Such verification requirements, including home visits by workers assigned to recipients, shall be reasonable and in accordance with federal law and regulations, where applicable. The department shall determine which verification requirements can be reasonably met by third party affidavits and shall provide notification to recipients and applicants of the circumstances when third party affidavits may be used. The department shall establish reasonable procedures for the verification of continuing eligibility, including monthly reporting and retrospective budgeting where appropriate.

(C) Subject to federal approval of any necessary waivers, the department shall use the warrant management system established pursuant to section twenty-three A of chapter two hundred and seventy-six; and, in accordance with section 11 of chapter 14 and the rules and regulations of the fraudulent claims commission, the department shall forward the name of any applicant or beneficiary of emergency housing assistance who, according to said warrant management system, has an outstanding default or arrest warrant issued against him; and the department shall comply with existing state and federal law applicable to time standards for review and determination of eligibility, and all notice and hearing requirements afforded to applicants and beneficiaries under its emergency housing assistance programs; and

The department shall not issue a check or grant any benefits of any kind to or on behalf of an applicant for or recipient of emergency housing assistance benefits against whom an outstanding default or arrest warrant has issued by any court of the commonwealth.

Evidence of the outstanding default or arrest warrant appearing in said warrant management system shall be sufficient grounds for such action by the department.

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

(D) Any person or institution which knowingly makes a false representation or, contrary to a legal duty to do so, knowingly fails to disclose any material fact affecting eligibility or level of benefits to the department or its agents, for the purpose of causing any person, including the person making such representations, to be eligible for emergency housing assistance, shall be punished by a fine of not less than two hundred nor more than five hundred dollars or by imprisonment for not more than one year.

Nothing in this section shall be construed as preventing the institution of criminal proceedings for the violation of any other law of the commonwealth.

(E) Any vendor under the emergency housing assistance program administered by the department shall submit to the department, within six months of the last day of the month in which such service was rendered, a bill for the same. For the purposes of this chapter a vendor shall be any person or institution providing services in connection with any assistance program administered by the department. All vouchers submitted by a vendor shall be signed under the penalties of perjury.

(F) There shall be within the office of the chief counsel a division of hearings for the purpose of holding the hearings referred to herein and rendering decisions. Said division shall be under the supervision of a hearings manager appointed by the director and shall be independent of all other divisions and personnel of the department.

Any person aggrieved by the failure of the department to render adequate aid or assistance under the emergency housing assistance program administered by the department or to approve or reject an application for aid or assistance thereunder within forty-five days after receiving such application, or aggrieved by the withdrawal of such aid or assistance, or by coercive or otherwise improper conduct on the part of the emergency housing assistance program staff, shall have a right to a hearing, after due notice, upon appeal to the director.

A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager at a location convenient to the person appealing and shall be conducted as an adjudicatory proceeding under chapter thirty A. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and for the training of hearing officers, scheduling of hearings and the compilation of decisions. No employee other than the hearings manager shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The decision of the hearing officer shall be the decision of the department.

A hearing officer shall render and issue his decision within ninety days after the date of the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the rejection of his application for aid or assistance, or the failure to act on said application, or the failure of the department to render assistance to meet an emergency or hardship situation, the hearing officer shall render and issue the decision within forty-five days after the date of filing of said appeal. The decision of the department shall be subject to review in accordance with the provisions of chapter thirty A.

When a timely request for a hearing is made because of a termination or reduction of assistance that has been provided on the basis of a final determination of eligibility, involving an issue of fact, or of judgment relating to an individual case, between the agency and the appellant, assistance shall be continued during the period of the appeal. If the decision is adverse to the appellant, assistance shall be terminated immediately. If assistance has been terminated prior to a timely request for a hearing, assistance shall be reinstated.

SECTION 38. To the extent that employees of the department of transitional assistance are transferred to the department of housing and community development in connection with sections 34 through 37 of this Act, any collective bargaining agreement in effect immediately before the transfer of any such employees pursuant to the foregoing shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of any such reassigned employee who, immediately before the effective date of this act, either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer.

Transfer of Wage Reporting from the Department of Revenue to the Division of Unemployment Assistance

SECTION 39. Section 1 of chapter 62E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 4, the words "section 9 of chapter 14" and inserting in place thereof the following words:- section 16 of chapter 11.

SECTION 40. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the sixth paragraph, the definition of "Employer" and inserting in place thereof the following definition:-

"Employer", an employing unit subject either to chapter 151A, section 14P, or to chapter 62B.

SECTION 41. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the seventh paragraph, the definition of "Employee" and inserting in place thereof the following definition:-

"Employee", an individual employed by an employer subject either to chapter 151A or to chapter 62B.

SECTION 42. Section 1 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last paragraph, the definition of "Reporting system" and inserting in place thereof the following three definitions:-

"Reporting systems", the wage reporting system, new hire and other reporting systems established in section 2, and financial institution match system established in section 4.

"Wage records", reports submitted by employers to the Director of the Division of Unemployment Assistance pursuant to chapter 151A, section 14P.

"Wage reporting system", a system of wage records that are provided by the Director of the Division of Unemployment Assistance to the Commissioner pursuant to an interagency agreement.

SECTION 43. Section 2 of chapter 62E, as so appearing, is hereby amended by striking out the first two sentences.

SECTION 44. Section 2 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 10, the words ", in addition,".

SECTION 45. Section 2 of chapter 62E, as so appearing, is hereby further amended by striking out the last three sentences and inserting in place thereof the following:- The commissioner shall, by regulation, prescribe the timing, the form, and the manner of such reports and the information to be provided in the reports, which may include disclosure of the existence of an outstanding child support order. All such reports shall be part of the reporting systems.

SECTION 46. Chapter 62E, as so appearing, is hereby further amended by inserting after section 2 the following section:-

Section 2A. Notwithstanding any other provision of this chapter, the new hire reporting requirements of this chapter and the penalties associated with the failure to comply with those requirements shall apply to any entity electing to report new hire information to the Commonwealth pursuant to the multistate employer provisions of 42 U.S.C. § 653a(b)(1)(B).

SECTION 47. Section 3 of chapter 62E, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "The commissioner shall design, develop, implement and operate a wage reporting and financial institution match system:" and inserting in place thereof the following:- The commissioner shall design, develop and implement a financial institution match system and shall operate the reporting systems:

SECTION 48. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words "an entitlement" and inserting in place thereof the following words:- a public benefit.

SECTION 49. Section 3 of chapter 62E, as so appearing, is hereby further amended

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by striking out, in lines 8 and 9, the words “for free care services made from the uncompensated care pool pursuant to section 18 of chapter 118G” and inserting in place thereof the following words:- made from the health safety net trust fund.

SECTION 50. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 16, the word “system” and inserting in place thereof the following word:- systems.

SECTION 51. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 23, the word “system” and inserting in place thereof the following word:- systems.

SECTION 52. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out the second to last sentence and inserting in place thereof the following sentence:- Such information shall be utilized in the reporting systems as a post audit mechanism for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in public benefits provided by agencies of the commonwealth.

SECTION 53. Section 3 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence, the words “this reporting system” and inserting in place thereof the following words:- the reporting systems.

SECTION 54. Section 3 of chapter 62E, as so appearing, is hereby further amended by adding after the existing text the following new paragraph:-

The provisions of this chapter do not apply to the utilization and dissemination of wage records by the Division of Unemployment Assistance.

SECTION 55. Section 4 of chapter 62E, as so appearing, is hereby amended by striking out paragraph (f) and inserting in place thereof the following paragraph:-

(f) All reports under this section shall be part of the reporting systems.

SECTION 56. Section 5 of chapter 62E, as so appearing, is hereby amended by striking out, in the first sentence, the words “to him under the reporting system” and inserting in place thereof the following words:- under the reporting systems.

SECTION 57. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in line 3, the words “system” and inserting in place thereof the following word:- systems.

SECTION 58. Section 5 of chapter 62E, as so appearing, is hereby further amended by inserting, at the end of the second sentence, the following words:- , or other information as determined by the commissioner.

SECTION 59. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in the third sentence, the words “presented in accordance” through the end of the sentence and inserting in place thereof the following words:- , including consultation with the recipient whose status is in question.

SECTION 60. Section 5 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence, the word “system” and inserting in place thereof the following word:- systems.

SECTION 61. Section 6 of chapter 62E, as so appearing, is hereby amended by striking out, in lines 4 through 13, the words “in accordance with regulations” and all that follows through the end of the section.

SECTION 62. Section 6B of chapter 62E, as so appearing, is hereby amended by striking out, in line 3, the words “, pursuant to procedures established by said commission,”.

SECTION 63. Section 7 of chapter 62E, as appearing, is hereby amended by striking out, in lines 1 and 8, the words “administering departments” and inserting in place thereof the following words:- commissioner and the administering department.

SECTION 64. Section 7A of chapter 62E, as so appearing, is hereby amended by striking out, in lines 1 through 3, the words “wage reporting data compiled by the department from the quarterly reports filed by employers” and inserting in place thereof the following words:- reporting systems.

SECTION 65. Section 8 of chapter 62E, as so appearing, is hereby amended by striking out, in line 8, the word “system” and inserting in place thereof the following word:- systems.

SECTION 66. Section 9 of chapter 62E, as so appearing, is hereby amended by striking out, in line 15, the word “treasurer” and inserting in place thereof the following word:- person.

SECTION 67. Section 10 of chapter 62E is hereby repealed.

SECTION 68. Section 11 of chapter 62E, as appearing in the 2006 Official Edition, is hereby amended by striking out, in the first sentence, the words “establish a program of wage and financial institution information sharing” and inserting in place thereof the following words:- share reporting system information.

SECTION 69. Section 11 of chapter 62E, as so appearing, is hereby further amended by striking out, in the third sentence, the words “wage reporting system” and inserting in place thereof the following words:- reporting systems.

SECTION 70. Section 11 of chapter 62E, as so appearing, is hereby further amended by striking out, in the fourth sentence, the words “wage and financial institution information” and inserting in place thereof the following words:- reporting system information.

SECTION 71. Section 12 of chapter 62E, as so appearing, is hereby amended by striking out, in the first sentence, the words “wage and financial institution information data” and inserting in place thereof the following words:- reporting system information.

SECTION 72. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the first sentence of the second paragraph, the words “wage reporting system” and inserting in place thereof the following words:- reporting systems.

SECTION 73. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the second sentence of the second paragraph, the words “wage reporting and financial institution match system” and inserting in place thereof the following words:- reporting systems.

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SECTION 74. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the second sentence of the second paragraph, the words “relating to administration of the tax laws, public assistance programs of the commonwealth or any political subdivision thereof or their respective agencies, workers’ compensation laws or the child support enforcement program of the commonwealth;”.

SECTION 75. Section 12 of chapter 62E, as so appearing, is hereby further amended by striking out, in the last sentence of the second paragraph, the words “wage reporting data” and inserting in place thereof the following words:- reporting system information.

SECTION 76. Section 13 of chapter 62E, as so appearing, is hereby repealed.

SECTION 77. Section 14G of chapter 151A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (g).

SECTION 78. Chapter 151A, as so appearing, is hereby further amended by adding after section 14 O the following new section:-

Section 14P. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

- (1) “Director”, the director of the division of unemployment assistance.
- (2) “Division”, the division of unemployment assistance.
- (3) “Employee”, any individual employed by an employer subject either to this chapter or to chapter sixty-two B.
- (4) “Employer”, any employing unit subject either to this chapter or to chapter sixty-two B.

(b) All employers who are or become either subject to the provisions of this chapter or subject to the provisions of chapter sixty-two B shall register with the division in the time, form and manner as may be prescribed by the director.

(c) Beginning with the calendar quarter ending December 31, 2009, every employer as defined in this section shall, for each calendar quarter, submit in the time, form and manner as may be prescribed by the director a report containing, but not limited to, the following information for each employee: name, social security number, wages paid as defined in section 1(s) of this chapter, hours worked, total amount of taxes withheld under the provision of chapter sixty-two B and the amount of wages as defined in section 1 of chapter sixty-two B upon which the withholding was based, the identification number assigned the employer by the division, the corresponding federal employer identification number and the identification number such employer is required to include on a withholding tax return filed pursuant to chapter sixty-two B. The report also shall include the count of all employees as defined in section 1(h) of this chapter who worked during or received wages as defined in section 1(s) of this chapter for the pay period which includes the twelfth day of each month of the applicable quarter. The report shall be submitted quarterly according to a schedule prescribed by the director. The report shall be deemed submitted when received by the division.

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(d) The director may require by regulation an employer to submit the report specified in subsection (c) using a form and means of electronic transmittal as prescribed by the director.

The regulation may include penalties for failure to comply with the filing requirements.

(e) If an employer fails to file any report or form required by this section or section 14G of this chapter within fifteen days from the date on which the director has mailed to such employer a demand for such report or form, the director may assess upon such employer a penalty as follows:

WORKFORCE SIZE	PENALTY AMOUNT
0-4	\$25.00
5-9	\$100.00
10-49	\$250.00
50-99	\$500.00
100-499	\$1,000.00
500 and up	\$2,500.00

The director shall determine the applicable workforce size by taking an average of the monthly employment count reported by the employer as required by subsection (c) for the most recent quarter; provided that, if the employer has not filed any reports required by subsection (c), the director may determine the applicable workforce size from any available information. Each such failure to file shall constitute a separate and distinct offense.

(f) The director shall provide information secured under this section to the commissioner of the department of revenue pursuant to an interagency agreement between the division and the department of revenue. The commissioner of the department of revenue may provide such information pursuant to an interagency agreement with other governmental entities as specified in chapter sixty-two E or as otherwise provided by statute. The director is authorized to provide information secured under this section to other entities pursuant to an agreement which is consistent with the provision of 20 CFR Pt 603.

(g) Information secured pursuant to this section may be used as part of the Wage Record Interchange System established and implemented to carry out the provisions of the Workforce Investment Act of 1998.

(h) Except where inconsistent with the provisions of this section, the provisions of this chapter, including the rules and regulations adopted under this chapter, shall apply to the requirements of this section.

(i) The director shall promulgate regulations necessary to implement this section.

SECTION 79. Subsection (a) of section 15 of chapter 151A, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 80. Sections 1 through 4 of this Act shall take effect October 1, 2009.

SECTION 81. Sections 5 through 24 of this Act shall take effect July 1, 2009.

SECTION 82. Sections 25 through 33 of this Act shall take effect January 1, 2010.

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SECTION 83. Sections 34 through 38 of this Act shall take effect July 1, 2009.

SECTION 84. Sections 39 through 77 and section 79 of this Act shall take effect October 1, 2009. Section 78 of this Act shall take effect July 1, 2009.

The foregoing was filed by the Governor with the General Court on March 5, 2009. Not having been disapproved in either the Senate or the House of Representatives and the General Court not having been prorogued, after 60 days it has the force of law as provided in Article LXXXVII of the Amendments to the Constitution.

Chapter 5. 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 is to make forthwith supplemental appropriations for fiscal year 2009 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 2009, 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, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Conservation and Recreation

2820-2000 \$2,930,793

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways

6010-0002 \$3,853,886

6030-7201 \$98,474,331

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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, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Department of Public Health

- 4513-1010 For the department of public health; provided, that the department may expend not more than \$7,000,000 in revenue received from the collection of federal financial participation for early intervention services delivered to Medicaid-eligible children by developmental educators and professionals in related disciplines; provided further, that nothing in this item shall give rise to enforceable legal rights to any such services or an enforceable entitlement to the services funded in this item; and provided further, that the revenue may be used to pay for current and prior year claims \$500,000
- 4513-1012 For the department of public health; provided, that the department may expend not more than \$25,600,000 from revenues received from the federal cost-containment initiatives including, but not limited to, infant formula rebates; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most-recent revenue estimate as reported in the state accounting system ... \$1,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY
Military Division

- 8700-1140 For the state quartermaster; provided, that the quartermaster may expend not more than \$1,400,000 from revenues collected for the purposes described in this item; provided, that the state quartermaster may expend from fees collected for the nonmilitary rental or use of armories for the costs of utilities and maintenance; and provided further, that the quartermaster

may expend not more than \$250,000 for salaries, subsistence, quarters and associated costs for national guard soldiers ordered to perform state missions under chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or nongovernmental entity to defray such expenses \$1,000,000

SECTION 2B. To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year 2009, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for alterations of purpose for current intragovernmental chargeback authorizations and to meet certain requirements of law, the sum set forth in this section is hereby authorized from the Intragovernmental Service Fund for the several purposes specified in this section or in those appropriation acts and subject to laws regulating the disbursement of public funds for the fiscal year ending 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 TRANSPORTATION AND PUBLIC WORKS
Highway Department

6030-7501 \$1,000,000.

SECTION 3. Chapter 10 of the General Laws is hereby amended by striking out section 35V, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 35V. There shall be established upon the books of the commonwealth a separate fund to be known as the Division of Professional Licensure Trust Fund, to be expended, without prior appropriation, by the division of professional licensure. Unless a greater amount is authorized by law, the fund shall consist of 50 per cent of the revenue of any fee increase collected after July 1, 1996 by the various boards serving within the division under section 9 of chapter 13 and by the division. The director of professional licensure shall make necessary expenditures from this account for the shared administrative costs of the operations and programs of the division. The director shall further direct that funds from the account shall be expended to provide services in an amount reasonably related to the cost of each board or unit's administrative and regulatory mandates with consideration to revenue generated from each board or unit. The division may incur expenses, and the comptroller may certify for payment, amounts in anticipation of expected receipts; provided, however, that no expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of a fiscal year. Moneys deposited in the trust fund that are unexpended at the end of a fiscal year and that total not more than 20 per cent of the division's expenditures for the previous fiscal year shall not revert to the General Fund. The director shall report annually on March 1 to the house and senate committees on ways and means: (i) the revenue credited to the trust fund; (ii) the amount of trust fund expenditures that are attributable to

the shared administrative costs of the division and an explanation of why such administrative costs are necessary; (iii) an itemized list of the amount of trust funds expended by board or unit; and (iv) an analysis of the services provided based on trust fund expenditures by board or unit, including the manner in which the trust fund expenditures assist the division in meeting its regulatory mandates.

SECTION 4. Subsection (b) of section 40 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

If an overpayment of tax is refunded within 90 days after the last day prescribed for filing the return of such tax, determined without regard to any extension of time for filing the return, or, in case the return is filed after such last date, is refunded within 90 days after the date the return is filed, no interest shall be allowed hereunder on such overpayment. If any overpayment of tax is not refunded within 90 days after a return is filed where such return is filed after the last day prescribed for filing such return, determined without regard to any extension of time for filing such return, interest shall be allowed hereunder on such overpayment only from the date the return is filed. Where 2 or more corporations elect to file returns on a combined net income basis under section 32B of chapter 63, the return of each such corporation filed under section 11 shall not be considered filed for purposes of this section until all members of the combined group have filed their returns.

SECTION 5. Chapter 167 of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. (a)(1) The commissioner, either personally or by his examiners or such other assistants that he designates, shall, at least once in each calendar year, or at least once in an 18-month period in the case of a bank which is well capitalized as defined in 12 U.S.C. § 1831(o) and the regulations adopted under that section, make a thorough examination of the books, securities, cash, assets and liabilities and ascertain the condition of all banks under the commissioner's supervision, including out-of-state branches, the ability of each bank to fulfill its obligations and whether it has complied with all applicable laws. The commissioner may also, whenever he considers it expedient, make or cause to be made, at the expense of the bank, any further examinations or audits by his examiners or by certified public accountants or public accountants approved by him and subject to his direction and not connected with the bank. The commissioner may also, whenever he considers it expedient, appoint individuals certified as real estate appraisers by the Society of Real Estate Appraisers or a similar successor society to make, at the expense of the bank, appraisals of real estate securing loans of the bank. When the commissioner appoints an appraiser, he shall so notify the bank of the date on which he has requested submission of the appraisal report to him. The bank may then appoint an appraiser who may submit the report of his appraisal to the commissioner on the same date.

(2) The commissioner or the person making the examination shall, at the time of the examination, have free access to the vaults, investments, cash, books and papers. In making an examination, the commissioner shall have access to the vaults, books and papers of each

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of the bank's affiliates and may make any examination of the affairs of its affiliates that may be necessary to disclose fully the relations between the bank and its affiliates and the effect of this relationship upon the affairs of the bank.

(b)(1) The commissioner shall preserve a full record of an examination of a bank, including a statement of its condition. All records of investigations and reports of examinations by the commissioner, including workpapers, information derived from the reports or responses to the reports and any copies of the records in the possession of a bank under the supervision of the commissioner, shall be confidential and privileged communications, shall not be subject to subpoena and shall not be a public record under clause Twenty-sixth of section 7 of chapter 4. For the purposes of this paragraph, records of investigations and reports of examinations shall include records of investigation and reports of examinations conducted by a financial regulatory agency of the federal government or of a state or a foreign government which are considered confidential by the agency or foreign government and which are in possession of the commissioner. In a proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of these records, other than a record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of the proceeding at which the record may be disclosed.

(2) Copies of reports of these examinations shall be furnished to the bank for its use only and shall not be exhibited to any other person, organization or agency without the prior written approval of the commissioner. The commissioner may, in his discretion, furnish to the Chief National Bank Examiner, the Federal Reserve Bank of Boston, the Federal Deposit Insurance Corporation, the Depositors Insurance Fund, the Cooperative Central Bank, the Massachusetts Credit Union Share Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision or any successors to these entities, any other bank regulatory or law enforcement agency, or the banking departments of other states or foreign countries, any information, reports and statements relating to the institutions under his supervision that he considers appropriate.

(c)(1) An annual charge shall be paid by each bank under the supervision of the commissioner which shall be based on the total amount of assets held by each bank as stated on the most recent report to the commissioner filed before December 31 of the preceding year. The charge assessed to all such banks shall be determined based on a calculation of the amount that would be sufficient to pay for the operations of the division of banks in the amount set forth in the division's appropriation for the fiscal year, and each bank shall pay the charge within 30 days after receiving notice from the commissioner of the charge assessed. The notice shall be issued annually by the commissioner on January 31. The charge shall be determined annually by the secretary of administration and finance under section 3B of chapter 7, with the assistance of the commissioner, and may contain such classifications and differentiations based upon the financial condition of such banks as he considers appropriate. Classifications of individual institutions shall be exempt from section 10 of chapter 66. The annual charge shall be paid, on a pro rata basis, by the successor of

any bank which is merged into, or whose assets are purchased and its deposit liabilities are assumed by, a federally-chartered or out-of-state bank during the preceding year. No annual charge shall be collected from a bank which has been in operation for 1 year or less. The aggregate amount of charges assessed by the division of banks for a fiscal year under this section and other applicable fee provisions shall not be less than the aggregate amount of revenues for the fiscal year as estimated for the division of banks or its successor agency in section 1B of the general appropriation act for that fiscal year.

(2) If the assessment in a fiscal year by the division of banks is insufficient to pay for the operations of the division of banks in the amount set out in its annual appropriation and any additional appropriations for that fiscal year, the division of banks shall assess the remaining amount upon all depository and nondepository financial institutions under the supervision of the division. This assessment shall be determined by regulations of the secretary of administration and finance under section 3B of chapter 7, with the assistance of the commissioner, and may contain such classifications and differentiations based upon the regulatory condition of each institution as the commissioner considers necessary. The classifications of individual institutions shall be exempt from section 10 of chapter 66. The assessment shall be paid within 30 days after notice from the commissioner of the amount due.

(3) The expense of the examination of the affairs of an affiliate of a bank, including all monies expended by the commonwealth for personal services and the proportion of the general overhead of the division of banks and loan agencies, including travel, hotel and meal allowances and other costs that are determined by the commissioner to be attributable to the examination or audit, shall be paid by the affiliate examined. For the purposes of this section, "affiliate" shall include holding company affiliates, but shall not include any person or corporation the control of which is held by a bank when acting in a fiduciary capacity.

SECTION 6. The fifth sentence of section 3 of chapter 192 of the acts of 1994 is hereby amended by striking out the words "and the house vice chairman of the committee on revenue", inserted by section 3B of chapter 62 of the acts of 2008.

SECTION 7. The sixth sentence of said section 3 of said chapter 192, as amended by section 2 of chapter 3 of the acts of 2005, is hereby further amended by inserting after the word "technologies", in line 12, the following words:- , the house vice chairman of the committee on revenue.

SECTION 8. Item 0699-9100 of section 2 of chapter 182 of the acts of 2008 is hereby amended by inserting after the penultimate proviso the following proviso:- ; provided further, that not more than \$500,000 shall be made available to the state treasurer, in collaboration with the secretary of administration and finance and the comptroller, for the continued efforts to improve the processes and reporting of projecting the commonwealth's official cash flow under section 10 of chapter 10 of the General Laws.

SECTION 9. 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 \$10,000,000 shall be expended to pay for an increase in Medicaid rates for community health centers, as defined

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in section 1 of chapter 118G of the General Laws”, inserted by section 41 of chapter 302 of the acts of 2008, and inserting in place thereof the following words:- provided further, that not less than \$5,800,000 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 10. Said section 2 of said chapter 182 is hereby further amended by striking out item 7006-0010 and inserting in place thereof the following item:-

7006-0010 For the operation of the division of banks; provided, that notwithstanding any general or special law to the contrary, the division shall assess 100 per cent of the amount appropriated in this item upon financial institutions which the division currently regulates under section 2 of chapter 167 and section 24 of chapter 167B of the General Laws at a rate sufficient to produce \$12,582,991 in revenue that shall pay for this item . \$12,582,991.

SECTION 11. Item 9110-1630 of said section 2 of said chapter 182 is hereby amended by striking out the figure “\$8,000,000” and inserting in place thereof the following figure:- \$11,500,000.

SECTION 12. Subsection (c) of section 88 of said chapter 182 is hereby amended by striking out the figure “\$346,000,000” and inserting in place thereof the following figure:- \$386,000,000.

SECTION 13. Said subsection (c) of said chapter 188 is hereby further amended by striking out the figure “\$148,000,000” and inserting in place thereof the following figure:- \$228,000,000.

SECTION 14. Said subsection (c) of said section 88 of said chapter 182 is hereby further amended by striking out the figure “\$74,000,000” and inserting in place thereof the following figure:- \$114,000,000.

SECTION 15. Section 2A of chapter 302 of the acts of 2008 is hereby amended by striking out item 1599-6379 and inserting in place thereof the following item:-

1599-6379 For a reserve to meet the fiscal year 2009 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the commonwealth and the Service Employees International Union; provided, that the secretary of administration and finance may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2009 amounts that are necessary to meet those costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that no more than \$20,000,000

of the appropriated amount shall be transferred for the costs
of the collective bargaining agreement, and the rest shall
revert to the General Fund on June 30, 2010 \$20,000,000

SECTION 16. Notwithstanding any general or special law to the contrary in addition to funds already authorized to be transferred, the comptroller shall, on or before June 30, 2009, transfer \$327,000,000; or a lesser amount if the secretary of administration and finance so requests in writing to the General Fund from the Commonwealth Stabilization Fund. 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 17. Notwithstanding any general or special law to the contrary in addition to the reduction made by clause (2) of subsection (a) of section 7 of chapter 377 of the acts of 2008, the appropriations for fiscal year 2009 in section 2 of chapter 182 of the acts of 2008 for the office of the governor shall be reduced by \$286,943.

SECTION 18. Notwithstanding sections 12 and 15 of chapter 29 of the General Laws, the authorization to transfer from the General Fund to the MassHealth provider payment account in the Medical Assistance Trust Fund under section 123 of chapter 139 of the acts of 2006, chapters 146 and 176 of the acts of 2006 and section 57 of chapter 61 of the acts of 2007 shall expire on June 30, 2009; provided, that such transfers may be made during fiscal year 2009 upon the direction of the secretary of administration and finance.

SECTION 19. Notwithstanding any general or special law to the contrary the commissioner of capital asset management and maintenance, after consulting with the head of the leasing state agency or the chief justice for administration and management, may exercise any contractual right to terminate a lease for nonappropriation or nonallotment if, in the determination of the agency head or the chief justice for administration and management, insufficient funds are available within the agency's or the court's appropriation or allotment to maintain the lease consistent with maintaining core governmental functions.

SECTION 20. Notwithstanding any general or special law to the contrary, for weeks of unemployment beginning on or after March 15, 2009, the governor may elect to pay unemployment compensation to otherwise eligible individuals pursuant to the emergency unemployment compensation provisions of the Supplemental Appropriations Act of 2008, Pub. L. 110-252, as amended by the Unemployment Compensation Extension Act of 2008, Pub. L. 110-449, and any further extensions or amendments thereto, prior to the payment of extended benefits under section 30A of chapter 151A of the General Laws.

SECTION 21. Section 4 shall take effect for returns filed on or after January 1, 2009.

SECTION 22. Sections 6 and 7 shall take effect on March 21, 2008.

SECTION 23. Section 19 shall expire on June 30, 2010.

Approved March 19, 2009.

Chapter 6. AN ACT RELATIVE TO THE TOWN CLERK OF THE TOWN OF WESTON.

Be it enacted, etc., as follows:

SECTION 1. The position of town clerk in the town of Weston shall be appointed.

SECTION 2. Paragraph (ii) of subsection (c) of section 2 of chapter 80 of the acts of 2001 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The town manager shall recommend to the board of selectmen for its appointment candidates for the positions of town clerk, chief of the fire department, forest warden, police chief, and director of public works.

SECTION 3. Paragraph (v) of said subsection (c) of said section 2 of said chapter 80 is hereby amended by striking out clauses (1), (2) and (3) and inserting in place thereof the following two clauses:-

(1) the town moderator shall retain the authority granted by town meeting vote or by by-law to appoint and fill vacancies in such offices, committees, or boards as specified thereby; and

(2) the library board of trustees, in consultation with the town manager, shall retain the authority to appoint and dismiss the library director, and all other library employees shall be appointed and dismissed by the library director in consultation with the town manager.

SECTION 4. Notwithstanding any general or special law to the contrary, upon the approval of this act by the voters as set forth in section 5, the position of elected town clerk in the town of Weston shall be abolished, and the term of the elected incumbent holding office, if any, shall be terminated; provided, however, that any individual elected to the position of town clerk at the same election at which the question set forth in section 5 appears on the ballot shall hold that office and perform the duties thereof until the appointment to said office is otherwise made in accordance with the provisions of chapter 80 of the acts of 2001, as amended in accordance with section 2 of this act, or the individual's sooner resignation.

SECTION 5. This act shall be submitted for its acceptance to the qualified voters of the town of Weston at an annual or special election in the form of the following question:-

"Shall an act passed by the general court in the year 2009, entitled 'An Act Relative to the Town Clerk of the Town of Weston,' be accepted?"

Below the ballot question shall appear a fair and concise summary of the ballot question prepared by town counsel and approved by the board of selectmen.

If a majority of the votes cast in answer to the question is in the affirmative, sections 1 to 4, inclusive, shall take effect in the town of Weston, but not otherwise.

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

Approved April 3, 2009.

**Chapter 7. AN ACT AUTHORIZING THE CITY OF BEVERLY TO GRANT 2
ADDITIONAL LICENSES FOR THE SALE OF CERTAIN
ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Beverly may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Joseph A. Leone, d/b/a The Black Cow, for a restaurant to be located at 1 Water street in said city of Beverly. The license shall be subject to all of said chapter 138 except said section 17.

SECTION 2. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Beverly may grant an additional license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to the American BBQ, LLC d/b/a The American BBQ, 950 Cummings center, suite 96X, in the city of Beverly. The licenses shall be subject to all of said chapter 138 except said section 17.

SECTION 3. Notwithstanding any general or special law or any rule or regulation to the contrary, the licensing authority shall not approve the transfer of the licenses to any other locations. The licenses may be granted by the licensing authority to a new applicant at the same location if the applicant 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 either of the licenses 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 local 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.

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

Approved April 14, 2009.

**Chapter 8. AN ACT RELATIVE TO THE CHARTER IN THE TOWN OF
AUBURN.**

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Auburn which is on file in the office of archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3.01 and inserting in place thereof the following section:-

Section 3.01. Selectmen

There shall be a board of selectmen consisting of 5 elected members who shall be compensated in such manner, as the town meeting shall determine. The selectmen who hold

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office at the time of the adoption of this charter shall continue to serve until their term of office expires. At each town election thereafter, selectmen shall be elected for 3-year terms to succeed those selectmen whose terms of office are expiring. A selectman may serve on not more than 1 appointive committee and shall hold no other elective office or compensated employment under the government of the town of Auburn during the term for which he is elected, nor any compensated appointive town office or employment for 1 year thereafter.

The selectmen shall have all powers and duties conferred upon them by the constitution and the General Laws of the commonwealth and by this charter. The board of selectmen shall appoint and may remove the town manager, the town accountant and the town counsel as hereinafter provided. The board of selectmen shall vote to confirm or deny the appointment of any person designated by the town manager to head any department of municipal government not otherwise provided for by this charter.

The selectmen, within 7 days after each annual town election, shall meet, elect a chairperson and otherwise organize and shall fix the time and place of their regular meetings. They shall adopt their own rules of procedure. Three members of the board of selectmen shall constitute a quorum, but no resolution or vote, except a vote to adjourn or to fix the time and place of the next meeting, shall be adopted by less than 3 affirmative votes.

SECTION 2. Said charter is hereby further amended by striking out section 3.04 and inserting in place thereof the following section:-

Section 3.04. Other Elected Officials

Elected town officials who hold office at the time of the adoption of this charter shall continue to serve until their terms of office expire. At each town election thereafter when the term of an incumbent expires, except for an official whose position is no longer designated as an elected position or as otherwise provided by statute or by this charter, there shall be elected:

- a town clerk for a term of 3 years who shall be compensated and who shall appoint assistant town clerks;

- members of the Southern Worcester Vocational School Committee for a term of 3 years, each of whom shall serve without compensation except that they may be compensated for actual and necessary expenses incurred in the performance of their official duties; and

- 2 trustees of the Auburn Free Public Library for a term of 3 years, each of whom shall serve without compensation except that they may be compensated for actual and necessary expenses incurred in the performance of their official duties.

SECTION 3. Said charter is hereby further amended by striking out section 3.05 and inserting in place thereof the following section:-

Section 3.05. Town Manager

(A) The selectmen shall appoint, as soon as practicable after the first town election following adoption of this charter or after the occurrence of any vacancy in such office, for a term of 3 years, a town manager who shall be a person especially fitted by education, training and experience to perform the duties of the office. He need not be a resident of the town or of the commonwealth when appointed but shall become a resident of the town within

12 months of such appointment; provided, however, that the board of selectmen may waive this residency requirement by a vote of four-fifths of the full membership of the board of selectmen. During the 12 months prior to his appointment, the town manager shall not have held any elected office in the town of Auburn but such prohibition shall not include election to the town meeting. The town manager shall be appointed without regard to his political beliefs. He may be appointed for successive terms of office. Before entering upon the duties of the office, the town manager shall be sworn to the faithful and impartial performance thereof by the chairperson of the board of selectmen. He shall execute a bond in favor of town for the faithful performance of his duties in such amount and with surety or sureties as may be fixed or approved by the selectmen.

(B) Pending the appointment of a town manager or the filling of a vacancy or during the temporary disability of the town manager, the selectmen shall appoint a suitable person to perform the duties of the office.

(C) The selectmen, by a majority vote of the full membership of the board, may remove the town manager upon notice and hearing; provided, however, that the non-renewal of any contract of employment at the expiration thereof shall not be considered a removal subject to notice and hearing.

SECTION 4. Said charter is hereby further amended by striking out section 3.06, as amended by chapter 116 of the acts of 1995, and inserting in place thereof the following section:-

Section 3.06. Powers and Duties of the Town Manager

In addition to the specific powers and duties provided in this charter, the town manager shall have the general powers and duties enumerated in this section and such other powers and duties which the board of selectmen shall determine:

(a) Except as otherwise provided by this charter and subject to chapter 31 of the General Laws and any other applicable laws, the town manager shall appoint upon merit and fitness alone the head of each department, subject to the confirmation of such appointment by the board of selectmen, and such other employees of the town as deemed necessary; provided, however, that the chief of the police department shall appoint all police officers and officials pursuant to said chapter 31 and shall administer the department, including making all rules and regulations dealing with all department property, vehicles, firearms or other weapons, training and paid details and shall assign officers as the chief deems in the best interest of the department and public safety. The chief of the fire department shall appoint all firefighters and fire officials and shall administer the department pursuant to section 42 of chapter 48 of the General Laws.

(b) The town manager shall supervise and direct the administration of all departments, committees, boards and offices of the town, except those elected by the voters or appointed by the selectmen, the moderator, or as otherwise provided by this charter. In accordance with this charter and except as otherwise prohibited by the General Laws, the town manager may reorganize, consolidate or abolish any department, commission, board or office under his direction and supervision in whole and in part and may transfer the duties,

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powers and appropriation of 1 department, commission, board or office to another. The town manager may establish such new departments, commissions, boards or offices, as he deems necessary but subject to appropriation by the town meeting when such action by the town manager shall require an increase in any appropriation voted by the town meeting. The powers described in this subsection shall be known as a reorganization plan and any such reorganization plan shall be accompanied by an explanatory message when submitted. No such reorganization shall be effective until such action is approved or disapproved by vote of the board of selectmen; provided, however, that no amendment to the reorganization plan as submitted shall be made by the board of selectmen.

(c) The town manager shall fix the compensation of all town officers and employees and employees appointed by him subject to any applicable provisions of chapters 31 and 150E of the General Laws.

(d) The town manager shall attend all regular and special meetings of the board of selectmen and of the town meeting, except meetings at which his removal is being considered.

(e) The town manager shall keep full and complete records of his office and shall render, as often as may be required by the board of selectmen, a full report of all operations during the period reported.

(f) The town manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.

(g) The town manager shall have overall jurisdiction over, and be responsible for, the planning, construction, reconstruction, alteration, repair, improvement, use and rental of all town property except the property under the jurisdiction of the school committee and except as otherwise specifically voted by the town or provided by statute.

(h) The town manager shall be the chief procurement officer of the town, as that term is defined under chapter 30B of the General Laws, except that the superintendent of schools shall be such officer for the school department. The town manager shall purchase all supplies, materials and equipment and shall award all contracts for all departments and activities of the town except as otherwise provided for by this charter.

(i) The town manager shall administer, either directly or indirectly through a person or persons appointed by him in accordance with this charter, all provisions of general and special laws applicable to the town, all by-laws of the town and all regulations of the selectmen.

(j) With the approval of the board of selectmen, the town manager shall have the authority to prosecute, defend and compromise any claim or litigation to which the town is a party, and to employ special counsel whenever necessary.

(k) The town manager shall perform such other duties consistent with his office as may be required by the by-laws or vote of the town or by vote of the board of selectmen.

(l) The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties and may, without notice, cause the affairs

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of any department or activity under his control or the conduct of any officer or employee appointed by him to be examined.

(m) The town manager shall recommend for appointment to the board of selectmen the town accountant and the town counsel.

(n) The town manager shall prepare and recommend an annual budget to the board of selectmen and the finance committee.

SECTION 5. Said charter is hereby further amended by striking out section 3.07 and inserting in place thereof the following 2 sections:-

Section 3.07. Other Appointed Officials

Appointed town officials who hold office at the time of the adoption of this charter shall continue to serve until their term of office expires or until removed for cause. Thereafter, when the term of an incumbent expires or an office is vacated for any cause, except as provided by statute or by this charter, the town manager shall appoint such officials subject to paragraph (a) of section 3.06.

Each official appointed pursuant to this section shall, within 7 calendar days of his appointment, be sworn to the faithful performance of his duties, ensure that such action is certified by the town clerk, take office immediately upon being so sworn and hold such office until his successor is qualified, or he is removed for cause or by operation of law or until such office or position is abolished.

Each appointed official shall have all the powers and duties conferred by statute, this charter, by-law, vote of the town or the appointing authority.

Any appointment to an appointive position which is made for the purpose of filling a vacancy due to an unexpired term shall be for the duration of the unexpired term.

When any appointive board, commission, office or committee is abolished or consolidated, the town manager shall issue a written directive to the appropriate person or persons relative to the disposition of records, property and equipment.

Section 3.08. Limitations

No elected or appointed town officer, employee, board or committee shall engage, for official town business, the service of any attorney or incur monetary obligations to any attorney, other than town counsel appointed pursuant to section 3.01, unless such engagement is authorized by the town manager. This limitation shall not apply to the board of selectmen and shall not apply to any officer, board or committee specifically authorized by the General Laws to retain the services of an attorney provided that such officer, board or committee has a specific appropriation sufficient to pay for such services.

SECTION 6. Said charter is hereby further amended by striking out section 4.01 and inserting in place thereof the following section:-

Section 4.01. Establishment

In addition to a board of selectmen and a school committee as established in sections 3.01 and 3.02, there shall be the following boards, commissions and committees:-

(a) a board of assessors, composed of 3 members appointed by town manager;

(b) a board of health, composed of 3 members appointed by town manager;

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(c) a board of cemetery commissioners composed of 3 members appointed by town manager;

(d) a planning board composed of 5 members appointed by town manager;

(e) a parks commission composed of 3 members appointed by town manager;

(f) a board of trustees of the Auburn free public library composed of 6 trustees elected by the voters;

(g) a board of sewer commissioners composed of 3 members appointed by town manager;

(h) a finance committee composed of 7 members appointed by the board of selectmen;

(i) a board of appeals composed of 5 members appointed by the board of selectmen;

(j) a board of registrars composed of 3 members appointed by the board of selectmen;

(k) a conservation commission composed of 7 members appointed by town manager;

(l) a historical commission composed of 7 members appointed by town manager;

(m) a council on aging composed of 9 members appointed by town manager;

(n) an industrial development and finance authority composed of 5 members appointed by board of selectmen; and

(o) such other boards, commissions and committees as may be required by statute, established by town meeting or by the voters, or deemed necessary by the board of selectmen.

The members of each such board, committee or commission shall be appointed in accordance with paragraph (a) of section 3.06; provided, however, that no person shall be eligible for appointment who is not at the time of appointment a registered voter of the town and any person ceasing to be a resident of, and voter in, the town shall thereupon cease to hold any appointment.

No board, commission or committee, except the representative town meeting, library trustees and district committee shall be established with an even number of members. The terms of office of the members of each permanent board or standing committee shall be so established as to provide overlapping terms, with as nearly as possible equal numbers expiring each year.

SECTION 7. Said charter is hereby further amended by striking out section 4.02 and inserting in place thereof the following section:-

Section 4.02. Administration

All town agencies shall be under the direction and supervision of elected or appointed officials. Except for purposes of investigation, town officials shall deal with town employees solely through the elected or appointed officials who direct or supervise such employees and may not give orders to such employees either publicly or privately.

A majority of any board, commission or committee shall constitute a quorum.

SECTION 8. Said charter is hereby further amended by striking out section 7.04 and inserting in place thereof the following section:-

Section 7.04. Severability

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If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions relating to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 9. Said charter is hereby further amended by striking out section 7.05 and inserting in place thereof the following section:-

Section 7.05. Existing Law

All laws, by-laws, votes, resolutions, rules and regulations or petitions thereof which are in force in the town when this charter or any amendment thereto takes effect, and which are consistent with this charter, shall continue in full force and effect until rescinded or amended.

Elected town officials who hold office at the time of the adoption of this charter, or any amendment thereto, shall continue to serve until their term of office expires or until removed for cause.

Notwithstanding any general or special law, by-law, vote, rule or regulation to the contrary, insofar as the provisions of this charter, as amended, are inconsistent with the provisions of such general or special law, by-law, vote, rule or regulation, the provisions of this charter, as amended shall be controlling.

Notwithstanding any general or special law to the contrary, any town agency, board or commission, the membership of which was originally appointed pursuant to general or special law, and for which this charter or an amendment thereto provides for appointment thereto under paragraph (a) of section 3.06 or section 4.01, shall continue as an agency, board or commission of the town, subject to this charter.

SECTION 10. Said charter is hereby further amended by striking out section 7.06 and inserting in place thereof the following section:-

Section 7.06. Transition

Nothing in this charter shall affect or impair the rights or privileges of persons who are town officials or employees at the time it takes effect.

If, at the time this charter, or any amendment thereto, takes effect, a town official holds an office or position in conflict with any provision of this charter, such official shall continue in his office or position until the expiration of his elected or appointed term. If such official holds an appointive office of an indefinite term, he shall serve until a successor is appointed by the appointing authority as specified by this charter, but not later than 30 days following the next annual town election.

SECTION 11. This act shall be submitted for acceptance to the voters of the town of Auburn at annual town election in the form of the following question which shall be placed on the official ballot to be used for the election of town officers at said election: "Shall an act passed by the general court in the year 2009 entitled 'An Act Relative to the Charter of the Town of Auburn' be accepted"? The town counsel shall prepare a fair and concise summary of these amendments to the town charter, including a 1-sentence statement

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describing the effect of a yes or no vote, and such summary shall also be placed on the official ballot.

SECTION 12. Section 11 shall take effect upon its passage.

SECTION 13. Sections 1 to 10, inclusive, shall take effect following acceptance by a majority of the registered voters of the town voting at the election specified in section 11, but not otherwise.

Approved April 14, 2009.

Chapter 9. AN ACT RELATIVE TO AN APPEAL PROCESS OF INSURANCE PREMIUM SURCHARGES UNDER MANAGED COMPETITION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for a right to appeal at-fault accident rulings for consumers 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 175E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting before the definition of "Commissioner" the following definition:-

"Board", the board of appeals on motor vehicle liability policies and bonds established in section 8A of chapter 26.

SECTION 2. Said chapter 175E is hereby further amended by inserting after section 7 the following section:-

Section 7A. An insured aggrieved by a determination of an insurer as to the application of a provision of an insurer's safe driver insurance plan or merit rating plan placed on file with the commissioner pursuant to regulations promulgated in accordance with section 10 of this chapter and section 15 of chapter 175A, may, within 30 days thereafter, file a written complaint with the board. That complaint shall be accompanied by a filing fee to be determined by the board.

The board shall provide the insurer and the insured with at least 10 days notice of any hearing held under this section. If, after a hearing, the board finds that the application of the safe driver insurance plan or merit rating plan was in accordance with the standards promulgated by the board and the insurer's provisions of the safe driver insurance plan or merit rating plan placed on file with the commissioner, it shall deny the appeal. If the board finds that the insurer's application of the safe driver insurance plan, merit rating plan or determination of fault was not in accordance with those standards and provisions, it shall order the insurer to make the appropriate premium adjustment and the insurer shall notify the merit rating board and any other data collection agency the insurer reported the surcharge or

at fault accident to, to remove the insured's corresponding surcharge points and at fault determination. The board may designate a person to act as a hearing officer pursuant to this section. The hearing officer shall file a memorandum of his findings or order in the office of the board, and shall send a copy to the insurer and the insured.

Any insured or insurer aggrieved by a finding or order of the board may appeal therefrom to the superior court department of the trial court, pursuant to section 14 of chapter 30A. The appellant shall file with his appeal a duly certified copy of the complaint and of the finding and order thereon and, if the appeal is taken from a finding and order of the board in respect to a cancellation, the clerk of the court shall immediately, upon the filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicles and to the appellee. That court shall hold a hearing on the appeal after such notice to the parties as it deems reasonable. The court shall have such jurisdiction in equity to review all questions of fact and law, to affirm or reverse the board's finding or order and to make an appropriate decree. The court may allow the appeal, finding or order to be amended. The decision of the court shall be final. The clerk of the court shall, within 2 days after entry thereof, send an attested copy of the decree to each of the parties, to the commissioner and to the registrar of motor vehicles. The court may make an order as to costs as it deems equitable. The court may make reasonable rules to secure prompt hearings on such appeals and a speedy disposition thereof.

SECTION 3. The commissioner of insurance shall file a report with the joint committee on financial services no later than July 1, 2009, or within 90 days of the effective date of this act, providing a summary of efforts made to facilitate the transition of exclusive representative producers to voluntary agents and the outcome of those efforts, including the remaining number of non-appointed agents in the market. The report shall further examine private passenger automobile insurance premium payment plans and down payments required by insurers in the voluntary and residual market. The commissioner shall meet with all exclusive representative producers and insurers writing private passenger automobile insurance in the commonwealth who request such a meeting to provide agents with technical assistance and encourage voluntary contracts between agents and insurers. The meetings shall take place within 30 days of the effective date of this act.

Approved April 15, 2009.

**Chapter 10. AN ACT EXTENDING THE COMMONWEALTH'S AUTHORITY TO
GUARANTEE OBLIGATIONS OF THE MASSACHUSETTS
TURNPIKE AUTHORITY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the extension of the commonwealth's authority to guarantee certain obligations of the Massachusetts Turnpike Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 98, as appearing in section 3 of chapter 304 of the acts of 2008, and inserting in place thereof the following section:-

Section 98. (a) As used in this section, “state entities” shall mean the commonwealth, any quasi public entities, independent authorities or other state entities with responsibility for managing and overseeing public funds.

(b) The board shall 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 senate and house committees 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.

The board shall conduct a review, prior to the execution thereof, of any transaction relating to derivative financial products, proposed to be entered into by any state entities. All state entities shall submit to the board the terms of the proposed transaction and any supporting documents. The board shall complete its review of the proposed transaction and notify the submitting entity of its conclusions within a reasonable period of time after receiving the proposal. As used herein, the term “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, interest rate swaptions, caps, floors, collars, inverse floaters and auction rate securities; provided, however, that the term “derivative financial products” shall not include fixed-rate, long-term borrowing.

(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 2. Clause (l) of section 4 of chapter 81A of the General Laws, as amended by section 7 of chapter 304 of the acts of 2008, is hereby amended by striking out

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the words “and the joint committee” and inserting in place thereof the following words:- and the senate and house committees.

SECTION 3. The first sentence of subsection (c) of section 26 of said chapter 304 is hereby amended by adding the following words:- ; provided, however, that the secretary of administration and finance shall consult with the state treasurer prior to extending credit support pursuant to this section.

SECTION 4. The third sentence of said subsection (c) of said section 26 of said chapter 304 is hereby amended by striking out the words “and the chairpersons of the joint committee” and inserting in place thereof the following words:- and the chairpersons of the senate and house committees.

SECTION 5. The fourth sentence of subsection (a) of section 27 of said chapter 304 is hereby amended by striking out the words “and the chairpersons of the joint committee” and inserting in place thereof the following words:- and the chairpersons of the senate and house committees.

SECTION 6. Subsection (b) of said section 27 of said chapter 304 is hereby amended by striking out the words “and the chairpersons of the joint committee” and inserting in place thereof, in each instance, the following words:- and the chairpersons of the senate and house committees.

SECTION 7. Section 27 of said chapter 304 is hereby amended by adding the following subsection:-

(c) Prior to taking any action authorized pursuant to this section, the secretary of administration and finance shall consult with the state treasurer.

SECTION 8. Said chapter 304 is hereby amended by striking out section 32 and inserting in place thereof the following section:-

Section 32. Section 27 shall take effect as of October 1, 2008 and shall expire on June 30, 2009.

SECTION 9. Section 8 of this act shall take effect as of January 15, 2009.

Approved April 24, 2009.

Chapter 11. AN ACT ESTABLISHING A SICK BANK FOR MICHAEL P. HARRINGTON, AN EMPLOYEE OF THE DEPARTMENT OF THE DEPARTMENT OF CONSERVATION AND RECREATION.

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

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Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of conservation and recreation shall establish a sick leave bank for Michael P. Harrington, a n 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 P. Harrington. Whenever Michael P. Harrington terminates employment with the department or requests to dissolve the sick leave bank, the balance of 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 May 5, 2009.

Chapter 12. AN ACT RELATIVE TO THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to permit forthwith the town of Wilmington to join the Massachusetts Water Resources Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (d) of section 8 of chapter 372 of the acts of 1984, as amended by section 1 of chapter 62 of the acts of 2005, is hereby further amended by inserting after the word “Wilbraham”, in line 10, the following word:- , Wilmington.

SECTION 2. Notwithstanding section 1, the provision of water services by the Massachusetts Water Resources Authority to the town of Wilmington shall commence only after the board of directors of said authority has voted approval having first made the findings as required in clauses (1) to (6), inclusive, of paragraph (d) of section 8 of chapter 372 of the acts of 1984 and having made other such determinations in accordance with applicable policies of the authority, and after all required approvals have been received, including, as applicable, other regulatory bodies where required, and the advisory board of said authority, but section 71 of said chapter 372 shall not apply.

Approved May 12, 2009.

Chapter 13. AN ACT TO ESTABLISHING A SUPPLEMENTARY TAX RATE IN THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 23 of chapter 59 of the General Laws or any other general or special law to the contrary, the board of assessors of the town of Rockland, with the approval of the board of selectmen, may set a supplementary tax assessment in said town, in addition to the previously approved tax assessment, to raise an amount not to exceed \$637,543.51 for the fiscal year 2009, and such tax assessment shall be collected in accordance with chapter 60 of the General Laws.

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

Approved May 15, 2009.

Chapter 14. 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 forthwith to make 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. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2009, 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, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Group Insurance Commission

1108-5200\$30,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Office of the Secretary of Public Safety and Security

8910-0000 \$32,000,000

SECTION 3. Chapter 182 of the acts of 2008 is hereby amended by striking out section 84 and inserting in place thereof the following section:-

Section 84. Notwithstanding any general or special law to the contrary, the comptroller shall, not later than June 30, 2009, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2009 to the General Fund. If the interest earned by the Commonwealth Stabilization Fund during fiscal year 2009 is less than \$91,000,000, then the amount transferred shall be \$91,000,000. The comptroller shall take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds required by this section.

SECTION 4. Notwithstanding any general or special law to the contrary, the comptroller may, not later than June 30, 2009, transfer not more than \$461,000,000 to the General Fund from the Commonwealth Stabilization Fund. The comptroller, in consultation with the secretary of administration and finance, shall take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds required by this section. 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.

Approved May 15, 2009.

Chapter 15. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHEILA FERREIRA, AN EMPLOYEE OF THE DEPARTMENT OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of the trial court shall establish a sick leave bank for Sheila Ferreira, an employee of the department. Any employee of the department of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by said Sheila Ferreira. Whenever Sheila Ferreira terminates employment with the department or requests to dissolve the sick leave bank, 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 department of the trial court.

Approved May 28, 2009.

Chapter 16. 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 forthwith to make 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. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2009, 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, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Group Insurance Commission

1108-5200 \$45,800,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Transitional Assistance

4403-2120 \$4,572,466

Division of Medical Assistance

4000-0500 \$28,439,239

SECTION 3. Notwithstanding any general or special law to the contrary, the secretary of health and human services may authorize transfers from items 4000-0430, 4000-0600,

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4000-0700, 4000-0860, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990, 4000-1400 and 4000-1405 of section 2 of chapter 182 of the acts of 2008 to item 4000-0500 of said section 2 of said chapter 182 for the purpose of reducing any deficiency in item 4000-0500, but any such transfer shall take place not later than August 31, 2009.

Approved May 29, 2009.

Chapter 17. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GERALDINE EGAN, 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 Geraldine Egan, 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 Geraldine Egan. Whenever Geraldine Egan 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 June 2, 2009.

Chapter 18. AN ACT ESTABLISHING A SICK LEAVE BANK FOR NANCY MORRISON, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

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Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Nancy Morrison, 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 Nancy Morrison. Whenever Nancy Morrison 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 June 2, 2009.

Chapter 19. AN ACT RELATIVE TO BETTERMENTS IN THE TOWN OF DRACUT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 80 of the General Laws or any other general or special law to the contrary, all votes, orders and actions taken by the town of Dracut providing for the levy of betterment assessments and providing for the method of those assessments are hereby validated, ratified and confirmed; provided, however, that this act shall not be construed to impair or affect the right of the owner of land that has been subject to those betterments.

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

Approved June 10, 2009.

Chapter 20. AN ACT AUTHORIZING THE DEPARTMENT OF FISH AND GAME TO ACQUIRE CONSERVATION RESTRICTIONS IN AND TO LANDS OWNED BY THE CITY OF FITCHBURG.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the commonwealth to acquire conservation restrictions in and to lands owned by the city of Fitchburg, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The division of capital asset management and maintenance, acting for and on behalf of the commonwealth and in consultation with the department of fish and game, may take, under chapter 79 of the General Laws, or otherwise acquire, and the city of Fitchburg may convey, easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of chapter 184 of the General Laws for the preservation and protection of wildlife and habitat and passive recreation and consistent purposes, in all or portions of certain parcels of land identified in section 2. The parcels were acquired by the city for water supply purposes. The conservation restriction authorized by this act shall allow for the city to retain the right to use the premises as a potential water supply for the city. The conservation restriction, if taken and not otherwise acquired, shall be subject to any easements or lesser interests in land held by any person or governmental agency, except for said city, that lawfully exist and are recorded in the appropriate registry of deeds, unless the division of capital asset management and maintenance expressly takes the easement or lesser interest through eminent domain under said chapter 79.

SECTION 2. The parcels are identified as follows:

All of the lands, including lands under water described as follows:

Land in the City of Fitchburg, Worcester County, Massachusetts, located along Rindge Road, Scott Road, Ashby West Road, and Billings Road, and in the Town of Ashby, Middlesex County, Massachusetts, located along Rindge Road, Mayo Road, Scott Road, Piper Road, Richardson Road, and Crocker Road, being part of the City of Fitchburg's northern drinking water supply watersheds, including the land and water owned by the City of Fitchburg in the Scott's Reservoir, Lovell Reservoir, Falulah Reservoir, Shattuck Reservoir, and Ashby Reservoir (a/k/a Fitchburg Reservoir) watersheds, and specifically excluding the land and water owned by the City of Fitchburg in the Overlook Reservoir, Marshall Reservoir, and Willard Brook Reservoir (a/k/a Ashby Compensating Reservoir and a/k/a Ashby Reservoir).

Being the same land shown on Fitchburg Assessor's Map 59R Lots 1, 2, 3, 4, 5, and 6, Map 60R Lots 8, 8A, 9, 10, 11, 12, 13, 14, 18, 21, 22, 23, 24, 25, 26, and 28, Map 69R Lots 18, 19, 20, 26, 32, 33, 34, 35, and 44, Map 78R Lots 41, 42, 45, 55, 56, 61, 62, 63, 64, 65, and 66, Map S10 Lot 18, and Map S4 Lot 8A.

Also being the same land shown on Ashby Assessor's Map 13 Lots 1.0, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 23.1, and 23.2, Map 14 Lots 48, 49, 50, and 52.

The land being described in various deeds to the City of Fitchburg and takings by the City of Fitchburg recorded at the Middlesex South District Registry of Deeds ("MSRD"), Worcester North District Registry of Deeds ("WNRD"), and Worcester District Registry of Deeds ("WDRD"), more particularly described as follows:

Land in Ashby:

Ashby Reservoir takings, MSRD Bk. 3931 Pg. 521, MSRD Bk. 3995 Pg. 281, and MSRD Pg. 4108 Pg. 9, being shown on Plan Sheets A and B, MSRD Pl. Bk. 227 Pl. 22, and Plan Sheets A through D, MSRD Pl. Bk. 234 Pl. 48.

Ashby Reservoir Co. *et al*, MSRD Bk. 4120 Pg. 598, dated 3/12/1917

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- Lulu V. Hapgood, MSRD Bk. 3969 Pg. 582, dated May 20, 1915
Henry B. Houghton, MSRD Bk. 4053 Pg. 144, dated 5/19/1916, being shown on a plan as "11" and "12", MSRD Pl. Bk. 234 Pl. 49, dated 8/31/1915
Harry G. Wright, MSRD Bk. 4018 Pg. 113, dated 12/8/1916
John W. Johnson, MSRD Bk. 4057 Pg. 437, dated 6/8/1916
Warren S. Bowker, MSRD Bk. 3982 Pg. 325, dated 7/8/1915
Albert M. Wilder, MSRD Bk. 3969 Pg. 583, dated 5/20/1915
Mary Louise Billings *et al*, MSRD Bk. 4018 Pg. 112, dated 12/8/1915
Mary Louise Billings *et al*, MSRD Bk. 3982 Pg. 322, dated 7/8/1915
Mary Louise Billings, MSRD Bk. 4133 Pg. 364, dated 5/1/1917
Fernando A. Farnsworth, MSRD Bk. 4103 Pg. 597, dated 12/12/1916
Charles W. Russell, MSRD Bk. 4698 Pg. 275, dated 1/30/1924
Charles J. Foster, MSRD Bk. 3969 Pg. 581, dated 5/20/1915
Etta G. Brooks, MSRD Bk. 5256 Pg. 483, dated 7/20/1928
Etta G. Brooks as guardian, MSRD Bk. 5256 Pg. 484, dated 7/20/1928
Joseph L. LeBlanc, MSRD Bk. 5629 Pg. 190, dated 2/27/1932
Lora Page *et al*, MSRD Bk. 4023 Pg. 375, dated 1/6/1916
Minnie S. Page, MSRD Bk. 3982 Pg. 324, dated 7/8/1915
Andrew Salminen, MSRD Bk. 4249 Pg. 84, dated 4/7/1919
Julia A. Goodnow, MSRD Bk. 3982 Pg. 326, dated 7/8/1915
John Piper, MSRD Bk. 3931 Pg. 521, dated 11/27/1914
Anna E. Godding, MSRD Bk. 4053 Pg. 142, dated 5/19/1916
Levi W. Mayo, MSRD Bk. 4053 Pg. 142, dated 5/19/1916, excepting that portion conveyed by the City of Fitchburg to Levi W. Mayo, MSRD Bk. 4058 Pg. 18, dated 6/7/1916, both parcels being shown on a plan as "14" and "15", MSRD Pl. Bk. 234 Pl. 50, dated 8/31/1915
Curtis W. Huckins, MSRD Bk. 4103 Pg. 596, dated 12/12/1916
Flora L. Chapin, MSRD Bk. 4103 Pg. 597, dated 11/21/1916
Lydia D. Huckins, MSRD Bk. 3931 Pg. 521, dated 11/27/1914, excepting that portion conveyed by the City of Fitchburg to Esther Miner, MSRD Bk. 4267 Pg. 140, dated 6/20/1919
Fred Harper, MSRD Bk. 3982 Pg. 323, dated 7/8/1915
N. Curtis Rublee *et al*, MSRD Bk. 4053 Pg. 146, dated 5/19/1916
Albert J. and Frederick W. Hirsch, MSRD Bk. 5256 Pg. 482, dated 7/20/1928
Fred Taylor, MSRD Bk. 10014 Pg. 175, dated 4/10/1962
Ruth A. Muller, MSRD Bk. 16036 Pg. 11, dated 11/27/1984
M. Irene Salminen, MSRD Bk. 12126 Pg. 623, dated 12/15/1971
M. Irene Salminen, MSRD Bk. 12360 Pg. 233, dated 12/20/1972
Marion A. Gove (f/k/a Derby), MSRD Bk. 10802 Pg. 192, dated 4/26/1965
Julia F. Gillis, MSRD Bk. 5780 Pg. 279, dated 1/12/1934, excepting that portion conveyed by the City of Fitchburg to the Commonwealth of Massachusetts, MSRD Bk. 11108

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Pg. 116, dated 3/7/1966

Land partly in Fitchburg and partly in Ashby:

Joel T. Whitney *et al*, MSRD Bk. 4805 Pg. 114 and WNRD Bk. 410 Pg. 280, dated 9/12/1924

Laura D. Ranney, MSRD Bk. 5629 Pg. 188 and WNRD Bk. 494 Pg. 386, dated 1/22/1932

Raymond G. Morin *et ux*, MSRD Bk. 15655 Pg. 28 and WNRD Bk. 1349 Pg. 325, dated 3/5/1984

Andrew Riutta *et ux*, MSRD Bk. 4289 Pg. 492 and WNRD Bk. 350 Pg. 599, dated 6/4/1919

John Shea *et al*, WNRD Bk. 317 Pg. 421, dated 8/27/1915

William F. Scott, MSRD Bk. 4169 Pg. 567 and WNRD Bk. 339 Pg. 548, dated 10/11/1917

Nancy Raymond by will, Worcester County Probate #48964, being the same two tracts as conveyed by Polly Raymond to Nancy Raymond, WDRD Bk. 976 Pg. 71, dated 8/10/1866

Land in Fitchburg:

Werner W. Johnson, WNRD Bk. 858 Pg. 85, dated 4/15/1960

Frederick W. Hirsch *et al*, WNRD Bk. 784 Pg. 220, dated 2/15/1956

George Gray, WNRD Bk. 381 Pg. 553, dated 3/7/1922

Silvio J. Vaillancourt, WNRD Bk. 495 Pg. 25, dated 3/11/1932

William F. Scott, WNRD Bk. 494 Pg. 428, dated 1/30/1932

John O. Johnson, WNRD Bk. 494 Pg. 325, dated 1/11/1932

Commonwealth of Massachusetts, WNRD Bk. 988 Pg. 564, dated 3/28/1966

Charles H. Gates, WNRD Bk. 389 Pg. 106, dated 8/11/1922

Henry C. Wehner, WNRD Bk. 392 Pg. 68, dated 11/24/1922

Garabed Arslanian *et al*, WNRD Bk. 349 Pg. 337, dated 2/14/1919

Albert J. Hirsch *et al*, WNRD Bk. 338 Pg. 173, dated 4/20/1917

Mary Louise Sperling, trustee of Ashby Trust, WNRD Bk. 2464 Pg. 113, dated 8/2/1993

Arline Russo, WNRD Bk. 2464 Pg. 191, dated 8/12/1993

Sarah E. Haskins, WNRD Bk. 392 Pg. 297, dated 1/13/1923

Sarah E. Haskins *et al*, WNRD Bk. 392 Pg. 298, dated 1/13/1923

Sarah E. Haskins, WNRD Bk. 455 Pg. 540, dated 2/25/1928

Charles H. Gates, WNRD Bk. 397 Pg. 228, dated 7/13/1923

J. Calvin Spaulding, WNRD Bk. 379 Pg. 419, dated 11/30/1921

Ernest H. Whitney, WNRD Bk. 675 Pg. 112, dated 8/30/1950

Thomas Chrost *et ux*, WNRD L.C. Cert. # 1256 Doc. #4904-1, dated 3/26/1986

Ernest M. DiGeronimo, WNRD Bk. 1131 Pg. 183, dated 6/24/1974, excepting that portion shown on a plan as "6.06 Acres", WNRD Plan Bk. 438 Pl. 25, which is subject to an Agricultural Preservation Restriction, WNRD Bk. 5043 Pg. 335

Alva Crocker *et al*, WDRD Bk. 854 Pg. 65, dated 4/14/1871
Abby E. Lane *et al*, WDRD Bk. 854 Pg. 82, dated 6/22/1871
Mary E. Lane *et al*, WDRD Bk. 854 Pg. 84, dated 6/22/1871
Francis Caouette, WNRD Bk. 304 Pg. 449, dated 12/3/1914
Burbank Hospital, WNRD Bk. 339 Pg. 88, dated 6/12/1917
Francis Caouette, WNRD Bk. 462 Pg. 469, dated 1/2/1929
Moses Lafaille, WNRD Bk. 26 Pg. 311, dated 7/18/1888
James A. Goodfellow, WNRD Bk. 26 Pg. 322, dated 7/20/1888
George J. Allen, WDRD Bk. 971 Pg. 356, dated 11/30/1875
Eleazar Davis, WDRD Bk. 971 Pg. 358, dated 11/30/1875
Charles W. Hill, WDRD Bk. 971 Pg. 359, dated 11/30/1875
Aaron Wilkins, WDRD Bk. 999 Pg. 367, dated 11/30/1875
Daniel Works Estate, WDRD Bk. 988 Pg. 144, dated 11/30/1875
Matti Anttila, WNRD Bk. 446 Pg. 655, dated 7/13/1927
Roy Dilling, Jr. *et ux*, WNRD Bk. 1434 Pg. 47, dated 12/9/1985, being shown on a plan as "Parcel A", WNRD Plan Bk. 285 Pl. 25

The parcels described herein are shown on sheets F-2 through F-10 of a booklet of plans on file with the City of Fitchburg's Engineering Department entitled "Land Plans: Falulah Watershed System of the Fitchburg Water Dept.", dated Feb. 1943.

Approved June 10, 2009.

Chapter 21. AN ACT PROVIDING RESPONSIBLE REFORMS IN THE PENSION SYSTEM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to reform pension laws for public 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. Section 1 of chapter 32 of the General Laws is hereby amended by inserting after the word "forty-five", in line 399, as appearing in the 2006 Official Edition, the following words:- through June 30, 2009.

SECTION 2. The definition of "Regular compensation" in said section 1 of said chapter 32, as so appearing, is hereby further amended by adding the following sentence:- "Regular Compensation", during any period subsequent to June 30, 2009, shall be compensation received exclusively as wages by an employee for services performed in the course of employment for his employer.

SECTION 3. Said section 1 of said chapter 32, as amended by section 15 of chapter 130 of the acts of 2008, is hereby further amended by adding the following definition:-

“Wages”, the base salary or other base compensation of an employee paid to that employee for employment by an employer; provided, however, that “wages” shall not include, without limitation, overtime, commissions, bonuses other than cost-of-living bonuses, amounts derived from salary enhancements or salary augmentation plans which will recur for a limited or definite term, indirect, in-kind or other payments for such items as housing, lodging, travel, clothing allowances, annuities, welfare benefits, lump sum buyouts for workers’ compensation, job-related expense payments, automobile usage, insurance premiums, dependent care assistance, 1-time lump sum payments in lieu of or for unused vacation or sick leave or the payment for termination, severance, dismissal or any amounts paid as premiums for working holidays, except in the case of police officers, firefighters and employees of a municipal department who are employed as fire alarm signal operators or signal maintenance repairmen money paid for holidays shall be regarded as regular compensation, amounts paid as early retirement incentives or any other payment made as a result of the employer having knowledge of the member’s retirement, tuition, payments in kind and all payments other than payment received by an individual from his employing unit for services rendered to such employing unit, regardless of federal taxability; provided further, that notwithstanding the foregoing, in the case of a teacher employed in a public day school who is a member of the teachers’ retirement system, salary payable under the terms of an annual contract for additional services in such school and compensation for services rendered by a teacher in connection with a school lunch program or for services in connection with a program of instruction of physical education and athletic contests as authorized by section 47 of chapter 71 shall be regarded as “regular compensation” rather than as bonus or overtime and shall be included in the salary on which deductions are to be paid to the annuity savings fund of the teachers’ retirement system.

SECTION 4. Section 4 of said chapter 32 of the General Laws is hereby amended by striking out, in lines 5 to 7, inclusive, as so appearing, the words “, that he shall be credited with a year of creditable service for each calendar year during which he served as an elected official; and provided, further”.

SECTION 5. Subdivision (1) of said section 4 of said chapter 32 is hereby amended by striking out paragraphs (o) and (o ½), as so appearing, and inserting in place thereof the following paragraph:-

(o) The service of a state, county or municipal employee employed or elected in a position receiving compensation of less than \$5,000 annually, which service occurs on or after July 1, 2009, shall not constitute creditable service for purposes of this chapter.

SECTION 6. Section 5 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 69 and 70, the words “, except for elected officials subject to the provisions of paragraph (b) of subdivision (2) of section ten,”.

SECTION 7. Subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

(e) A person who has been a member of 2 or more systems and who, on or after January 1, 2010, has received regular compensation from 2 or more governmental units con-

currently shall, upon retirement, receive a superannuation retirement allowance to become effective on the date of retirement that is equal to the sum of the benefits calculated pursuant to this section as though the member were retiring solely from each system; provided, however, that notwithstanding paragraph (c) of subdivision (8) of section 3, each system shall pay the superannuation retirement allowance attributable to membership in that system to the member; and provided further, that this section shall not apply to any member who has vested in 2 or more systems as of January 1, 2010.

SECTION 8. Section 7 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 69 to 73, inclusive, the words “or equal to seventy-two per cent of the average annual rate of his regular compensation for the twelve-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however” and inserting in place thereof the following words:- ; provided, however, that if an individual was in a temporary or acting position on the date such injury was sustained or hazard undergone the amount to be provided under this subdivision shall be based on the average annual rate of the individual’s regular compensation during the previous 12-month period for which he last received regular compensation immediately preceding the date such injury was sustained or such hazard was undergone; provided, further,.

SECTION 9. Section 10 of said chapter 32, as so appearing, is hereby amended by striking out, in line 4, the words “, or fails of nomination or re-election”.

SECTION 10. Said section 10 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 7 to 9, inclusive, the words “, or fails of nomination or re-election, or fails to become a candidate for nomination or re-election”.

SECTION 11. Said section 10 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 50 and 51, the words “fails of nomination or re-election, or”.

SECTION 12. Said section 10 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 72 to 77, inclusive, the words “one of the following circumstances applies: (1) that the employee has failed of nomination or re-election, (2) that the employee has failed of reappointment, (3) that the employee’s office or position has been abolished, or (4) that” and inserting in place thereof the following words:- : (1) the employee has failed of reappointment; (2) the employee’s office or position has been abolished; or (3).

SECTION 13. Said section 10 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 79, the word “six” and inserting in place thereof the following figure:- 10.

SECTION 14. Subdivision (1) of section 11 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

(d) If a member is entitled to a return of his accumulated total deductions and requests such a return from the board on the prescribed form, then prior to the return of such accumulated total deductions, the board shall contact the member’s employer to determine

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whether the member owes an obligation to the employer under an employee benefit plan, including a cafeteria plan established pursuant to 26 U.S.C. section 125. If it is determined that the member owes the employer under any such plan, the board shall not return the accumulated total deductions until it has received notice from the employer that the obligation has been satisfied.

SECTION 15. Said chapter 32 is hereby further amended by inserting after section 12C the following section:-

Section 12D. A retirement system subject to this chapter shall pay all benefits in accordance with the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan as defined in section 414(d) of the Internal Revenue Code.

SECTION 16. Subdivision (1) of section 13 of said chapter 32, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

(c) A retirement board may require a member entitled to receive a retirement allowance to designate a financial institution to which shall be directly deposited any payments under any annuity, pension or retirement allowance.

SECTION 17. Section 19A of said chapter 32 is hereby amended by striking out the first paragraph, as so appearing, and inserting in place thereof the following paragraph:-

Any employee of the commonwealth, a city, town, district or other member unit of a retirement system who is retired under this chapter shall, upon the request of the retiring authority paying such pension or retirement allowance, or otherwise may, by assignment made in writing authorize the retiring authority paying such pension or retirement allowance to withhold each month such amount as he may designate for the payment of subscriber premiums applicable to any hospitalization, medical or surgical insurance in effect with a nonprofit hospital and medical service corporation or insurance company at the time of his retirement. In the event that the amount of a retiree's pension check is insufficient to accommodate the entire deduction and upon notice from the retirement board, the employer for whom the retiree last worked and from whom he is retired shall bill the retiree for the employee share of the premiums.

SECTION 18. Section 22D of said chapter 32, as so appearing, is amended by striking out, in line 25, the figure "2028" and inserting in place thereof the following figure:- 2030.

SECTION 19. Said chapter 32 is hereby further amended by inserting after section 22D the following section:-

Section 22E. (a) For the purposes of this section, "statutory adjustment to the commonwealth pension liability" shall mean an adjustment that changes the benefits or contributions of classes of members including, but not limited to, early retirement incentive programs, cost-of-living adjustments, the membership of those classes or any amendments to chapter 32 that may change the actuarial liability of the commonwealth pension system.

(b) Upon request of a joint standing committee of the general court having jurisdiction or upon request of the committee on ways and means of either branch, the actuary of

the public employee retirement administration commission shall conduct and prepare a review, evaluation and financial impact of the statutory adjustment to the commonwealth pension liability, in consultation with other relevant state agencies, and shall report to the committee within 90 days of the request.

SECTION 20. Section 91 of said chapter 32 is hereby amended by striking out, in line 3, as appearing in the 2006 Official Edition, the words “or district,” and inserting in place thereof the following words:- , district or authority.

SECTION 21. Said section 91 of said chapter 32 is hereby further amended by inserting after the word “authority”, in line 84, the following words:- , including as a consultant or independent contractor or as a person whose regular duties require that his time be devoted to the service of the commonwealth, county, city, town, district or authority during regular business hours.

SECTION 22. Chapter 182 of the acts of 2008 is hereby amended by striking out section 111 and inserting in place thereof the following section:-

Section 111. There shall be a special commission to study the Massachusetts contributory retirement systems. The commission shall consist of the secretary of administration and finance or her designee; the state auditor or his designee; the executive director of the public employee retirement administration commission or his designee; the executive director of the state retirement board or his designee; the executive director of the teachers’ retirement board or her designee; 3 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; 3 members of the senate, 1 of whom shall be appointed by the senate minority leader; and 6 members to be appointed by the governor, 1 of whom shall be a private citizen who shall serve as chair of the commission and shall not be a member of any of the 106 contributory retirement systems, 2 of whom shall have professional experience in employee benefits or in actuarial science, 1 of whom shall be a member of the Massachusetts Municipal Association; 1 of whom shall be selected from a list of 3 candidates submitted by the president of the Massachusetts AFL-CIO and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts. The commission shall convene its first official meeting not later than June 1, 2009.

The commission shall make a comprehensive study of the Massachusetts contributory retirement systems. The study shall include, but not be limited to: contribution rates paid by employers and employees; vesting periods; the weight given to age versus years of service in the current system; the portability of benefits in the current system; the definition of regular compensation including, but not limited to, whether all forms of compensation taxable under the federal income tax code should constitute regular compensation; cost-of-living-adjustments with special attention paid to the cost of increasing the cost-of-living-adjustments base; current and future employee pension plans and contribution structures; termination allowances pursuant to section 10 of chapter 32 of the General Laws; group classification systems, including the classification of department of correction employees under section 28M of said chapter 32; capping annual pension benefits;

penalties for pension fraud; eligibility and level of benefits for employees who participate under 2 or more retirement systems; potential costs, savings or benefits related to moving from a defined benefit retirement system to a defined contribution retirement system for new employees, including a system that maintains eligibility for employees to participate in the Social Security system; qualifications for credit for service pursuant to section 4 of said chapter 32, including minimum compensation limits for officials to be eligible for credit for service, and the cost of any recommendations the commission may make.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall prepare a report of its findings and recommendations, together with the actuarial analysis and any recommendations for legislation, if any, to implement those recommendations by filing the same with the clerks of the senate and house of representatives, the chairs of the house and senate committee on ways and means and the senate and house chairs of the joint committee on public service not later than September 1, 2009.

SECTION 23. Notwithstanding any special or general law to the contrary, any amount, benefit or payment included in the definition of “regular compensation” by law or by regulation prior to the effective date of this act and included in any applicable collective bargaining agreement or individual contract for employment in effect on May 1, 2009, shall continue to be included in the definition of “regular compensation” during the term of that collective bargaining agreement or contract; provided, however, that any such amount, benefit or payment received after June 30, 2012 shall not be considered regular compensation.

SECTION 24. Section 1 of this act shall take effect July 1, 2009.

SECTION 25. Section 5 of this act shall take effect July 1, 2009; provided, however, that creditable service shall be granted for the service of any state, county or municipal employee serving in a paid position earning less than \$5,000 after July 1, 2009, if such service is subject to a specified term as a result of an election, appointment or contract and the election, appointment or contract occurred or was executed prior to July 1, 2009, and if the service is otherwise eligible for creditable service under chapter 32 of the General Laws; and provided further, that such creditable service shall be granted until the expiration of the term, appointment or contract or July 1, 2012, whichever first occurs.

SECTION 26. Notwithstanding any general or special law to the contrary and except as expressly provided otherwise, this act shall apply to all members of retirement systems who retire after July 1, 2009.

Approved June 16, 2009.

Chapter 22. AN ACT DESIGNATING A CERTAIN STRUCTURE IN THE TOWN OF SALISBURY AS THE PAUL H. SULLIVAN SUN SHADE DECK.

Be it enacted, etc., as follows:

The shade structure at the Salisbury beach state reservation located on a spur at an elevated boardwalk, referred to as parking lot access 4, in that town shall be designated and known as the Paul H. Sullivan Sun Shade Deck, in memory of Paul H. Sullivan, a popular and well-respected talk show host for WBZ radio, a columnist and political editor for the Lowell Sun newspaper and an adjunct professor at Middlesex Community College. The department of conservation and recreation shall erect and maintain suitable markers bearing that designation in compliance with the standards of said department.

Approved June 18, 2009.

Chapter 23. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CASSANDRA MARKLAND, AN EMPLOYEE OF THE OFFICE OF MEDICAID.

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 office of Medicaid, 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 office of Medicaid shall establish a sick leave bank for Cassandra Markland, an employee of the office of Medicaid. Any employee of the office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Cassandra Markland. 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 office. Whenever Cassandra Markland 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 extended illness leave bank.

Approved June 25, 2009.

Chapter 24. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF BARRE AS THE HOWARD W. DAHART MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge on state highway route 32 in the town of Barre, now known as the Powder Mill Bridge, shall be designated and known as the Howard W. Dahart Memorial Bridge. The

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department of highways shall erect suitable markers bearing this designation in compliance with the standards of the department.

Approved June 25, 2009.

Chapter 25. AN ACT MODERNIZING THE TRANSPORTATION SYSTEMS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to reorganize and restructure transportation agencies in the commonwealth to help address anticipated funding deficiencies, 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 17 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 13, the words ", the Massachusetts aeronautics commission".

SECTION 2. The second sentence of section 17A of said chapter 6, as most recently amended by section 1 of chapter 27 of the acts of 2008, is hereby amended by striking out the words "secretary of transportation and public works" and inserting in place thereof the following words:- "secretary of transportation".

SECTION 3. Sections 57, 58 and 59 of said chapter 6 are hereby repealed.

SECTION 4. Section 8C of chapter 6A of the General Laws, inserted by section 6 of chapter 233 of the acts of 2008, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(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, the secretary of transportation, the secretary of energy and environmental affairs, the administrator of the division of highways of the Massachusetts Department of Transportation, and the commissioner of capital asset management and maintenance, or their designees.

SECTION 5. Sections 19, 19 1/2 and 19A of said chapter 6A are hereby repealed.

SECTION 6. Section 103 of said chapter 6A is hereby repealed.

SECTION 7. Section 104 of said chapter 6A is hereby repealed.

SECTION 8. The General Laws are hereby amended by inserting after chapter 6A the following chapter:-

Chapter 6C

MASSACHUSETTS DEPARTMENT of TRANSPORTATION

Section 1. As used in this chapter, the following words shall, unless the context clear-

ly requires otherwise, have the following meanings:-

“Board”, the board of directors of the Massachusetts Department of Transportation established pursuant to section 2.

“Boston extension”, all roadways and tunnels for vehicular traffic that constitute that portion of interstate highway route 90 beginning at and including the interchange of interstate highway route 90 and state highway route 128 in the town of Weston and ending in the city of Boston at the interchange of interstate highway route 90 and interstate highway route 93 and such additional highway and bridge components as the general court may from time to time determine and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Callahan tunnel”, the tunnel for vehicular traffic constructed under chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East Boston section of said city and including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such tunnel as are necessary for its safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Central artery”, all roadways and tunnels for vehicular traffic constructed by the highway division that constitute that portion of interstate highway route 93 beginning at a point immediately south of the Southampton street interchange, so-called, and continuing to and including the interchange of interstate highway route 93 and Massachusetts avenue in the South End section of the city of Boston and continuing to and including the interchange of interstate highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston, so-called, and continuing to and including the interchange of state highway route 1 and interstate highway route 93 in the Charlestown section of the city of Boston including, but not limited to, the so-called Charles river crossing portion of interstate highway route 93 and such additional highway and bridge components as the general court may from time to time determine, but excluding the central artery north area. “Central artery” shall also include such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Central artery north area”, all roadways and tunnels for vehicular traffic constructed by the highway division consisting of a portion of state highway route 1 beginning at, but not

including, the southern boundary of the Tobin memorial bridge and continuing to the interchange of interstate highway route 93 and state highway route 1, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Cost”, as applied to any project of the department any or all costs, whenever incurred, of carrying out and placing such projects in operation, including, without limiting the generality of the foregoing, amounts for the following: acquisition, construction expansion improvement and rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations; labor, materials, machinery and equipment; services of architects, engineers and environmental and financial experts and other consultants; feasibility studies, plans, specifications and surveys; interest prior to and during the carrying out of any project and for a reasonable period thereafter; reserves for debt service or other capital or current expenses; costs of issuance; and working capital, administrative expenses; legal expenses and other expenses necessary or incidental to the aforesaid, to the financing thereof and to the issuance therefor of bonds under this chapter.

“Costs of issuance”, any amounts payable or reimbursable directly or indirectly by the department and related to the sale and issuance of bonds and the investment of the proceeds thereof and of revenues securing the same including, without limiting the generality of the foregoing, printing costs, filing and recording fees, fees and charges of trustees, depositories, authenticating agents and paying agents, legal and auditing fees and charges, financial consultant fees, costs of credit ratings, premiums for insurance of the payment of bonds and fees payable for letters or lines of credit or other credit facilities securing bonds, underwriting or placement costs, fees and charges for execution, transportation and safekeeping of bonds, costs and expenses of refunding and other costs, fees and charges in connection with the foregoing.

“Current expenses”, the department's current expenses, whether or not annually recurring, of maintaining, repairing and operating the assets under the possession, custody and control of the department and engaging in other activities authorized by this chapter including, without limiting the generality of the foregoing, amounts for administrative expenses of the department including costs of salaries and benefits, as provided in this chapter, cost of insurance, payments for engineering, financial, accounting, legal and other services rendered to the department, taxes upon the department or its income, operations or property and payments in lieu of such taxes, costs incurred or payable by the department with respect to the assets under the possession, custody and control of the department, costs of issuance not financed in the cost of a project, and other current expenses required or permitted by law to be paid by the department, including the funding of reasonable reserves

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for upgrading, maintenance, repair, replacements, insurance, emergency contingencies or operations.

"Department", the Massachusetts Department of Transportation established in section 2.

"Designated parkways," McGrath and O'Brien Highways in the cities of Cambridge and Somerville, the Carol parkway, Middlesex avenue in the city of Medford, William Casey highway overpass in the Jamaica Plain section of the city of Boston, Columbia road in the South Boston section of the city of Boston, Morton Street in Boston and Gallivan boulevard in the Dorchester section of the city of Boston, all formerly operated and maintained by the department of conservation and recreation.

"Fund", the Massachusetts Transportation Trust Fund established in section 4.

"Independent agencies", shall include, without limitation, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, and the Massachusetts association of regional transit authorities.

"Massachusetts Port Authority", the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956.

"Massachusetts Bay Transportation Authority", the Massachusetts bay transportation authority; established by chapter 161A.

"Maurice J. Tobin Memorial Bridge", the bridge formerly known as the Mystic River Bridge in the cities of Chelsea and Boston.

"Metropolitan highway system", the integrated system of roadways, bridges, tunnels, overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the department owns, constructs or operates and maintains pursuant to this chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted Williams tunnel and any additional highway, tunnel and bridge components as the general court may from time to time determine.

"Metropolitan highway system revenues", (i) all rates, fees, tolls, rentals or other charges and other earned income and receipts as derived from or with respect to the ownership, operation, lease, rent or other use or disposition of the metropolitan highway system or any part thereof; and (ii) all other funds received by the department, from whatever source, relating to the metropolitan highway system.

"Notes or bonds", the notes, bonds or other evidences of indebtedness of the department issued pursuant to this chapter.

"Revenues", all charges and other receipts derived by the department from operation of the assets under the possession, custody and control of the department and all other activities or properties of the Office of Planning and Programming including, without limiting the generality of the foregoing, proceeds of grants, gifts or appropriations to the department, investment earnings and proceeds of insurance or condemnation and the sale or

other disposition of real or personal property.

“Secretary”, the secretary of the Massachusetts Department of Transportation.

“State agencies”, shall include, without limitation, the department, the department of conservation and recreation and such other state agencies as may be involved in transportation related functions from time to time.

“State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the department owns, constructs or operates and maintains pursuant to this chapter, including the designated parkways, and any additional highway, tunnel and bridge components as the general court may from time to time determine.

“State public transit system”, all publicly funded modes of transportation, but not including roads and bridges.

“Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and financed by the city of Boston under chapter 297 of the acts of 1929, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such tunnel as are necessary for its safe and efficient operation and maintenance or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and tunnels for vehicular traffic constructed by the highway department that constitute the interstate highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state highway route 1A and the Logan airport access and egress roadways with interstate highway route 90 and continuing beneath Boston harbor to and including the interchange of interstate highway route 90 and South Boston bypass road, but excluding the Logan airport access and egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any additional access and egress roadways acquired by the Massachusetts Port Authority after March 1, 1997; (ii) the seaport access highway, so-called, beginning at the interchange of interstate highway routes 90 and 93 and continuing to the interchange of interstate highway route 90 and South Boston bypass road; and (iii) South Boston bypass road, a portion of which is also known as South Boston haul road, beginning at the interchange of interstate highway route 93 and South Boston bypass road and continuing to the interchange of the seaport access highway, so-called, in the South Boston section of the city of Boston, including such real property and any improvements thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or leased by the highway department in connection with or incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of such roadways and tunnels as are necessary for their safe and efficient operation and maintenance

or which are otherwise convenient or desirable to carry out the purposes of this chapter.

“Turnpike”, the limited access express toll highway, designated as interstate highway route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist information centers and administration, storage, maintenance and other buildings that the department may own, construct or operate and maintain pursuant to this chapter and any additional highway, tunnel and bridge components as the general court may from time to time determine, extending from the town of West Stockbridge on the commonwealth’s border with New York state to, but not including, the interchange of interstate highway route 90 and state highway route 128 in the town of Weston.

“Turnpike corridor”, the cities and towns of the commonwealth from the New York state border to state highway route 128 through which the turnpike runs and municipalities contiguous to such cities and towns.

“Turnpike revenues”, (i) all rates, fees, tolls, rentals or other charges and other earned income and receipts derived from or with respect to the ownership, operation, lease, rent or other use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the department, from whatever source, relating to the turnpike.

Section 2. (a) There is hereby created a body politic and corporate to be known as the Massachusetts Department of Transportation. The department is hereby constituted a public instrumentality and the exercise by the department of the powers conferred by this chapter shall be considered to be the performance of an essential governmental function.

The department is hereby placed in the executive office of the governor 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 in this chapter.

(b) The authority shall be governed and its corporate powers exercised by a board of directors. The board shall consist of 5 members appointed by the governor for a term of 4 years, 2 of whom shall be experts in the field of public or private transportation finance; 2 of whom shall have practical experience in transportation planning and policy; and 1 of whom shall be a registered civil engineer with at least 10 years experience. One of the members shall be appointed by the governor to serve as chairperson of the board; provided, however, that said designee shall not be an employee of the department, department or any division thereof. Not more than 3 of the directors shall be members of the same political party. Each director shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties, including reimbursement for reasonable travel; provided, however that that such reimbursement shall not exceed \$500 annually. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such former member. Any director shall be eligible for reappointment. Any director may be removed from his appointment by the governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

(c) Four directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly called meeting, if a quorum is present, shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors' consent in writing to such action and such written consent is filed with the records of the minutes of the meetings of the board. Such consent shall be treated for all purposes as a vote at a meeting. Each director shall make full disclosure, under subsection (d), of his financial interest, if any, in matters before the board by notifying the state ethics commission, in writing, and shall abstain from voting on any matter before the board in which he has a financial interest, unless otherwise permissible under chapter 268A.

(d) Chapters 268A and 268B shall apply to all ex-officio directors or their designees and employees of the department. Said chapters 268A and 268B shall apply to all other directors of the department, except that the department may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any director of the department is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the members of the board and recorded in the minutes of the board; and provided, further, that no director having such an interest or involvement may participate in any decision of the board relating to such person. Employment by the commonwealth or service in any agency thereof shall not be deemed to be such an interest or involvement.

(e) The governor shall have the power to appoint and employ a secretary of the department, whose term of service shall be coterminous with the term of the governor, and to fix his compensation and conditions of employment. The secretary shall be the chief executive, administrative and operational officer of the department and shall direct and supervise the administrative affairs and the general management of the department. The secretary shall appoint and employ a chief financial and accounting officer and may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel and advisors, and shall attend meetings of the board. The chief financial and accounting officer of the department shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the department without the approval of the board and the signatures of the chief financial and accounting officer and the treasurer, as elected by the board pursuant to subsection (f).

(f) The board shall bi-annually elect 1 of its members as treasurer and 1 of its members as secretary. The secretary of the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed by the board and of its minute book and seal. The secretary of the board shall cause copies to be made of all minutes and other records and documents of the department and shall certify that such copies are true copies, and all persons dealing with the department may rely upon such certification.

(g) All officers and employees of the department having access to its cash or negotiable securities shall give bond to the department 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) Board members and officers who are not compensated employees of the department shall not be liable to the commonwealth, to the department or to any other person as a result of their activities, whether ministerial or discretionary, as such board members or officers except for willful dishonesty or intentional violations of law. Neither members of the department 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 such persons against claims of others.

(i) The department 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 department, all right, title and interest in and to all of its assets and all of its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(j) Any action of the department may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the department shall be subject to section 11A½ of chapter 30A, except that said section 11A½ shall not apply to any meeting of members of the department serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matter relating to the official business of the department is discussed and decided at the meeting. The department shall be subject to all other provisions of said chapter 30A, and records pertaining to the administration of the department shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the department shall be considered to be public funds for purposes of chapter 12A.

Section 3. The department shall have all powers necessary or convenient to carry out and effectuate its purposes including, without limiting the generality of the foregoing, the power to:

(1) adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business for the administration and enforcement of this chapter; provided, however, that regulations adopted by the department shall be adopted pursuant to chapter 30A;

(2) adopt an official seal and a functional name;

(3) exercise any powers necessary for the commonwealth to be in compliance with 23 U.S.C. section 302;

(4) maintain offices at places within the commonwealth as it may determine and to conduct meetings of the department in accordance with the by-laws of the department and the second paragraph of section 59 of chapter 156B;

(5) direct, operate, administer and implement the programs of roadway, general aviation, rail and transit, and vehicular registration and regulation and, in cooperation with the office of planning and programming for the design, construction, repair, maintenance, capital improvements, development, and planning of the transportation facilities throughout

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the department, as appropriate;

(6) direct, coordinate and supervise the administration of the department to promote economy and efficiency and to leverage federal funding and private sector investment;

(7) develop and administer a long-term statewide transportation plan for the commonwealth, in conjunction with the executive office of administration and finance, that includes planning for intermodal and integrated transportation;

(8) develop and administer procedures to be used for transportation project selection;

(9) establish criteria, including criteria to reduce greenhouse gases, for project selection for use in the procedures developed pursuant to clause (7);

(10) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the department;

(11) institute and administer the Massachusetts Transportation Trust Fund for the purposes of making appropriations, allocations, grants or loans to leverage development and investments in transportation investment;

(12) sue and be sued in its own name, plead and be impleaded;

(13) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the state highway system, the metropolitan highway system and the turnpike, or any part thereof; provided, however, that chapter 91 shall not apply to the department, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;

(14) acquire sites abutting the state highway system, the metropolitan highway system or the turnpike, and to construct or contract for the construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities, tourist information centers and other services and to lease such facilities in such manner and under such terms as it may determine;

(15) issue notes or bonds for any of its corporate purposes related to the turnpike payable solely from turnpike revenues or portions thereof pledged for their payment and to refund its notes or bonds pertaining to the turnpike or any part thereof or payable from such revenues, as provided in this chapter;

(16) issue notes or bonds for any of its corporate purposes related to the metropolitan highway system payable solely from the metropolitan highway system revenues or portions thereof pledged for their payment and to refund its notes or bonds pertaining to the metropolitan highway system or any part thereof or payable from such revenues, as provided in this chapter;

(17) issue bonds, notes and other evidences of indebtedness as provided in this chapter;

(18) fix and revise from time to time and charge and collect tolls for transit over the metropolitan highway system and the turnpike; provided, however, that it shall furnish upon request to a user of the metropolitan highway system and turnpike a toll receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and place of exit

from said metropolitan highway system and turnpike; provided, further, that the department shall convene at least 2 public hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to the effective date of any proposed change in toll structure on the turnpike and shall allow for a 1 week comment period, after each such hearing, during which written testimony and comments shall be accepted;

(19) appoint officers and employees and 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 chapter and fix their compensation; provided, however, that the department shall engage consultants to perform only those services for the department which regular employees of the department are unable to perform owing to lack of special expertise or other inability to perform such services on the schedule or in the manner required by the department;

(20) acquire, lease, hold and dispose of real and personal property or any interest therein in the exercise of its powers and the performance of its duties pursuant to this chapter; provided, however, that the department 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 house and senate committees 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 department, 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 value of the real properties related to the transactions;

(21) place and maintain or grant permission by easement or otherwise to any public utility, corporation or person to place and maintain on or under or within the state highway system, the metropolitan highway system or the turnpike, or any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles or other structures to be so located as not to interfere with the safe and convenient operation and maintenance of the state highway system, the metropolitan highway system or the turnpike, and to contract with any such public utility, corporation or person for such permission on such terms and conditions as may be fixed by the department; provided, however, that in case of any such relocation or removal of facilities, the public utility, corporation or person owning or operating the same, its successors or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location for as long a period and upon the same terms and conditions as it had the right to maintain and operate such facilities in their former location; and provided further, that otherwise, the department shall have the power to grant such easements over any real property held by the department as will not, in the judgment of the department, unduly interfere with the operation of any of its mass transportation facilities;

(22) designate the locations and establish, limit and control such points of ingress to and egress from the state highway system, the metropolitan highway system or the turnpike, as may be necessary, convenient or desirable, in the judgment of the department, to insure the proper operation and maintenance of the state highway system, the metropolitan highway

system or the turnpike, and to prohibit entrance to the state highway system, the metropolitan highway system or the turnpike from any point or points not so designated;

(23) (i) construct grade separations at locations where the state highway system, the metropolitan highway system or the turnpike, intersect with or abut public highways or rail lines and to change and adjust the lines and grades of such highways or rail lines so as to accommodate the same to the design of such grade separation; and (ii) change the location of any portion of any public highway or rail line which intersects or abuts the state highway system, the metropolitan highway system or the turnpike, in order to improve the safety or efficiency of the state highway system, the metropolitan highway system or the turnpike; provided, however, that if the department shall find it necessary to change the location of a public highway, it shall reconstruct the same in as good a condition as the original highway and at such location as the department deems most favorable; provided, however, that all costs incident to construction, realignment or reconstruction conducted pursuant to this clause shall be borne by the department;

(24) enter upon any lands, waters and premises in the commonwealth, after 30 days notice by registered or certified mail and without the necessity of any judicial orders or other legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as the department may deem necessary, convenient or desirable for carrying out the purposes of this chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending; provided, however, that the department shall provide reimbursement for any actual damage resulting to such lands, waters and premises as a result of such activities; and provided, further, that the commonwealth hereby consents to the use of all lands owned by it, including lands lying underwater, which are deemed by the department to be necessary, convenient or desirable for the construction, operation or maintenance of the state highway system, the metropolitan highway system or the turnpike;

(25) make and enter into all contracts and agreements necessary, convenient or desirable in the performance of its duties and the execution of its powers under this chapter; provided, however, that sections 26 to 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the department to the same extent and in the same manner as they are applicable to the commonwealth; provided, however, that notwithstanding this clause, the department may, with the approval of the secretary of administration and finance, without competitive bids and notwithstanding any general or special law to the contrary, award a contract, otherwise subject to this section, limited to the performance of emergency repairs necessary to preserve the safety of persons or property;

(26) invest any funds held in reserves or sinking funds, or the Massachusetts Transportation Trust Fund, or any funds not required for immediate disbursement, in such investments as may be provided in any financing document relating to the use of such funds or, if not so provided, as the board may determine;

(27) review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further transportation financing, infrastructure and development within the commonwealth;

(28) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(29) obtain insurance;

(30) 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;

(31) adopt a fiscal year to conform with the fiscal year of the commonwealth;

(32) receive and apply its revenues to the purposes of the department without appropriation or allotment by the commonwealth or any political subdivision thereof;

(33) enter into agreements with other parties including, without limiting the generality of the foregoing, government agencies, municipalities, authorities, private transportation companies, railroads, and other concerns, providing: (i) for construction, operation and use of any mass transportation facility and equipment held or later acquired by the department; provided, however, that any agreement entered into by the department for the construction or acquisition of mass transportation facilities or equipment of more than \$1,000,000, which is financed in whole or in part from the proceeds of bonds, the debt service payments on which are assisted by the commonwealth or made from the dedicated revenue source, shall not become effective until approved by the secretary of administration and finance; (ii) for joint or cooperative operation of any mass transportation facility and equipment with another party; (iii) for operation and use of any mass transportation facility and equipment for the account of the department, for the account of another party or for their joint account; or (iv) for the acquisition of any mass transportation facility and equipment of another party if the whole or any part of the operations of such other party takes place within the area constituting the department; provided, further, that any such other party may enter into any such agreements, subject to such provisions of law as may be applicable; and provided, further, that any agreement with a private company under this chapter which is to be financed from the proceeds of bonds or bond anticipation notes and which provides for the rendering of transportation service by such company and for financial assistance to such company by subsidy, lease or otherwise shall include such service quality standards for such service as the department may deem appropriate and shall not bind the department for a period of longer than 1 year from its effective date, but this shall not prohibit agreements for longer than 1 year if the department's obligations thereunder are subject to annual renewal or annual cancellation by the board's authority; and provided, further, that such agreements may provide for cash payments for services rendered, but not more than will permit any private company a reasonable return;

(34) establish transit facilities and related infrastructure, including terminals, stations, access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as may be deemed necessary and desirable; and provided, further, that the depart-

ment may charge reasonable fees for the use of such facilities as it deems desirable;

(35) lend money to and to acquire or hold obligations issued by public bodies or other users at such prices and in such manner as the department shall deem advisable and sell such bonds acquired or held by it at prices without relation to cost and in such manner as the department shall deem advisable and to secure its own issues of bonds with such obligations held by it;

(36) act as the central entity and coordinating organization for transportation initiatives on behalf of the commonwealth and to work in collaboration with governmental entities, bodies, centers, institutes and facilities to advance the commonwealth's interests and investments in transportation;

(37) enter into agreements with public and private entities that deal primarily with transportation and infrastructure development, in order to distribute and provide leveraging of monies or services for the purposes of furthering transportation development in the commonwealth and promoting overall economic growth within the commonwealth by fostering collaboration and investments in transportation initiatives in the commonwealth;

(38) provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;

(39) establish and collect such fees and charges as the department without further appropriation shall determine to be reasonable and consistent with this chapter; and to receive and apply revenues from fees and charges to the purposes of the department or allotment by the commonwealth or any political subdivision thereof;

(40) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in transportation initiatives as directed in this chapter;

(41) provide assistance to local entities, local authorities, public bodies and private corporations for the purposes of maximizing opportunities for transportation and development initiatives in the commonwealth;

(42) prepare, publish and distribute, with or without charge, as the department may determine, such studies, reports and bulletins and other material as the department deems appropriate;

(43) exercise any other powers of a corporation organized under chapter 156B;

(44) take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by this chapter;

(45) enter into agreements or other transactions with any person including, without limitation, any public entity or other governmental instrumentality or agency in connection with the powers and duties provided the department under this chapter;

(46) delegate any of the foregoing powers to an administrator or to a director having charge of an administrative unit within the department;

(47) ensure regional equity related to transportation planning, construction, repair, maintenance, capital improvement, development and funding; and

(48) designate a representative to act in its interest in labor relations matters with its employees.

Section 4. There shall be established and placed within the department a separate fund to be known as the Massachusetts Transportation Trust Fund which shall be used for financing transportation-related purposes of the Massachusetts Department of Transportation. The secretary shall be authorized to enter into agreements with the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the regional transit authorities and, for so long as it shall continue to exist, the Massachusetts Turnpike Authority to commit any funds generated from fares, fees, tolls or any other revenue sources including, but not limited to, from federal sources of these authorities to the fund. There shall be credited to the fund all turnpike revenues and other toll and non-toll revenue collected by the department after assumption of the assets, obligations and liabilities of the Massachusetts Turnpike Authority, all tolls collected by the department after transfer of the Maurice J. Tobin Memorial Bridge by the Massachusetts Port Authority to the department, all refunds and rebates made on account of expenditures on ways by the department, any revenues from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any gifts, grants, private contributions, investment income earned on the fund's assets, all monies received by the department for the sale or lease of property, all monies received by the department in satisfaction of claims by the department for damage to highway and bridge safety signs, signals, guardrails, curbing and other highway and bridge related facilities, and other receipts of the department. Money remaining in the fund at the end of the year shall not revert to the General Fund.

The fund, which shall be under the control of the department and not subject to appropriation, shall be used as follows:

(a) for expenditures to meet any debt obligations of the department following the dissolution of the Massachusetts Turnpike Authority and assumption of assets, obligations and liabilities by the department;

(b) for expenditure by the department for maintaining, repairing, improving and constructing municipal ways and bridges, sidewalks adjacent to such ways and bridges, bikeways and other projects eligible for funding as a transportation enhancement project as described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways and public use off-street parking facilities related to mass transportation, for engineering services and expenses related to highway transportation enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase and long-term leasing of road building machinery, equipment and tools, for the erection and maintenance of direction signs and warning signs and for necessary or beneficial improvements to unpaved municipal ways together with any money which any municipality may appropriate for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. 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. Such ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities shall remain municipal ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. The department shall withhold or withdraw the unexpended balance of any funds assigned by it under this clause if the municipality fails to comply with the official standards for traffic control established by the department or with any provision of a traffic control agreement negotiated between the department and the municipality, as required by the United States Secretary of Commerce under section 109 of Title 23 of the United States Code;

(c) for expenditure by the department for maintaining, repairing and improving state highways and bridges in the state highway system designated parkways and for the turnpike and the metropolitan highway system managed by the Massachusetts Turnpike Authority until its dissolution ;

(d) for expenditure by the department, in addition to federal aid payments received under section 30 of chapter 81, for construction of state highways;

(e) for expenditure by the department for engineering services and expenses, for care, repair, storage, replacement and purchase of road building machinery and tools, for snow removal, for the erection and maintenance of direction signs and warning signs, for the care of shrubs and trees on state highways and for expenses incidental to the foregoing or incidental to the purposes specified in clause (b), (c) or (d);

(f) for expenditure for the operations of the department and any divisions thereof;

(g) for expenditure by the department for infrastructure improvements to transportation facilities throughout the commonwealth;

(h) for regional expenditure by the department for highway division projects in the 5 geographic regions of the commonwealth consistent with the boundaries of the 5 highway division districts as existing on July 1, 2009;

(i) for expenditure for highway field services and transportation support programs including, but not limited to, state police highway patrols and accident teams; and

(j) for any other expense of the department necessary to carry out its purposes.

Section 5. (a) The department shall be organized and shall function as a single state agency for administrative purposes including, but not limited to, for the purposes of the accounting and financial system of the commonwealth. The secretary shall, notwithstanding any general or special law to the contrary, identify and consolidate administrative activities and functions common to the separate offices, and divisions within the department and may designate such functions 'core administrative functions' in order to improve administrative efficiency and preserve fiscal resources; provided, however, that common functions that shall be designated core administrative functions shall include, but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management. All employees performing functions so designated shall be employed directly by the secretary.

The department may enter into agreements under section 22A and 22B of chapter 7

and in all respects not governed by general or special laws expressly made applicable to the department shall adhere to good business practices to be determined by the department in its procurement of equipment, materials, property, supplies and services.

(b) On December 15 and at 6-month intervals thereafter, the secretary shall report to the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means on the department's progress in implementing the requirements of this section, the operating and capital expenditures made by the department in implementing the requirements of this section and on the administrative savings that have been achieved through the implementation of the requirements of this section.

(c) The secretary shall appoint a manager to serve as director of system integration, whose primary responsibility shall be to develop a plan and oversee the implementation of the merger and integration of the organizations and assets comprising the department.

In advance of each fiscal year, the director of system integration shall develop an annual information technology plan concerning the topics identified in the preceding sentence, the development of new systems for the department and the development of applications for existing systems at the department. The plan shall be delivered to the chief executive officer of the department, the chief information officer of the commonwealth, the chairs of the house and senate committees on ways and means, the chairs of the house and senate committees on bonding, capital expenditures and state assets and the house and senate chairs of the joint committee on transportation.

Section 6. (a) The secretary shall operate and administer an office of performance management and innovation within the department that shall, without limitation, administer this section. The divisions of the department shall report to the office of performance management and innovation with regard to setting goals and establishing performance measures to improve the department and divisions' operations and the delivery of transportation services and projects in the commonwealth.

(b) The secretary shall establish a performance measurement system for the divisions of the department, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of transportation design and construction, service delivery and policy decision making. Performance measurements shall include, for at least the then current fiscal year and the previous 5 fiscal years, all modes of transportation. Performance measurements shall include the number of projects completed, the percentage of projects completed early or on time, the percentage of projects completed under budget or on-budget, the number of projects in construction phase and the percentage of projects advertised early or on time. Performance measurements shall include usage information for all modes of transportation, including measures of throughput, utilization and ridership. This information shall be presented with measurements of congestion, on-time performance, if appropriate, and incidents that have caused delays or closures. Performance measurements shall include assessments of mainte-

nance performance by asset class, mode and region, including a breakdown of highway pavement, bridge and track, for subway, commuter and commonwealth-owned freight rail, by condition level, with an explanation of current year and future year planned maintenance expenditures and the expected result thereof. Reporting on planned maintenance programming shall include an assessment of the categories of maintenance-related activity as described in the American Association of Highway and Transportation Officials' Maintenance Manual for Roadways and Bridges. The division of highways shall expand and enhance its project information system and shall develop additional means to establish a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction and maintenance projects undertaken by the department, and all road and bridge projects of any city or town that are funded, in whole or in part, by the commonwealth. A municipality shall have access to the system at no cost, shall enter such information into the system as may be required by the division of highways and shall otherwise fully participate in the system as a condition of receiving financial assistance from the commonwealth. All information in the project information system shall be a public record unless otherwise exempted by law. A report of the project information system and performance measurements shall be published annually and made available to the public not later than December 31. The report shall also be filed annually with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation. The performance measurement system shall require each division to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on transportation.

(c) The office of performance management and innovation shall be charged with evaluating the goals and measures established by the department and its divisions and monitoring the results reported. The office shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the strategic priorities of the secretary. The office shall report regularly to the public on the progress the department and its divisions are making at achieving stated goals. The office shall be responsible for the establishment and, in cooperation with each of the divisions, operation of an asset management system for all divisions and shall report regularly on the condition of assets and infrastructure. Reports on performance shall include measures of: (i) maintenance activity and results; (ii) usage on all modes of transportation; (iii) operational performance; and (iv) planning, design and construction, including on-time and on-budget project delivery.

The office shall annually publish a "scorecard" identifying the number of projects actively under construction and those completed in the previous year by type, value and location and those planned for the following year. Notwithstanding any other provision of law, the office shall determine the appropriate measures and standards of performance in all categories and reporting on performance trends.

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The office shall be responsible for reporting publicly and transparently and making all reports available through an on-line system.

The secretary shall use the performance criteria established in this section to determine the quality of service of all private entities, including commuter rail providers, that perform transportation services on behalf of the department. The results of such performance measures shall be criteria used in negotiating any contracts.

Section 7. Unless otherwise required by section 6A of chapter 31 or any other general or special law to the contrary, the secretary shall design and implement a program for performance evaluation of employees. The sole purpose of the program shall be the improvement of the performance of individual employees and the department and, notwithstanding any general or special law to the contrary, all information compiled by said program shall be confidential and shall not be public records under section 10 of chapter 66 or clause Twenty-sixth of section 7 of chapter 4. The department may consult with individuals and organizations and may contract for technical assistance for the purpose of the program to the extent it deems necessary.

Section 8. All moneys received pursuant to this chapter, whether as proceeds from the issue of refunding bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the refunding bonds or the trust agreement securing such notes or bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide.

Section 9. (a) There shall be within the department, but not subject to the control of the department, an internal special audit unit. The inspector general council established in section 3 of chapter 12A shall appoint a director of the internal special audit unit for a term of 6 years. The governor may remove the director only for cause, and shall fill any vacancy for the unexpired term. The director shall devote his full time and attention to the duties of this office.

(b) The internal special audit unit shall monitor the quality, efficiency and integrity of the department's operating and capital programs and seek to prevent, detect and correct fraud, waste and abuse in the expenditure of public or private transportation funds.

(c) The director may appoint such persons as he shall deem necessary to perform the functions of the internal special audit unit; provided, however, that section 9A of chapter 30 and chapter 31 shall not apply to any person holding any such appointment. Employees of the internal special audit unit shall have experience with accounting, auditing, financial analysis, applicable law, business management and public administration and shall devote their full-time efforts to the unit and shall not be assigned direct operating responsibilities. Every person so appointed to any position in the internal special audit unit shall have experience and skill in the field of such position.

(d) The director may report and refer his findings to the inspector general for investigation pursuant to chapter 12A and the results of such investigation may be referred to the attorney general for appropriate action.

Section 10. There shall be within the department an office of transportation planning which shall oversee and administer the planning responsibilities of the office of planning and programming, and which shall be under the supervision and control of the secretary. The secretary shall appoint an executive director who shall be skilled and experienced in the field of transportation planning and shall not be subject to chapter 31 or to section 9A of chapter 30. Said director may be removed for cause by the secretary. Said office shall serve as the principal source of transportation planning for state-level transportation projects, and shall develop the commonwealth's transportation-related programs as more particularly set forth in this section. In addition, the office of planning and programming shall work in coordination with regional planning agencies in the commonwealth, which shall serve as the principal source of transportation planning for local and regional transportation projects. Said office shall conduct research, surveys, demonstration projects and studies in cooperation with the federal government, said regional planning agencies, regional transit authorities, municipalities, other governmental agencies, and appropriate private organizations in order to support local and regional planning, deliver transportation programs, and execute demonstration projects.

Said office of transportation planning shall be responsible for the preparation of a comprehensive and coordinated intermodal transportation plan for the commonwealth. Said plan shall include planning to improve and maintain facilities and equipment for all modes of transportation in the Commonwealth, including highways and roads, passenger rail and other public transportation, freight rail, aviation, shipping, pedestrian facilities, bicycle facilities, and water transportation. Said plan shall ensure an equitable allocation of investments in transportation across the regions of the commonwealth. Said plan shall include any program for the disposition of capital assets. Said plan shall include transportation improvement projects for the office of planning and programming and all of its constituent divisions and authorities that own or operate transportation facilities, including the Massachusetts Bay Transportation Authority, the regional transit authorities, and the Massachusetts Port Authority. Said plan shall be developed in consultation with said divisions and authorities, the commonwealth development coordinating council, the executive office for administration and finance, the metropolitan planning organizations, the regional planning agencies, and the transportation finance commission. Said plan shall be prepared in coordination with comprehensive urban development plans and in cooperation with said other agencies so far as practicable. Said plan shall include an analysis of the operation of each regional transit authority, with the purpose of identifying ways in which each regional transit authority can improve efficiency of existing service, and provide new or expanded services to the communities. The analysis shall include an examination of the ridership per vehicle in each regional transit authority to determine the feasibility of converting fleets from large buses to smaller, more energy-efficient vehicles. The analysis

shall identify the potential reduction in operating costs that such a conversion could provide for each regional transit authority, and shall outline the ways in which costs savings attained by this conversion could then be applied to improve service by expanding service areas and increasing hours of service.

The office of transportation planning shall be responsible for planning and programs that promote sustainable transportation, and that will: (i) maintain and expand transportation options that maximize mobility, reduce congestion, conserve fuel, and improve air quality; (ii) prioritize alternative modes including rail, bus, boat, rapid and surface transit, shared-vehicle and shared-ride services, bicycling, and walking; and (iii) invest strategically in existing and new passenger and freight transportation infrastructure that supports sound economic development consistent with established smart growth objectives. The office of transportation planning shall be responsible for bicycle and pedestrian planning, water transportation planning, and the management of transportation programs promoting congestion mitigation and air quality improvements, travel options, safe routes to school, alternative fuels, and other planning initiatives and programs that promote sustainable transportation working in coordination with the regional planning agencies and the metropolitan planning organization.

The office of transportation planning shall be responsible for research and planning in support of the implementation of chapter 21N. The office shall undertake planning and research tasks and coordinate with the executive office of energy and environmental affairs on issues related to historic, current, and projected future transportation-generated emissions of carbon dioxide and other greenhouse gases and technology, policy, and legal issues related to developing and implementing market-based compliance mechanisms for transportation-generated greenhouse gases. Such planning shall include comprehensive climate change adaptation planning to ensure that the commonwealth's transportation infrastructure is designed to tolerate increased environmental stress due to climate change, including, but not limited to increased temperatures, increased stormwater runoff, and extreme weather events.

The office of transportation planning shall conduct plans and work with the divisions, municipalities, other public agencies, private organizations, and other parties as appropriate in order to ensure the implementation of measures that facilitate equitable bicycle and pedestrian access in the planning and development of all transportation facilities. Consistent with the most current edition of the MassHighway Project Development and Design Guide, or its successor, the office of planning and programming shall in the design, construction, and maintenance of transportation facilities for all new construction and reconstruction projects, including resurfacing, restoring and rehabilitation improvement projects, ensure safe and contiguous routes for all users, including individuals of all ages and abilities, pedestrians, bicyclists, transit vehicles and riders, and motorists.

The office of transportation planning shall work with other commonwealth agencies to identify measures that agencies can take to facilitate fuel conservation, travel demand management for agency employees, and sustainable transportation, to develop programs that

consolidate and promote these measures in a user-friendly manner, and to provide programmatic support to help other commonwealth agencies implement these measures.

The office of transportation planning shall utilize life-cycle cost modeling for all projects. Life-cycle costs shall mean all relevant costs of a transportation asset's lifespan including, but not limited to, planning, study, design, purchase or lease, operation, maintenance, repair, replacement and disposal. The office shall utilize life-cycle cost modeling during the project planning and selection processes for all of its divisions, agencies, and authorities, as defined herein. Life-cycle cost information shall be presented as part of the public disclosure process in all project planning documents in equal proportion to initial delivery cost estimates. Project planning shall include the identification of funding to minimize life-cycle costs throughout the life of each asset.

Section 11. Every 5 calendar years, beginning not later than April 30, 2010, the secretary of the department shall, after conducting public hearings, prepare and publish in the Massachusetts Register a comprehensive state transportation plan for the 5 succeeding fiscal years, beginning with the period of fiscal year 2011 to 2015, inclusive. The plan shall be consistent with such priorities as may be established by legislation. The plan shall be designed to ensure construction and maintenance of a safe, sound and efficient public highway, road and bridge system, to relieve congestion, to reduce greenhouse gas emissions, particulates and other pollutants, and to improve the quality of life in the commonwealth by promoting economic development and employment in the commonwealth by meeting, cost effectively, the diverse transportation needs of all residents of the commonwealth, including urban, suburban and rural populations. The plan shall also include an engineering assessment to anticipate highway, road and bridge needs throughout the commonwealth as determined by objective engineering measurements of condition, safety and service. The secretary shall consult with the executive office of environmental affairs, the executive office for administration and finance, and the executive office of housing and economic development in the development of the plan. The plan shall provide for meeting not less than 5 per cent annually of the estimated construction, reconstruction and repair needs of public highways and bridges of the commonwealth, its counties, cities and towns. The department shall determine and certify to the secretary of administration and finance its estimate of the total value of all construction, reconstruction and repair needs of the commonwealth's highway and bridge infrastructure. The total value estimate shall be based on satisfying current safety and maintenance standards of the Federal Highway Administration and the American Association of State Highway and Transportation Officials. The estimate shall be substantiated by documented objective engineering estimates. The secretary of transportation shall make plans, and updates thereto, based upon such certified estimates and make such plans or updates available for public review.

The department shall report annually, not later than February 1, to the house and senate committees on ways and means and the joint committee on transportation on their compliance with the plan and their efforts to satisfy the 5 per cent construction, reconstruction and repair needs to the commonwealth's public highways and bridges.

The long range transportation plan developed by the secretary of transportation under this section shall ensure that the commonwealth's total 5 year capital expenditures for road and bridge projects across all capital programs for such projects managed by the executive office, excluding competitive grant programs, shall be equitable across the districts established in section 3 of chapter 57. For the purposes of this paragraph, "equitable" shall mean not less than 75 per cent of the annual percentage of the total statewide collections of motor vehicle fuel tax generated by each such district provided, however, that the minimum percentage shall be 85 per cent for districts in which the revenue generated by registered vehicles that have a Fast Lane transponder exceeds the average revenue generated by registered vehicles that have a Fast Lane transponder in districts statewide.

Section 12. The department shall develop and implement a single integrated asset management system to oversee and coordinate the maintenance, preservation, reconstruction and investment of all of the assets in its possession, custody and control. The department may use programs and services offered by the division of capital asset management and maintenance and the information technology division or separate offices, divisions, and authorities within the department to aid in its development of an integrated asset management system as long as, in the judgment of the department, such programs and services compare favorably with those available from private vendors and are offered at competitive prices.

Section 13. (a) The department may charge and collect and, from time to time, fix and revise tolls for transit over the turnpike and the different parts or sections thereof, subject to such classifications of vehicles and manners of collection as the department determines desirable and subject to section 3. Such tolls shall be so fixed and adjusted as to provide, at a minimum, funds sufficient with other revenues, if any, to pay: (i) costs incurred in furtherance of this chapter related to the turnpike including, but not limited to, the cost of owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the turnpike; and (ii) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the turnpike as the same shall become due and payable and to create and maintain reserves established for any of the department's corporate purposes. Such tolls shall not be subject to supervision, regulation, approval or disapproval by any department, division, commission, board, bureau or agency of the commonwealth or any political subdivision thereof. The department shall maintain the confidentiality of all information including, but not limited to, photographs or other recorded images and credit and account data relative to account holders who participate in its electronic toll collection system. Such information shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66 and shall be used for enforcement purposes only with respect to toll collection regulations. An account holder may, upon written request to the department, have access to all information pertaining solely to the account holder. For each violation of applicable department regulations related to electronic toll collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The notice shall include the registration number of the vehicle, the state

of issuance of such registration and the date, time and place of the violation. The notice may be based, in whole or in part, upon inspection of any photographic or other recorded image of a vehicle and the written certification by a state police officer or other person employed by or under contract with the department or its electronic toll collection system contractor that it is so based shall be prima facie evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.

(b) The department may charge and collect and, from time to time, fix and revise tolls for transit over or through the metropolitan highway system or any part thereof subject to such classifications of vehicles and manners of collection as the department determines desirable and subject to clause (j) of section 4. Such tolls shall be so fixed and adjusted as to provide, at a minimum, a fund sufficient with other revenues, if any, to pay: (i) costs incurred in furtherance of this chapter related to the metropolitan highway system including, but not limited to, the cost of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating the metropolitan highway system; and (ii) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the metropolitan highway system as the same shall become due and payable and to create and maintain reserves established for any of the department's corporate purposes. The department shall not charge or collect a toll for transit through the Callahan tunnel or the Sumner tunnel or over the Tobin memorial bridge or through the Ted Williams tunnel by official emergency vehicles of the commonwealth or any municipality, political subdivision or instrumentality thereof, while such vehicles are on official business; provided, however, that the department may not charge and collect tolls for transit through the Callahan tunnel, the Sumner tunnel or the Ted Williams tunnel by private passenger vehicles registered in the East Boston section of the city of Boston or the South Boston section of the city of Boston, as the Boston transportation department has determined the geographical boundaries of said sections of Boston, that are greater than the tolls in effect for such vehicles registered in said East Boston section at existing tunnel toll facilities on the effective date of section 14 of chapter 102 of the acts of 1995; provided, further, that the department may not charge and collect tolls for transit through the Callahan or Sumner tunnels to private passenger vehicles registered in the North End section of the city of Boston, as the Boston transportation department has determined the geographical boundaries of such section, that are greater than the tolls in effect for such transit through either the Sumner tunnel or Callahan tunnel for such vehicles on the effective date of said section 14 of said chapter 102; provided further, that the department shall continue operation of the 50 per cent toll discount program for account holders who participate in the department's electronic toll collection system approved by the Massachusetts Turnpike Authority board of directors on June 28, 2002 and provided in section 45 of chapter 246 of the acts of 2002 and such 50 per cent discount shall be applied to all toll increases implemented after the effective date of this act; and provided further, that the tolls collected for transit over or through the Maurice J. Tobin Memorial Bridge by private passenger vehicles registered in

the city of Chelsea or the Charlestown neighborhood of the city of Boston, as the Boston transportation department has determined the geographical boundaries of such section, shall not be greater than the tolls in effect for such vehicles as of January 1, 2009 pursuant to the Resident Commuter Permit Program, so called. The department shall maintain the confidentiality of all information including, but not limited to, photographs or other recorded images and credit and account data, relative to account holders who participate in its electronic toll collection system. Such information shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66 and shall be used for enforcement purposes only with respect to toll collection regulations. An account holder may, upon written request to the department, have access to all information pertaining solely to the account holder. For each violation of applicable department regulations related to electronic toll collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The notice shall include the registration number of the vehicle, the state of issuance of such registration and the date, time and place of the violation. The notice may be based, in whole or in part, upon inspection of any photographic or other recorded image of a vehicle and the written certification by a state police officer or other person employed by or under contract with the department or its electronic toll collection system contractor that it is so based shall be prima facie evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.

(c) All revenue received from tolls, rates, fees, rentals and other charges for transit over or through all tolled roads, bridges or tunnels shall be applied exclusively to: (i) the payment of existing debt service on such tolled roads; and (ii) the cost of owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering, controlling and operating such tolled roads.

Section 14. The department shall be deemed to be a public agency for purposes of, and shall be subject to, section 39M of chapter 30 and sections 44A to 44H, inclusive, of chapter 149 and shall comply with requirements applicable to an independent public authority for publication of contract information in the central register established pursuant to section 20A of chapter 9.

Section 15. The department shall, for the purposes of compliance with state finance law, operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the provisions applicable to agencies under the control of the governor including, but not limited to, chapter 29, chapter 7A, chapter 7 and chapter 10; provided, however, that the comptroller may identify any additional instructions or actions necessary for the department to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. The department shall properly classify the department's operating and capital expenditures, and shall not include any salaries of employees in the department's capital expenditures. Unless otherwise exempted by law or the applicable central service agency, the department shall participate in any other available commonwealth central services including, but not limited, to the state payroll system pursuant to section 31

of chapter 29, and may purchase other goods and services provided by state agencies in accordance with comptroller provisions. This section shall not apply to the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority or the regional transit authorities. The comptroller may chargeback the department for the transition and ongoing costs for participation in the state accounting and payroll systems and may retain and expend such costs without further appropriation for the purposes of this section. The department shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of chapter 29.

Section 16. Each fiscal year the department shall submit an annual finance plan to the secretary of administration and finance, and updates to such plan, in accordance with instructions issued by said secretary.

Section 17. (a) The department may provide by resolution at 1 time or from time to time for the issuance of bonds of the department to refinance the bonds issued prior to July 1, 2009 pursuant to chapter 81A and the financing obligations of the Massachusetts Turnpike Authority relating to the turnpike and the metropolitan highway system. Any such bonds shall be special obligations of the department payable solely from monies credited to the fund. Bonds issued pursuant to this section shall not be general obligations of the commonwealth or any political subdivision thereof and shall not constitute a debt or a pledge of the faith and credit of the commonwealth or any such political subdivision.

(b) Bonds may be issued and sold in such manner and on such terms and conditions as the department may determine, with the approval of the secretary of administration and finance. The bonds shall be signed by the chairperson and treasurer of the department or shall bear their facsimile signature and shall bear the official seal of the department or a facsimile thereof, attested to by the signature of a duly appointed officer of the department.

(c) Bonds may be secured by a trust agreement entered into by the department, which trust agreement may pledge or assign all or part of the monies credited to the fund and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The department may enter into additional security, insurance or other forms of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, whether or not such parties have received notice thereof.

Any such pledge shall be perfected by filing of the trust agreement or credit enhancement agreement in the records of the department, and no filing need be made pursuant to chapter 106. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as may be reasonable and proper, including provisions relating to the establishment of reserves, acceleration of maturities, restrictions on the individual right of action by bondholders and

covenants setting forth the duties of and limitations on the department, and may regulate the custody, investment and application of monies.

(d) Any such bonds shall be deemed to be investment securities pursuant to chapter 106, shall be securities in which any public officer, fiduciary, insurance company, financial institution or investment company may properly invest funds and shall be securities which may be deposited with any public custodian for any purpose for which the deposit of bonds is authorized by law.

(e) Any such bonds, their transfer and the income therefrom, including profit on the sale thereof, shall at all times be exempt from taxation by and within the commonwealth.

(f) The provisions hereof relating to bonds shall also be applicable to the issuance of notes insofar as such provisions may be appropriate therefore.

(g) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by the Massachusetts Turnpike Authority pursuant to chapter 81A shall be impaired hereby, and the department, as successor in interest to the Massachusetts Turnpike Authority, shall maintain the covenants of the trust indentures pertaining to such bonds so long as such bonds shall remain outstanding.

(h) The department shall be subject to section 98 of chapter 6.

Section 18. The office of the attorney general shall appear for the department, its divisions, departments, agencies and officers, but not including the Massachusetts Bay Transportation Authority, the regional transit authorities and the Massachusetts Port Authority and their officers, in all suits and other civil proceedings in which the department is a party or interested, or in which the official acts and doings of said divisions, departments, agencies and officers are called into question, to the same extent and in the same manner as provided to the commonwealth and state departments, officers and commissions under section 3 of chapter 12. The department and its divisions, departments and agencies, but not including the Massachusetts Bay Transportation Authority, the regional transit authorities and the Massachusetts Port Authority, shall be generally considered to be an agency of the commonwealth for purposes of chapter 12.

Section 19. (a) The department may take by eminent domain in accordance with the provisions of chapter 79 or any alternative method now or hereafter provided by general law, any public land and any fee simple absolute or lesser interest in private property or part thereof or rights therein as it may deem necessary for carrying out the provisions of this chapter.

(b) Whenever a parcel of private property so taken is used in whole or in part for residential purposes, the owner of such parcel may, within 30 days of the date of the department's notice to vacate such parcel, appeal to the department for a postponement of the date set for such vacating, whereupon the department shall grant to the owner a postponement of 3 months from the date of such appeal; provided, however, that the appeal for such postponement shall be in the form of a written request to the department sent by registered mail, return receipt requested; and provided, further, that section 40 of said chapter 79 shall govern the rights of the department and of any person whose property shall be so taken.

(c) The department shall have power, in the process of constructing, reconstructing, repairing, rehabilitating, improving, policing, using or administering all or any part of the state highway system to take by eminent domain pursuant to chapter 79, such land abutting the state highway system as it may deem necessary or desirable for the purposes of removing or relocating all or any part of the facilities of any public utility, including rail lines, and may thereafter lease the same or convey an easement or any other interest therein to such utility company upon such terms as it, in its sole discretion, may determine. Notwithstanding any general or special law to the contrary, the relocation of the facilities of any public utility, including rail lines, in accordance with this section shall be valid upon the filing of the plans thereof with the department of telecommunications and energy, if applicable.

Section 20. Except as otherwise provided by law, any sale of real property shall be awarded, after advertisement for bids, to the bidder who is the highest responsible bidder. The department shall have the right to reject all bids and to read-advertise for bids. Before any real property shall be so sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily newspapers of general circulation published in the city of Boston and, if such real property is located in any other city or town, in a newspaper of general circulation published in such other city or town, once a week for 3 successive weeks. Such advertisements shall state the time and place where all pertinent information relative to the real property to be sold or conveyed may be obtained and the time and place of opening the bids in answer to such advertisements and that the department reserves the right to reject any or all such bids. All bids in response to advertisements shall be sealed and shall be publicly opened by the department. The department may require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the department, accompany the proposals. This paragraph shall not be applicable to any sale of real property by the department to the commonwealth or any city, town or public instrumentality nor to a sale of real property which is determined by the department to have a fair market value of \$5,000 or less.

The department may sell buildings or other structures upon any lands taken by it or may remove the same and shall sell, if a sale be practicable or, if not, shall lease, if a lease be practicable, any lands or rights or interest in lands or other property taken or purchased for the purposes of this chapter, whenever the same shall, in the opinion of the department, cease to be needed for such purpose.

Section 21. Notwithstanding chapters 134 and 147, if money, goods or other property which has been abandoned, mislaid or lost on the premises of the department comes into the possession of the department and remains unclaimed for a period of 120 days, the department may sell the same, excepting money so unclaimed, at public auction after notice of such sale has been published for 3 successive weeks in a newspaper published in the city or town wherein such sale shall occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale, and all money so unclaimed, shall be paid into and become the property of the department and may be deposited in the Massachusetts Transportation Trust Fund. If such property is in the possession of the department and remains

unclaimed for a period of 120 days and is of the value of \$3 or less, the department may donate the same to a charitable organization.

Section 22. The superior court department of the trial court shall have jurisdiction to enforce rights and duties created by this chapter and, on complaint of the department, may restrain violations of the department's regulations and otherwise enforce by any appropriate remedy including, without limiting the generality of the foregoing, injunctive relief, the regulations, licenses, permits, orders, penalties and charges of the department. Penalties and charges established by or under authorization of this chapter shall be collected for the account of the department and paid over to the department. Except for rights of action expressly conferred upon the department, no provision of this chapter shall create private rights of action in enforcement proceedings.

Section 23. The department and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the department shall have bonds outstanding without adequate provision for the complete payment or satisfaction thereof. Upon termination of the department, the title to all funds and other properties owned by it which remain after the payment or satisfaction of all bonds of the department shall vest in the commonwealth. The obligations, debts and liabilities of the department shall be assumed by and imposed upon the commonwealth.

Section 24. (a) All local bodies and all public agencies, instrumentalities, commissions and authorities of the commonwealth may undertake activities, programs and projects in conjunction with the department in furtherance of the purposes of this chapter including, without limiting the generality of the foregoing, to join in investigations and studies and to submit grant applications and applications for project approvals.

(b) Except with respect to real property acquired or held for purposes described in Article XCVII of the amendments to the constitution of the commonwealth, all local bodies and all public agencies, instrumentalities, commissions and authorities of the commonwealth may lease, lend, grant or convey to the department, upon such terms and conditions as the proper authorities of such public bodies, public agencies, instrumentalities, commissions and authorities of the commonwealth may deem appropriate and without the necessity of any action or formality other than the regular and formal action of such public bodies, agencies, instrumentalities, commissions and authorities of the commonwealth, any interest in any real or personal property which may be necessary or convenient to effect the purposes of the department.

Section 25. The secretary, administrators, and directors of the department shall be sworn to the faithful performance of their official duties. The secretary and each administrator, and director shall: conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest; avoid impropriety and the appearance of impropriety in all matters under their jurisdiction; avoid all prohibited communications; require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence; disqualify themselves from proceedings in which their

impartiality might reasonably be questioned; refrain from financial or business dealings which would tend to reflect adversely on impartiality, although the secretary, administrators, and directors may hold and manage investments which are not incompatible with the duties of their office or of this section; and conform to such additional rules as may be prescribed by the secretary from time to time.

Section 26. Chapter 12A shall apply to the department.

Section 27. (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 and as the operation and of the department shall constitute the performance of essential governmental functions, the department shall not be required to pay any taxes or assessments, except as otherwise provided by this chapter and the notes or bonds issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, at all times shall be free from taxation by and within the commonwealth.

(b) The lands and tangible personal property of the department 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 28. In order to promote transparency, accountability and equity, the Massachusetts Department of Transportation, shall not later than October 31, submit an annual revenue and expenditure report to the house and senate chairs of the joint committee on transportation and the chairpersons of the house and senate committees on ways and means. The report shall also be posted on the Massachusetts Department of Transportation's website.

The annual revenue and expenditure report shall provide a full accounting of the operational and capital revenues received and expended by the Massachusetts Department of Transportation, the registry of motor vehicles, the aeronautics division and the division of highways and the division of mass transit during the preceding fiscal year ending the preceding June 30, including fiscal activity during the accounts payable period for that fiscal year.

The report shall include, among other information necessary to provide a full accounting, the following information relative to revenues: (i) revenues raised by the various state motor fuels taxes, broken down by category, such as gasoline, special fuels and aviation fuel; (ii) revenues raised through fares, which shall be broken down to reflect fares collected for commuter rail, rapid transit, bus service, water transportation, regional transit service and any other similar fares; (iii) tolls collected, broken down by those collected for travel on the metropolitan highway system, for travel on the turnpike and any other similar tolls; (iv) fees collected by the registry of motor vehicles, which shall be broken down by each specific fee; (v) revenues raised by the portion of the sales tax credited to the Massachusetts Transportation Trust Fund and the Commonwealth Transportation Fund; (vi) assessments deposited into the Massachusetts Transportation Trust Fund and the Commonwealth Transportation Fund, broken down by source; (vii) federal funds received from the Federal Highway Administration, funds received from the Federal Transit Administration and (viii)

any other similar federal funds; and any other revenues received by the Massachusetts Department of Transportation and any of its divisions.

To provide a full accounting, the report shall also provide the following information relative to expenditures: expenditures by the Massachusetts Department of Transportation and its divisions of highways, division of mass transit, registry of motor vehicles, and aeronautics division, including operating and capital expenditures. In addition to the above-referenced expenditures, the report shall also detail the overall expenditures for commuter rail, rapid transit, water transportation; regional transit services; the statewide road and bridge program, the chapter 90 program, which funds town and county ways; the accelerated bridge program, and any other capital programs administered by the Massachusetts Department of Transportation.

The report shall include an accounting of debt of the Massachusetts Department of Transportation, including those projects and programs for which the debt was incurred, and what revenues have been pledged to repay that debt.

Section 29. (a) There shall be within the department an office of planning and programming which shall be under the supervision, direction and control the secretary. The secretary shall be appointed by the governor pursuant to paragraph 2 of section 2. The secretary shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The secretary shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, agencies, commissions, offices, boards, divisions, and other agencies within the executive office. The secretary shall serve at the pleasure of the governor, shall receive such salary as may be determined by law, and shall devote his full time to the duties of his office. In the case of an absence or vacancy in the office of the secretary, or in the case of disability as determined by the board, the board may designate an acting secretary to serve as secretary until the vacancy is filled or the absence or disability ceases. The acting secretary shall have all the powers and duties of the secretary and shall have similar qualifications as the secretary.

(b) The office of planning and programming shall contain the following administrative units: the highway division, the mass transit division, the aeronautics division; and the registry of motor vehicles.

(c) The secretary shall, notwithstanding the provisions of chapter 30 and section 9A of chapter 31 and subject to the approval of the governor, appoint 4 administrators: 1 of whom shall be the administrator for highways and shall be a person of skill and experience in the fields of highway management and public works; 1 of whom shall be the administrator for mass transit and shall be a person of skill and experience in the fields of rail transportation or mass transit; 1 of whom shall be the administrator for aeronautics and shall be a person of skill and experience in the field of aeronautics; and 1 of whom shall be the administrator for motor vehicle enforcement, who shall be known as the registrar of motor vehicles and shall be a person of skill and experience in management and motor vehicle law.

Each administrator shall receive such salary as the secretary shall determine, subject to the approval of the board, and shall devote his full time to the duties of his office.

(d) Subject to appropriation and consistent with subsection (e), the secretary may appoint such persons as he shall deem necessary to perform the functions of the department; provided, however, that section 9A of chapter 30 and chapter 31 shall not apply to any person holding any such appointment. Every person so appointed to any position in the department shall have experience and skill in the field of such position. So far as practicable in the judgment of the secretary, appointments to such positions in the executive office shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under said chapter 31, and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within this office which is not subject to the provisions of said chapter 31, the employee shall upon termination of his service in such position be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering said chapter 31. Such restoration shall be made without impairment of his civil service status or tenure under said section 9A of said chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled him. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

Section 30. (a) The office of planning and programming shall serve as the principal agency of the executive department for the following purposes: (1) developing, coordinating, administering and managing transportation policies, planning and programs related to design, construction, maintenance, operations and financing; (2) supervising and managing the organization and conduct of the business affairs of the divisions, agencies, commissions, offices, boards, divisions, and other entities within the department to improve administrative efficiency and program effectiveness and to preserve fiscal resources; (3) developing and implementing effective policies and programs to assure the coordination and quality of roadway, transit, airport and port infrastructure and security provided by the secretary and all of the divisions, agencies, commissions, offices, boards, divisions, authorities and other entities within the department.

(b) The following state agencies shall be within the office of planning and programming: the highway division, including the government center commission established by section 1 of chapter 635 of the acts of 1960, the mass transit division, the aeronautics division, the registry of motor vehicles division and all other state agencies within the department, except the division of motorboats and the division of waterways. The Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority and any regional transportation authorities established under chapter 161 or 161B shall also be

within the jurisdiction of the department.

(c) Subject to the approval of the board the secretary may: (1) operate and administer the programs of roadway design, construction, repair, maintenance, capital improvement, development, and planning through the division of highways and other agencies within the department, as appropriate; (2) coordinate and supervise the administration of the department and its agencies to promote economy and efficiency and to leverage federal funding; (3) develop, in consultation with the commonwealth development coordinating council, and administer a long-term state-wide transportation plan for the commonwealth that includes planning for intermodal and integrated transportation; (4) develop, based on a public hearing process, procedures to be used for transportation project selection; (5) establish criteria for project selection to be used in the procedures developed pursuant to clause (4); (6) enter into agreements with commissions, offices, boards, divisions, authorities and other entities within the department to improve divisions, agencies, administrative efficiency and program effectiveness and to preserve fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the department and agencies within the department; (8) execute all instruments necessary for carrying out the business of the department and its agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of the department and its agencies; (10) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the department or its agencies; and (11) apply for and accept funds, including grants, on behalf of the commonwealth in accordance with applicable law. The secretary may delegate any of the foregoing powers to an officer having charge of a division, office, division or other administrative unit within the executive office.

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

Section 31. (a) The secretary may from time to time, subject to appropriation, establish within the office of planning and programming such administrative units as may be necessary for the efficient and economical administration of the office of planning and programming, and when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more units, as the secretary deems advisable. The secretary shall prepare and keep current a statement of the organization of the office of planning and programming, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the department's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

Section 32. The secretary shall apply for, accept and expend, subject to appropriation, on behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, or any agency or instrumentality thereof for demonstration projects and programs as may become available to the commonwealth for the purpose of energy conservation

for improved transportation management systems or for improved transportation management systems.

Section 33. There shall be established within the department a healthy transportation compact. The secretary and the secretary of health and human services shall work cooperatively to adopt best practices to increase efficiency to achieve positive health outcomes through the coordination of land use, transportation and public health policy. The compact shall consist of the secretary or his designee, the secretary of health and human services or his designee, the secretary of energy and environmental affairs or his designee, the administrator of transportation for highways or his designee, the administrator of transportation for mass transit or his designee, and the commissioner of public health or his designee.

The secretary and the secretary of health and human services, or their designees, shall serve as co-chairpersons of the compact. The chairpersons shall convene and preside at meetings of the compact, determine the agenda of the compact, direct its work and, as appropriate to particular subject matters, establish and direct subgroups of the compact, which shall consist exclusively of the compact's members. The compact shall: (i) promote inter-secretariat cooperation and the establishment of a healthy transportation policy, including appropriate mechanisms to minimize duplication and overlap of state and federal programs and services; (ii) develop a healthy transportation framework that increases access to healthy transportation alternatives that reduce greenhouse gas emissions, improves access to services for persons with mobility limitations and increases opportunities for physical activities; (iii) develop methods to increase bicycle and pedestrian travel, incorporate the principles, findings and recommendations of the Massachusetts bicycle transportation plan and establish a framework for implementation of the Bay State Greenway Network; (iv) develop and implement, in consultation with the bicycle and pedestrian advisory board established in section 11A of chapter 21A, administrative and procedural mechanisms, including the promulgation of rules and regulations, consistent with the most current edition of the Project Development and Design Guide, or its successor, to encourage the construction of complete streets, designed and operated to enable safe access for pedestrians, bicyclists, motorists and bus riders of all ages to safely move along and across roadways in urban and suburban areas; (v) establish methods to implement the use of health impact assessments to determine the effect of transportation projects on public health and vulnerable populations; (vi) facilitate access to the most appropriate, cost-effective transportation services within existing resources for persons with mobility challenges; (vii) expand service offerings for the Safe Routes to Schools program; (viii) explore opportunities and encourage the use of public-private partnerships with private and nonprofit institutions; (ix) seek to establish an advisory council with private and nonprofit advocacy groups as the compact sees fit; (x) institute a health impact assessment for use by planners, transportation administrators, public health administrators and developers; and (xi) develop and implement a method for monitoring progress on achieving the goals of this section and provide any other recommendations that would, in the judgment of the compact, advance the principles set forth in

this section.

Section 34. Prior to the final approval of a transportation infrastructure project, including mass transit expansion or the construction of new roadways with a projected capital cost of more than \$15,000,000, and prior to expending any funds for the planning, design and construction of any such project, the secretary of transportation shall request that the administrator of the appropriate division of the Massachusetts Department of Transportation prepare a fiscal analysis, including life cycle costs, demonstrating that sufficient revenues exist or will be generated to operate and maintain in good repair a new transportation asset. This analysis shall be also be submitted to any advisory boards to the respective divisions of the Massachusetts Department of Transportation.

If a project for the expansion of mass transit has a projected total cost in excess of \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of administration and finance for a determination as to which costs, if any, will become part of the commonwealth's plan of capital expenditures.

Section 35. The secretary shall annually submit a complete and detailed report of the department's activities within 90 days after the end of the fiscal year to the clerk of the house of representatives, the clerk of the senate, the chairs of the joint committee on transportation and the chairs of the house and senate committees on ways and means.

Section 36. As used in sections 41 to 56, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

'Division', the division of highways.

'Administrator', the administrator of transportation for highways.

Section 37. There shall be within the department a division of highways, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over state highways. The division shall be under the supervision and control of the administrator. The administrator shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. The duties given to the administrator in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as the construction, operations or financing thereof or other relevant experience relative to the efficient exercise of his powers and duties. The administrator shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

Section 38. The division shall be responsible for the administration and enforcement of chapter 81 and for the administration and management of the state highway system. The division shall: (1) administer the design, construction, reconstruction, repair, rehabilitation, improvement, operation and maintenance of roads and bridges within the commonwealth; (2) enter into any contracts and agreements necessary or desirable to carry out its purposes; (3) make, and from time to time revise, regulations for the conduct of the business of the division and all regulations otherwise required by law; (4) collaborate with other agencies and authorities as may be appropriate in fields related to transportation, development, public safety and security; (5) prepare and submit to the governor, the board and the general court an annual report describing the organization of the division, and with the approval of the secretary, reviewing the work of the division, recommending legislation and other action by the governor and the general court, and (6) submit such other reports as the secretary or the general court may require from time to time.

Section 39. (a) The administrator may from time to time, subject to the approval of the secretary, establish within the division such administrative units, district or other offices as may be necessary for the efficient and economical administration of the division, and when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more units, as the administrator deems advisable; provided, however, that the administrator shall establish the following units: highway engineering, highway construction and highway maintenance. Each such unit shall be under the direction, control and supervision of the administrator. The administrator shall assign to all officials, agents and employees of the units their respective duties. The administrator shall prepare and keep current a statement of the organization of the division, of the assignment of its functions to its various administrative units, offices and employees and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the division's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

(b) The administrator may appoint and remove without regard to chapter 31, but with the approval of the secretary: a chief engineer; 5 deputy chief engineers; an assistant chief engineer; a highway and structures engineer; a bridge engineer; highway engineers; district highway engineers; a general counsel to serve in the office of the administrator; a director to serve in the division of administrative services; 4 executive assistants to the administrator; a personnel director; a director of the right of way bureau; and a director of public information. The total number of appointments to be made by the administrator under this subsection shall not exceed 35. No person holding an appointment under this subsection shall be subject to section 9A of chapter 30 or chapter 31. Nothing in this section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive, of said chapter 30. So far as practicable in the judgment of the administrator, appointments to said positions not classified under said chapter 31 shall be made by promoting employees of the commonwealth serving in positions so classified. Any person appointed to the position of

chief engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge engineer, highway engineer or district highway engineer shall be a person of experience and skill as an engineer and shall be: (i) an employee of the division holding an office or position classified under said chapter 31 with permanent status of senior civil engineer or higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of bachelor of science in an appropriate engineering discipline from an accredited college or university. If an employee of the commonwealth having permanent status in a position classified under or having tenure by reason of section 9A of said chapter 30 is so promoted to such unclassified position, upon termination of service in such unclassified position, the employee shall: be restored to the position from which he was promoted or to a position equivalent thereto in the salary grade in the same state agency; or if he had been promoted in accordance with said chapter 31 in the unclassified position, to the position to which he was so promoted or to a position equivalent thereto in salary grade in the same state agency. In cases of restoration under said section 9A of said chapter 30 or said chapter 31, such restoration shall be without impairment of civil service status or tenure under said section 9A of said chapter 30, and without loss of the seniority, retirement and other rights to which uninterrupted service in the position would have entitled the employee; provided, however, that if his service in such unclassified position has been terminated for cause, the employee's right to be restored shall be determined by section 43 of said chapter 31. During the period of such appointment the person so appointed shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

Section 40. The administrator shall establish a procedure for recommending to the secretary approval or disapproval of all contracts, including specifications, made by the division and any changes, alterations, amendments or modifications thereof and for contract appeals of all claims made under any contract with the division with the exception of claims subject to section 39Q of chapter 30. Any person aggrieved by a decision of the secretary acting in regard to contract appeals may bring suit against the commonwealth for recovery of damages based on such claim under chapter 258.

To assist the secretary and administrator in performing this function, the governor may appoint and remove a person of legal training and experience, who shall be a member of the bar of the commonwealth, to the position of hearing examiner. The hearing examiner shall devote his full time during business hours to the duties of this position. The position shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The secretary may refer any dispute concerning contracts, contract specifications or the execution of contracts not subject to said section 39Q of said chapter 30 to the hearing examiner for a report on the matter, including a recommendation as to the disposition of the dispute.

The hearing examiner shall hear all claims by contractors from determinations of the division with the exception of claims subject to said section 39Q of said chapter 30 and shall, after hearing, render to the secretary a report of the matter including a recommendation as to the disposition of the claim. The examiner shall, at the request of the contractor or of the

division or on his own motion, summon witnesses and require the production of books and records and take testimony under oath. Such reports shall be maintained as public records in a place and form fully accessible to the public.

Section 41. With the approval of the personnel administrator, the administrator may establish in the division a program of engineering internship and may recruit qualified persons to serve in the division as highway engineer interns. Every effort shall be made to recruit qualified persons who reflect the diversity of the commonwealth.

The number of persons employed in the division as highway engineer interns shall at no time exceed 7, nor may such highway engineer interns employed by the division be placed in a salary grade higher than that of a junior civil engineer in the division.

No person shall be appointed or employed as a highway engineer intern except upon requisition made by the administrator and upon certification by the personnel administrator from an eligible list prepared in accordance with chapter 31 and the rules made thereunder; provided, however, that the administrator shall establish such eligible list before June 1 in each calendar year by holding a competitive examination which shall be open only to persons who, as candidates for the degree of bachelor of science in engineering are enrolled in at least the junior year as students in any college of the commonwealth, or are Massachusetts residents attending a college of recognized standing outside the commonwealth and to persons who, within the 4 years next preceding, have been awarded the degree of bachelor of science in engineering from a college of recognized standing. The eligible list established each year shall expire upon the establishment of the eligible list in the following year. No person shall be certified for appointment as a highway engineer intern unless he has been awarded the degree of bachelor of science in engineering.

Upon appointment as a highway engineer intern, made in accordance with chapter 31 and the rules made thereunder, the appointee shall sign an agreement binding him to serve as highway engineer intern for a minimum of 2 years unless his employment is sooner terminated by the administrator. It shall be the duty of the administrator to rotate the assignments of each intern during his period of employment in order that such intern may acquire diversified experience in the engineering programs of the department.

The names of persons appointed as highway engineer interns shall be entered in order of date of appointment on a list to be known as "highway engineer intern list" in the division of civil service.

Upon completion of 2 years of employment as interns under agreements provided for in this section, persons shall be eligible without further examination for appointment as junior civil engineers, providing a vacancy exists in said title in the department and, upon requisition of the administrator, the names of such persons shall be certified for appointment by the personnel administrator from the highway engineer intern list in accordance with the rules of the civil service commission, except that the basis of certification shall be the order of appointment to such highway engineer intern list.

Section 42. The administrator may establish a co-operative engineer program and may enter into agreements with colleges of recognized standing within the commonwealth,

including colleges which have summer programs, which have established a curriculum leading to a degree of bachelor of science in engineering on a co-operative basis, contemplating regularly rotating work activity in the field of engineering and an equal period of classroom training. The administrator may employ persons enrolled as candidates for the degree of bachelor of science in engineering in any such college to serve in the department in the position of student engineer; provided, however, that the position of student engineer shall be in a grade lower than that of junior civil engineer in the department; and provided, further, that at no time shall the number of persons employed in the department as student engineers exceed 8. Upon completion of not less than 2 years of employment as student engineer, a person shall be eligible to apply for the examination for highway engineer intern. No person shall be employed as a student engineer for more than 6 years.

Section 43. (a) There shall be within the division 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 division. 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 division 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 division 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 Massachusetts Department of Transportation, the administrator, the chairs of the joint committee on transportation and the chairs of the house and senate committees on ways and means.

Section 44. (a) The division of highways may provide functional replacement of real property in public ownership whenever the division 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 division 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 shall provide equivalent utility. For the purposes of this SECTION "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 division 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, such facility shall be relocated by the division or by the owner thereof in accordance with an order from the division. 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 division 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, the cost of which exceeds \$50,000, and that does not qualify for federal reimbursement, the division 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 consistent with the division's policies and not later than the target date established by the division for the project, the division 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.

(c) Any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to sections 26 to 27F inclusive of chapter 149.

(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 \$25,000,000 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 division within target dates established by the division and in accordance with design criteria set forth by the division for the relocation in a manner that facilitates the timely completion of the affected project.

Section 45. Notwithstanding clause (f) of section 4 or any other general or special law to the contrary, the commonwealth, through the division 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 46. In addition to any other power the department may have to enter into leases, the department may lease, at 1 time or from time to time, for terms not to exceed 99

years, upon such terms and conditions as the department in its discretion deems advisable, air rights over land owned or held by the department in connection with the turnpike and the Boston extension portion of the metropolitan highway system, including rights for support, access, utilities, light and air for such purposes as, in the opinion of the department, shall not impair the construction, full use, safety, maintenance, repair, operation or revenues of the turnpike or the metropolitan highway system but any such lease for a period of 40 years or more shall be subject to the approval of the governor. Any lease granted under this section may, with the consent of the department, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

Use of air rights leased under this section relative to land within the territorial limits of the city of Boston and the construction and occupancy of buildings or other things erected or affixed pursuant to any such lease shall be made in accordance with the state building code enacted pursuant to chapter 143 and such other requirements as the department deems necessary or advisable to promote the public health, convenience and safety of persons and property, but shall not be subject to any other building, fire, garage, health or zoning law or any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the city of Boston.

The department shall not lease any air rights in a particular location unless it shall find that the construction and use of buildings or other things to be erected or affixed pursuant to any such lease shall be in no way detrimental to the maintenance, use and operation of the turnpike or the metropolitan highway system and, in the city of Boston, unless the department shall also find, after consultation with the mayor of said city of Boston, that the construction and use of such buildings or other things shall preserve and increase the amenities of the community.

The construction or occupancy of any building or other thing erected or affixed under any lease under this section of air rights relative to land outside the territorial limits of the city of Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire, garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or town in which such building or other thing is located.

A copy of all leases granted by the department under this section shall be filed by the department with the governor and with the mayor or chairperson of the board of selectmen of the respective city or town and such leases shall be deemed to be public records within the meaning of section 10 of chapter sixty-six.

Neither such air rights nor any buildings or other things erected or affixed pursuant to any such lease nor the proceeds from any such lease shall be taxed or assessed to the department under any general or special law; provided, however, that buildings and other things erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were the owners of the land in fee; provided, further, that no part of the value of the land shall be included in any such assessment; and provided, further, that payment of any such taxes shall not be enforced by a lien upon or sale or taking of such land except that the leasehold estate

may be sold or taken by the collector of taxes of the city or town wherein such real estate is situated for the nonpayment of any tax assessed as aforesaid in the manner provided by law for the sale or taking of real estate for nonpayment of local taxes. Such collector shall have, for the collection of taxes assessed under this section, all other remedies provided by the General Laws for the collection of taxes by collectors of cities and towns.

The department shall include in any lease of such air rights a provision whereby the lessee agrees, in the event that the foregoing tax provision is determined by any court of competent jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for such year.

Section 46A. In addition to any other power the authority may have to make leases, the authority may lease at one time or from time to time for terms not to exceed ninety-nine years, upon such terms and conditions as the authority in its discretion deems advisable, land owned by the authority and no longer required for the maintenance, repair, reconstruction, improvement, use, administration or operation of the turnpike or the Boston extension of the metropolitan highway system; provided, however, that any such lease for a period of forty years or more shall be subject to the approval of the governor. A lease granted under this section may, with the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

The construction or occupancy of any building or other thing erected or affixed under any lease of land under this section shall be subject to the building, fire and zoning laws, ordinances or by-laws applicable in the city or town wherein such building or other thing is located.

A copy of all leases granted by the authority under the provisions of this section shall be filed by the authority with the governor and with the mayor or chairman of the board of selectmen of the respective city or town and such leases shall be deemed to be public records within the meaning of chapter sixty-six.

Neither such land nor any buildings or other things erected or affixed pursuant to any such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under any general or special law; provided, however, that such land and buildings and other things erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner and to the same extent as if such lessee or his assigns were the owners of the land in fee; provided, further, that payment of any such taxes shall not be enforced by a lien upon or sale or taking of such land except that the leasehold estate may be sold or taken by the collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax assessed as aforesaid in the manner provided by law for the sale or taking of real estate for nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under this section all other remedies provided by the General Laws for the collection of taxes by collectors of cities and towns.

The authority shall include in any lease of such land a provision whereby the lessee

agrees, in the event that the foregoing tax provision is determined by any court of competent jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is located a sum of money in lieu of taxes which would otherwise be assessed for such year.

Section 47. (a) The administrator 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 administrator 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 administrator 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 administrator 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 administrator 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 48. (a) The administrator 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 administrator upon the petition of an ap-

propriate 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 administrator may, upon approval of the board, 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 administrator 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 administrator 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 administrator 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 administrator 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 50. (a) The administrator shall establish a regional mobility assistance program to assist cities and towns in geographic regions of the commonwealth with public works improvements and enhancements for transportation-related projects as deemed necessary by the department for the (1) development, rehabilitation, and improvement of tourism expansion corridors, (2) protection of historic centers, (3) promotion of improved mobility and access from neighboring states, and (4) promotion of local economic growth and reliability for transportation facilities in rural and less accessible regions of the commonwealth. The administrator may promulgate rules or regulations or implement such other procedures in accordance with this section, which shall govern the criteria by which the funds shall be distributed and the method by which a regional project shall be selected.

(b) The administrator may, subject to appropriation, commit the funds pursuant to this section through projects to be undertaken by the division or 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 secretary 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 administrator 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 administrator 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.

Section 51. As used in sections 52 to 54, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Division”, the Mass Transit division.

“Administrator”, the administrator of transportation for the Mass Transit division.

Section 52. There shall be within the department a Mass Transit division, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department’s authority over mass transit systems. The division shall be under the supervision and control of the administrator. The administrator shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. The duties of the administrator in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as the construction, operations or financing thereof or other relevant experience relative to the efficient exercise of his powers and duties. The administrator shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

Section 53. The division shall be responsible for overseeing, coordinating and planning all transit and rail matters throughout the commonwealth. The division shall administer and manage: the freight and rail programs of the department pursuant to chapter 161C and the intercity bus capital assistance program pursuant to chapter 161D. The division shall oversee and coordinate the activities of the Massachusetts Bay Transportation Authority established pursuant to chapter 161A, the regional transit authorities and regional transit authority council established pursuant to 161B. The division shall take such steps as may be necessary to provide for the development, promotion, preservation and improvement

of an adequate, safe, efficient and convenient rail system for the movement of passengers. In carrying out the purposes of this section, the division shall seek to encourage and develop rail services which promote and maintain the economic well-being of citizens and which preserve the environment and natural resources.

Section 54. The administrator may from time to time, subject to the approval of the secretary, establish within the division such administrative units as may be necessary for the efficient and economical administration of the division and, when necessary for such purpose, may abolish any such administrative unit or may merge any 2 or more units, as the administrator deems advisable; provided, however, that the administrator shall establish the following units: highway engineering, highway construction and highway maintenance. Each such unit shall be under the direction, control and supervision of the director. The director shall assign to all officials, agents and employees of the units their respective duties. The administrator shall prepare and keep current a statement of the organization of the division, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the division's description of organization. A current copy of the description of organization shall be kept on file in the office of the state secretary and in the office of the secretary of administration and finance.

Section 55. As used in sections 56 to 57, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Registry", the registry of motor vehicles.

"Administrator", the administrator of transportation for motor vehicles.

Section 56. There shall be within the department a registry of motor vehicles, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over motor vehicles. The registry shall be under the supervision and control of the administrator, who shall be known as the registrar of motor vehicles. The administrator shall be the executive and administrative head of the registry and shall be responsible for administering and enforcing the provisions of law relative to the registry and to each administrative unit thereof. The duties given to the administrator in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary. The administrator shall appoint a deputy registrar, assistant to the registrar, hearings officers and supervising inspectors and may appoint such other officers and employees as may be necessary to carry out the work of the registry. In the event of a vacancy in the office of registrar, his powers and duties shall be exercised and performed by the deputy registrar until a registrar is duly qualified.

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as the construction, opera-

tions or financing thereof or other relevant experience relative to the efficient exercise of his powers and duties. The administrator shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

Section 57. The administrator may from time to time, subject to the approval of the secretary, establish within the registry such administrative units as may be necessary for the efficient and economical administration of the registry, and when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more units, as the administrator deems advisable. The administrator shall assign to all officials, agents and employees of the units their respective duties. The administrator shall prepare and keep current a statement of the organization of the registry, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the registry's description of organization. A current copy of the description of organization shall be kept on file in the office of the state secretary and in the office of the secretary of administration and finance.

Section 58. As used in sections 59 to 61, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Division", the aeronautics division.

"Administrator", the administrator of transportation for aeronautics.

Section 59. There shall be within the department an aeronautics division, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over aeronautics. The division shall be under the supervision and control of the administrator. The administrator shall be the executive and administrative head of the division and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof. The duties given to the administrator in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary.

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as the construction, operations or financing thereof or other relevant experience relative to the efficient exercise of his powers and duties. The administrator shall administer this section and the General Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

Section 60. The division shall be responsible for the administration and enforcement of sections 35 through 52, inclusive, of chapter 90 and other laws relating to aeronautics.

Section 61. The administrator may from time to time, subject to the approval of the secretary, establish within the division such administrative units as may be necessary for the efficient and economical administration of the division and, when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more units, as the administrator deems advisable. The administrator shall assign to all officials, agents and employees of the units their respective duties. The administrator shall prepare and keep current a statement of the organization of the division, of the assignment of its functions to its various administrative units, offices and employees and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the division's description of organization. A current copy of the description of organization shall be kept on file in the office of the state secretary and in the office of the secretary of administration and finance.

Section 62. As used in sections 62 to 73, inclusive, the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Affected jurisdiction", any city or town, or other unit of government within the commonwealth in which all or part of a transportation facility is located or any other public entity directly affected by the transportation facility.

"Architectural and engineering services"; (1) professional services of an architectural or engineering nature, as defined by applicable state law, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described in this definition; (2) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration or repair of real property; and (3) such other professional services of an architectural or engineering nature or incidental services, which members of the architectural and engineering professions and employees thereof may logically or justifiably perform, including: studies, investigations, surveying, mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services.

"Department", the Massachusetts Department of Transportation.

"Construction", the process of building, altering, repairing, improving or demolishing any transportation facility, including any structure, building or other improvements of any kind to real property. "Construction" shall not include the routine operation, routine repair or routine maintenance of any existing transportation facility, including structures, buildings or real property.

"Force majeure", an uncontrollable force or natural disaster not within the power of the operator or the commonwealth.

"Contract", any agreement, including a public-private agreement for the procurement, operation or disposal under sections 61 to 73, inclusive, of a transportation facility by the department.

“Contract modification”, any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provisions of any contract accomplished by mutual action of the parties to the contract.

“Contractor”, any person having a contract with the department under sections 61 to 73, inclusive.

“Cooperative purchasing”, procurement conducted by, or on behalf of, an affected jurisdiction.

“Design-build-finance-operate-maintain”, a project delivery method in which the department enters into a single contract for design, construction, finance, maintenance and operation of a transportation facility over a contractually defined period. No public funds shall be appropriated to pay for any part of the services provided by the contractor during the contract period.

“Design-build-operate-maintain”, a project delivery method in which the department enters into a single contract for design, construction, maintenance and operation of a transportation facility over a contractually defined period. All or a portion of the funds required to pay for the services provided by the contractor during the contract period shall either be appropriated by the commonwealth or by the department prior to award of the contract or secured by the commonwealth or by the department through fare, toll or user charges.

“Design requirements”, the written description of the transportation facility or service to be procured under sections 61 to 73, inclusive, including:

(1) required features, functions, characteristics, qualities and properties required by the department;

(2) the anticipated schedule, including start, duration and completion; and

(3) estimated budgets as applicable to the specific procurement for design, construction, operation and maintenance; provided, however, that design requirements may include drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project.

“Independent peer reviewer services”, additional architectural and engineering services provided to the department in design-build-operate-maintain or design-build-finance-operate-maintain procurements to confirm that the key elements of the professional engineering and architectural design provided by the contractor are in conformance with the applicable standard of care.

“Maintenance”, includes routine operation, routine maintenance, routine repair, rehabilitation, capital maintenance, maintenance replacement and any other categories of maintenance that may be designated by the department.

“Material default”, failure of a contractor to perform any duties under a public-private agreement which jeopardizes delivery of adequate service to the public and remains unsatisfied after a reasonable period of time and after the operator has received written notice from the department of the failure.

“Operate”, any action to operate, maintain, repair, rehabilitate, improve, equip or modify a transportation facility, including the design and construction of repairs, improvements or modifications to a transportation facility.

“Operator”, a private entity that has entered into a public-private agreement to provide design-build-finance-operate-maintain or design-build-operate-maintain services under sections 61 to 73, inclusive.

“Private entity”, a natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity or other business entity.

“Proposal development documents”, drawings and other design-related documents that are sufficient to fix and describe the size and character of a transportation facility as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate to the applicable project delivery method.

“Public-private agreement”, the contract between a private entity and the department that relates to the development, financing, maintenance or operation of a transportation facility subject to sections 61 to 73, inclusive.

“Request for proposals”, all documents, whether attached to or incorporated by reference, utilized for soliciting proposals for a transportation facility under sections 61 to 73, inclusive.

“Responsible bidder or offeror”, a person who has the capability in all respects to fully perform the contract requirements, and the integrity and reliability to assure good faith performance.

“Responsive bidder”, a person who has submitted a bid which conforms in all material respects to the invitation for bids.

“Transportation facility”, new or existing highway, road, bridge, tunnel, overpass, ferry, airport, public transportation facility, terminal facility, vehicle parking facility, seaport facility, rail facility, intermodal facility or similar facility open to the public and used for the transportation of persons or goods, and any building, structure or networks of buildings, structures, pipes, controls and equipment that provide transportation services, including rolling stock and equipment, and any building, structure, parking area, appurtenances or other property needed to operate such facility that is subject to a public-private agreement.

“User fees”, the rate, toll, fee or other charges imposed by an operator or by the department for use of all or part of a transportation facility.

“Utility”, a privately, publicly or cooperatively owned line, facility or system for producing, transmitting or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public.

Section 63. (a) Notwithstanding any general or special law to the contrary, the board of directors of the department, in conjunction with the special public-private partnership infrastructure oversight commission established in section 70, may solicit proposals and enter

into contracts for design-build-finance-operate-maintain or design-build-operate-maintain services with that responsible and responsive offeror submitting the proposal that is most advantageous to the department through the sale, lease, operation and maintenance of a transportation facility within the commonwealth; provided, however, that such proposal shall be in full compliance with all applicable requirements of federal, state and local law, including section 26 to 27H, inclusive, of chapter 149; provided further, that any such contract shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38O, inclusive, section 39M of chapter 30, or sections 44A to 44M, inclusive, of chapter 149; and provided further, that each such contract shall be awarded pursuant to chapter 30B except for clause (3) of paragraph (b) and paragraphs (e) and (g) of section 6, clause (4) of section 13 and section 16 of said chapter 30B.

(b) (1) In soliciting and selecting a private entity with which to enter into a public-private agreement for design-build-finance-operate-maintain or design-build-operate-maintain services, the department shall utilize the following competitive sealed proposals procurement approach:

(2) each request for proposals for design-build-operate-maintain and design-build-finance-operate-maintain services:

(A) shall include design requirements;

(B) shall solicit proposal development documents; and

(C) may, if the department determines that the cost of preparing proposals is high, considering the size, estimated price and complexity of the procurement:

(i) prequalify offerors by issuing a request for qualifications in advance of the request for proposals; and

(ii) select a short list of responsible offerors prior to discussions and evaluations, if the number of proposals that will be short-listed is stated in the request for proposals and prompt public notice is provided to all offerors as to which proposals have been short-listed; or

(iii) pay stipends to unsuccessful offerors; provided, however, that the amount of such stipends and the terms under which such stipends shall be paid shall be included in the request for proposals;

(3) adequate public notice of the request for proposals shall be provided;

(4) proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation and a register of proposals shall be prepared by the department and shall be open for public inspection after contract award; and

(5) (A) The request for proposals shall state the relative importance of price and other factors and subfactors, if any.

(B) Each request for proposals for design-build-operate-maintain and design-build-finance-operate-maintain:

(i) shall state the relative importance of: (1) demonstrated compliance with the design requirements; (2) offeror qualifications; (3) financial capacity; (4) project schedule; (5) elimination of existing public debt with respect to the transportation facility; (6) lowest user

charges or price over the term of the design-build-operate-maintain and design-build-finance-operate-maintain contract; and (7) other factors, if any;

(ii) shall, if the contract price is estimated to exceed \$10,000,000, if the contract period of operations and maintenance is 5 years or longer or if circumstances established by the department require each offeror to identify an independent peer reviewer whose competence and qualifications to provide such services shall be an additional evaluation factor in the award of the contract; and

(iii) shall not include, as an evaluation factor in the award of the contract, the amount, if any, paid by a contractor to the department for procurement using design-build-operate-maintain and design-build-finance-operate-maintain.

(6) As provided in the request for proposals and under regulations issued by the department, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(7) Award shall be made to the responsible offeror whose proposal conforms to the solicitation and is determined in writing to be the most advantageous to the acquiring agency, taking into consideration the price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis upon which the award is made. Written notice of the award of a contract to the successful offeror shall be promptly provided to all offerors.

(8) The department may provide debriefings that furnish the basis for the source selection decision and contract award.

(c) (1) A private entity may request a review, prior to submission of a solicited proposal, by the department of information that the private entity has identified as confidential or proprietary to determine whether such information is subject to disclosure under section 10 of chapter 66 or clause Twenty-sixth of section 7 of chapter 4.

(2) The department shall take appropriate action to protect confidential or proprietary information that a private entity provides as part of a solicited proposal and that is exempt from disclosure under said section 10 of chapter 66 and said clause Twenty-sixth of said section 7 of said chapter 4.

Section 64. (a) The request for proposals shall contain the proposed form of contract or public-private agreement to be executed between the successful offeror and the department upon award, and shall have been approved as to content and form by the special public-private infrastructure oversight commission and by the department before the request for proposals is issued, pursuant to section 63. The inspector general and the attorney general shall have 30 days from the receipt of a draft of the proposed form of contract to notify the

special public-private infrastructure oversight commission in writing of any material objections to the draft form of contract. Before issuing any request for proposal, the department shall prepare a written response to reports submitted to it by the special public-private infrastructure oversight commission which response shall state the basis for any substantial divergence between the actions of the department and the recommendations contained in such reports of said commission. The department and the successful offeror shall only make non-material changes in the content and form of the public-private agreement contained in the request for proposals.

(b) (1) After selecting a solicited or unsolicited proposal for a public-private initiative, the department shall enter into the public-private agreement for the subject transportation facility with the selected private entity.

(2) An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(c) A public-private agreement under sections 62 to 73, inclusive, shall provide for the following:

(1) the planning, acquisition, engineering, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing or operation of a transportation facility including provisions for the replacement and relocation of utility facilities;

(2) the term of the public-private agreement, which shall not exceed 50 years without written approval of the governor;

(3) the type of property interest, if any, the private entity shall have in the transportation facility;

(4) a description of the actions the department may take to ensure proper maintenance of the transportation facility;

(5) whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;

(6) compliance with applicable Federal, state and local laws;

(7) grounds for termination of the public-private agreement by the department or operator;

(8) procedures for amendment of the agreement by mutual agreement and for changes in the agreement by written order from the department;

(9) review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(10) inspection by the department and the independent peer reviewer of the design and construction of, or improvements to, the transportation facility;

(11) maintenance by the operator of a policy of liability insurance or self-insurance reasonably acceptable to the department;

(12) filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(13) filing by the operator, on a periodic basis, of traffic reports, service quality standards as defined in chapter 161A, ridership reports, on time performance reports, or other reports identified by the department, in a form acceptable to the department;

(14) financing obligations of the operator and the department;

(15) apportionment of expenses between the operator and the department;

(16) the rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;

(17) the rights and remedies available in the event of default or delay;

(18) the terms and conditions of indemnification of the operator by the department, as required by applicable law;

(19) assignment, subcontracting or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;

(20) sale or lease to the operator of private property related to the transportation facility;

(21) if, and how, the parties shall share costs of development of the project;

(22) if, and how, the parties shall allocate financial responsibility for cost overruns;

(23) liability for nonperformance;

(24) any incentives for performance;

(25) any accounting and auditing standards to be used to evaluate progress on the project;

(26) the operator's plans to obtain a labor and material payment bond, in accordance with section 29 of chapter 149, covering all construction, reconstruction or maintenance, including capital maintenance, work of the project and require the payment of prevailing wages for labor performed on the project in accordance with sections 26 to 27H, inclusive, of said chapter 149;

(27) the operator's plans for labor harmony for the entire term of the agreement, including construction, reconstruction and capital and routine maintenance and adequate remedies to address the operator's failure to maintain labor harmony which shall include, but not be limited to, assessment of liquidated damages and contract termination;

(28) traffic enforcement and other policing issues, subject to section 71, including any reimbursement by the private entity for such services; and

(29) other terms and conditions.

Section 65. Upon the end of the term of the public-private agreement or in the event of termination of the public-private agreement, the department and duties of the operator shall cease, except for any duties and obligations that extend beyond the termination as provided in the public-private agreement, and all the rights, title and interest in such transportation facility shall revert to the department and shall be dedicated to the department for public use.

Section 66. (a) Upon the occurrence and during the continuation of a material default

by an operator, not caused by an event of force majeure, and upon the failure by the contractor or its financing institution on the contractor's behalf, to cure such material default within 30 days of written notice of such default by the department, the department may:

- (1) elect to take over the transportation facility, including the succession of all right, title and interest in the transportation facility; and
- (2) terminate the public-private agreement and exercise any other rights and remedies available.

(b) In the event that the department elects to take over a transportation facility under subsection (a), the department:

- (1) shall make interim payments, on behalf of the contractor and for the contractor's account, of any amounts subject to a mechanics lien law of the commonwealth;
- (2) may develop and operate the transportation facility, impose user fees for the use of the transportation facility and comply with any service contracts; and
- (3) may solicit proposals for the maintenance and operation of the transportation facility under section 63.

Section 67. (a) (1) The department may issue and sell bonds or notes of the department for the purpose of providing funds to carry out sections 62 to 73, inclusive, with respect to the development, financing or operation of a transportation facility or the refunding of any bonds or notes, together with any costs associated with the transaction.

(2) Any bond or note issued under this section:

- (A) constitutes the corporate obligation of the department;
- (B) shall not constitute a debt of the commonwealth within the meaning or application of the constitution of the commonwealth; and
- (C) shall be payable solely as to both principal and interest from:
 - (i) the revenues from a lease to the department, if any;
 - (ii) proceeds of bonds or notes, if any;
 - (iii) investment earnings on the proceeds of bonds or notes; or
 - (iv) other funds available to the department for such purpose.

(b) (1) For the purpose of financing a transportation facility, the department and operator may apply for, obtain, issue and use private activity bonds available under any Federal law or program.

(2) Any bonds, debt, other securities or other financing issued for the purposes of sections 62 to 73, inclusive, shall not be considered a debt of the commonwealth or any political subdivision thereof state or a pledge of the faith and credit of the state or any political subdivision of the commonwealth.

(c) Nothing in this section shall limit a local government or any authority of the commonwealth to issue bonds for transportation projects.

Section 68. (a) (1) The department may accept from the United States or any of its agencies funds that are available to the commonwealth for carrying out sections 62 to 73, inclusive, whether the funds are made available by grant, loan or other financial assistance.

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(2) The department may enter into agreements or other arrangements with the United States or any of its agencies as may be necessary for carrying out the purposes of sections 62 to 73, inclusive.

(b) The department may accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other item of value made to the commonwealth or the department for carrying out the purpose of sections 62 to 73, inclusive.

(c) Any transportation facility may be financed in whole or in part by contribution of any funds or property made by any private entity or affected jurisdiction that is party to a public-private agreement under sections 62 to 73, inclusive.

(d) The department may combine Federal, state, local and private funds to finance a transportation facility under sections 57 to 70, inclusive.

Section 69. (a) Section 26 shall apply to:

(1) a transportation facility; and

(2) tangible personal property used exclusively with a transportation facility that is:

(A) owned by the department and leased, licensed, financed or otherwise conveyed to an operator; or

(B) acquired, constructed or otherwise provided by an operator on behalf of the department.

Section 70. The department may exercise the power of eminent domain to acquire property, rights of way or other rights in property for transportation projects that are part of a public-private agreement for design-build-finance-operate-maintain or design-build-operate-maintain services.

Section 71. (a) Law enforcement officers of the commonwealth and of an affected local jurisdiction shall have the same powers and jurisdiction within the limits of a transportation facility as they have in their respective areas of jurisdiction and access to the transportation facility at any time for the purpose of exercising such powers and jurisdiction.

(b) The traffic and motor vehicle laws of the commonwealth and, if applicable, any local by-laws or ordinances shall apply to a transportation facility.

Section 72. Nothing in sections 62 to 73, inclusive, shall limit any waiver of the sovereign immunity of the commonwealth or any officer or employee of the commonwealth with respect to the participation in or approval of all or any part of the transportation facility or its operation.

Section 73. There shall be established a special public-private partnership infrastructure oversight commission to comment on and approve all requests for proposals for design-build-finance-operate-maintain or design-build-operate-maintain services, pursuant to section 59.

The commission shall have 7 members, none of whom shall be employees of the executive branch or members or employees of the legislature for a period of at least 2 years prior to his appointment. The commission shall include: 4 members to be appointed by the governor, 1 of whom shall be a representative from the Massachusetts Organization of State

Engineers and Scientists and 3 of whom shall reside in different geographic regions of the commonwealth for terms of 2 years; 1 member to be appointed by the president of the senate for a term of 2 years; 1 member to be appointed by the speaker of the house of representatives for a term of 2 years; 1 member to be appointed by the state treasurer, but who shall not be an employee thereof, for a term of 2 years. Each member of the commission shall be an expert with experience in the fields of transportation law, public policy, public finance, management consulting, transportation or organizational change; provided, however, that 1 of the members appointed by the governor shall be an expert in the field of public finance, 1 member appointed by the governor shall be an expert in the field of transportation. One of the members shall be appointed by the governor to serve as chairperson of the commission. The members appointed by the governor may be eligible for reappointment; provided, however, that no such member shall serve for more than 3 terms. No member shall have served as a legislative agent for the period of 5 years prior to his appointment.

No member shall have been a registered legislative agent, as defined in section 39 of chapter 3 for a period of at least 5 years prior to his appointment, no member shall have been a member or employee of the general court or an employee of the executive branch for a period of 2 years prior to his appointment, and no director shall have been employed by an organization that has business before the department, or any predecessor agency or authority, for a period of at least 2 years prior to his appointment.

Whenever the department notifies the commission of its intent to issue a request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services, the department shall submit a draft of the request for proposal to the commission for its review and approval. As provided in section 63, no request for proposal shall be issued by the department for a public-private agreement for design-build-finance-operate-maintain or design-build-operate-maintain services without the commission's written approval. The commission shall provide an initial written response to the request for proposal within 15 days.

For each request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services, the commission shall report on issues surrounding the request for proposal including, but not limited to: (1) the status of current employees; (2) the policy and regulatory structure for overseeing a privately operated transportation facility and on-going legislative oversight; (3) issues of taxation, profit-sharing and resolution of new revenue producing ideas; (4) advertising and marketing; (5) use of new technologies; (6) lease terms and termination clauses; (7) additional responsibilities by both the private infrastructure operator and the commonwealth during the lease period; (8) the financial valuation of the commonwealth transportation facility; and (9) the anticipated advantages of entering into the anticipated public-private agreement for design-build-finance-operate-maintain or design-build-operate-maintain services.

The report shall be delivered within 30 days of the commission's approval of a request for proposal for design-build-finance-operate-maintain or design-build-operate-main-

tain services to the secretary for administration and finance, the house committee on ways and means, the senate committee on ways and means, the chairmen of the joint committee on transportation and the state auditor.

In order to submit the commission's written approval of a request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services to the state auditor, the commission's process shall be sufficient to satisfy the requirements of sections 57 to 60, inclusive.

Whenever the comments and recommendations of the state auditor are required for any action by the department under sections 57 to 60, inclusive, that approval shall be deemed to have been granted within 30 days of submission thereof, unless the state auditor has communicated his disapproval to the department, in writing. The state auditor's report shall include reasons why such proposed request for proposal is financially detrimental to the commonwealth and how the commission erred in its findings.

Any research, analysis or other staff support that the commission reasonably requires shall be provided by the department.

SECTION 9. Section 22 of said chapter 6C, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The Massachusetts Department of Transportation shall have power, in the process of constructing, reconstructing, repairing, rehabilitating, improving, policing, using or administering all or any part of the state highway system, the turnpike or metropolitan highway system to take by eminent domain pursuant to chapter 79, such land abutting the state highway system, the turnpike or metropolitan highway system as it deems necessary or desirable for the purposes of removing or relocating all or any part of the facilities of any public utility, including rail lines, and may thereafter lease the same or convey an easement or any other interest therein to such utility company upon such terms as it, in its sole discretion, may determine. Notwithstanding any general or special law to the contrary, the relocation of the facilities of any public utility, including rail lines, in accordance with this section shall be valid upon the filing of the plans thereof with the department of telecommunications and energy, if applicable.

SECTION 10. Section 22B1/2 of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 31, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 11. Section 22G of said chapter 7, as so appearing, is hereby amended by striking out, in line 62, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 12. Section 53 of said chapter 7, as so appearing, is hereby amended by inserting after the word "Authority", in line 6, the first time it appears, the following words:- , the Massachusetts Department of Transportation.

SECTION 13. Section 9A of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "Turnpike Authority" and inserting in

place thereof the following words:- Department of Transportation.

SECTION 14. Section 63 of said chapter 10 is hereby repealed.

SECTION 15. Section 63A of chapter 10 of the General Laws, inserted by section 5 of chapter 228 of the acts of 2007, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:

(a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Central Artery/Tunnel Project Repair and Maintenance Trust Fund, in this section called the fund. The secretary of the Massachusetts Department of Transportation shall administer the fund and shall be its trustee. The Massachusetts Department of Transportation shall disburse monies from the fund solely for the purpose of paying the costs of, or reimbursing the commonwealth or the Massachusetts Turnpike Authority for costs incurred in connection with, repairs and maintenance of the central artery and the Ted Williams tunnel, as those terms are defined in section 1 of chapter 6C, if such repairs and maintenance relate to conditions not caused by ordinary or routine wear and tear. For purposes of this section, the term "repairs and maintenance" shall include, without limitation, repairs, maintenance, inspection, monitoring and testing of the central artery, the Ted Williams tunnel and the systems and components thereof. Disbursements from the fund shall not be permitted for, and monies in the fund shall not be used for, the cost of repairs and maintenance relating to conditions caused by ordinary or routine wear and tear.

SECTION 16. Subsection (c) of said section 63A of said chapter 10, inserted by section 5 of chapter 228 of the acts of 2007, is hereby amended by striking out, in each instance, the words "executive office of transportation and public works" and inserting in place thereof the following words:- Massachusetts Department of Transportation.

SECTION 17. Section 69A of said chapter 10 is hereby repealed.

SECTION 18. Sections 1 to 3, inclusive, 4 to 4B, inclusive, 9, 13 and 14 of chapter 16 of the General Laws are hereby repealed.

SECTION 19. Section 11A of chapter 21A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 1, the words 'executive office of transportation' and inserting in place thereof the following words:- office of planning and programming.

SECTION 20. Section 11A of chapter 21A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 6, the word "commissioner" and inserting in place thereof the following word:- administrator.

SECTION 21. Section 13A of chapter 22 of the General Laws, as so appearing, is hereby amended by striking out, in line 198, the words 'Turnpike Authority' and inserting in place thereof the following words:- Department of Transportation.

SECTION 22. Section 29 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 23. Said section 29 of said chapter 22C, as so appearing, is hereby further amended by inserting after the word “authority”, in line 3, the following words:- on the turnpike and the metropolitan highway system.

SECTION 24. Said section 29 of said chapter 22C, as so appearing, is hereby further amended by striking out, in lines 27 to 29, inclusive, the words “shall be subject to the operational control of the authority, and the chairman of the authority, but”

SECTION 25. Said section 29 of said chapter 22C, as so appearing, is hereby further amended by inserting after the word “the”, in line 29, the following word:- operational.

SECTION 26. Section 61 of said chapter 22C is hereby repealed.

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SECTION 28. Section 3I of said chapter 23A, as so appearing, is hereby amended by striking out, in line 5, the words 'executive office of transportation' and inserting in place thereof the following words:- office of planning and programming.

SECTION 29. Section 13C of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in line 44, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 30. Section 59 of said chapter 23A, is hereby further amended by striking out, in line 25, the words ‘Turnpike Authority’ and inserting in place thereof the following words:- Department of Transportation.

SECTION 31. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out, in line 99, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 32. Section 2E of said chapter 29 is hereby repealed.

SECTION 33. Said chapter 29 is hereby amended by striking out section 2O, as amended by section 3 of chapter 233 of the acts of 2008, and inserting in place thereof the following section:-

Section 2O. When authorized by a vote taken by the yeas and nays of two-thirds of each house of the general court present and voting thereon, including any authorization in effect as of July 1, 2009, the state treasurer, upon the request of the governor, may issue bonds of the commonwealth as hereinafter provided. Any such bonds shall be special obligations of the commonwealth payable solely from monies credited to the Commonwealth Transportation Fund established pursuant to section 2ZZZ; provided, however, that notwithstanding any general or special law to the contrary, including without limitation section 60A, such bonds shall not be general obligations of the commonwealth. Bonds may be issued in such manner and on such terms and conditions as the state treasurer may determine in accordance with this paragraph and, to the extent not inconsistent with this paragraph, provisions of the General Laws for the issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement entered into by the state treasurer, with the concurrence of the secretary of administration and finance and the secretary of transportation, on behalf of the commonwealth, which trust agreement may pledge or assign all or any part

of monies credited to the Commonwealth Transportation Fund and rights to receive the same, whether existing or coming into existence and whether held or thereafter acquired, and the proceeds thereof. The state treasurer may, with the concurrence of the secretary of administration and finance and the secretary of transportation, enter into additional security, insurance or other forms of credit enhancement which may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the trust agreement or credit enhancement agreement in the records of the state treasurer, and no filing need be made under chapter 106. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis, the application of receipts, monies or funds pledged pursuant to such agreement, and other matters deemed necessary or desirable by the state treasurer for the security of such bonds, and may also regulate the custody, investment and application of monies. Any such bonds shall be deemed to be investment securities under chapter 106, shall be securities in which any public officer, fiduciary, insurance company, financial institution or investment company may properly invest funds and shall be securities which may be deposited with any public custodian for any purpose for which the deposit of bonds is authorized by law. Any such bonds, the transfer thereof and the income therefrom, including profit on the sale thereof, shall at all times be exempt from taxation by and within the commonwealth.

The provisions hereof relating to bonds shall also be applicable to the issuance of notes insofar as such provisions may be appropriate therefor.

In order to increase the marketability of any such bonds or notes issued by the commonwealth and in consideration of the acceptance of payment for any such bonds or notes, the commonwealth covenants with the purchasers and all subsequent holders and transferees of any such bonds or notes that while any such bond or note shall remain outstanding, and so long as the principal of or interest on any such bond or note shall remain unpaid: (i) no pledged funds shall be diverted from the Commonwealth Transportation Fund; (ii) in any fiscal year of the commonwealth and until an appropriation has been made which is sufficient to pay the principal, including sinking fund payments, of and interest on all such bonds and notes of the commonwealth and to provide for or maintain any reserves, additional security, insurance or other forms of credit enhancement required or provided for in any trust agreement securing any such bonds or notes, no pledged funds shall be applied to any other use; and (iii) so long as such revenues are necessary, as determined by the state treasurer in

accordance with any applicable trust agreement or credit enhancement agreement, for the purposes for which they have been pledged, and notwithstanding the provisions of any general or special law to the contrary, the rates of the fees collected pursuant to sections 33 and 34 of chapter 90 and of the excises imposed in chapters 64A, 64E and 64F shall not be reduced below the amount in effect at the time of issuance of any such bond or note.

SECTION 34. Section 2DD of said chapter 29 is hereby repealed.

SECTION 35. Said chapter 29 is hereby further amended by inserting after section 2YYY the following section:-

Section 2ZZZ. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Transportation Fund which shall be used exclusively for financing transportation-related purposes. There shall be credited to the fund all fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90, all receipts paid into the treasury of the commonwealth and directed to be credited to the Commonwealth Transportation Fund pursuant to chapters 64A, 64E, 64F and any other applicable general or special law and all amounts appropriated into the fund by the general court. The fund shall be subject to appropriation and shall be used for transportation related expenses of the Massachusetts Department of Transportation, including to pay or reimburse the General Fund for payment of debt service on bonds issued by, or otherwise payable pursuant to a lease or other contract assistance agreement by, the commonwealth previously issued for transportation purposes.

Notwithstanding the foregoing, the crediting of receipts from the tax imposed pursuant to chapter 64A to the fund shall not affect the obligations of the commonwealth relating to notes issued pursuant to sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the pledge of receipts from the portion of the tax per gallon imposed pursuant to said chapter 64A equal to 10 cents per gallon, to secure the payment of such bonds under the circumstances described in the trust agreements relating to such notes is hereby ratified and confirmed in all respects and shall remain in full force and effect as long as any such notes issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by funds in the fund.

SECTION 36. Section 23 of said chapter 29, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 11 and 12, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 37. Section 64 of said chapter 29, as so appearing, is hereby amended by striking out, in line 27, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 38. Section 64A of said chapter 29, as so appearing, is hereby further amended by striking out, in line 47, the word 'Turnpike Authority' and inserting in place thereof the following words:- Department of Transportation.

SECTION 39. Subsection (a) of section 39M1/2 of chapter 30 of the General Laws,

inserted by section 12 of chapter 303 of the acts of 2008, is hereby amended by striking out the definition of "Major contract" and inserting in place thereof the following definition:-

"Major contract", a contract by which the commonwealth or any of its public agencies or authorities is to procure the construction, repair or rehabilitation of a publicly-owned highway, railway, bridge, tunnel, building platform or any component thereof and for which the certified estimate of cost exceeds \$50,000,000, or a contract or lease by which the commonwealth or any of its public agencies or authorities is to procure, directly or indirectly, the construction, repair or rehabilitation of a privately-owned, publicly-used highway, railway, bridge, tunnel, building platform or any component thereof.

SECTION 40. Section 1 of chapter 30B of the General Laws is hereby amended by striking out, in line 45, as appearing in the 2006 Official Edition, the word ", designers".

SECTION 41. Subsection (b) of said section 1 of said chapter 30B is hereby amended by inserting after clause (32), as so appearing, the following clause:-

(32A) contracts with architects, engineers and related professionals;

SECTION 42. Section 2 of said chapter 30B, as so appearing, is hereby amended by inserting before the definition of "Bid" the following definition:-

"Architect and engineer", (i) a person performing professional services of an architectural or engineering nature, as defined by law, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein; (ii) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, investigations, inspections, tests, evaluations, consultations, program management, value engineering, construction, alteration, or repair of real property; and (iii) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions and individuals in their employ may logically or justifiably perform, including studies, investigations, surveying and mapping, soil tests, construction phase services, drawing reviews, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, soils engineering, cost estimates or programs; preparation of drawings, plans, or specifications, supervision or administration of a construction contract, construction management or scheduling, preparation of operation and maintenance manuals and other related services.

SECTION 43. Said section 2 of said chapter 30B, as so appearing, is hereby further amended by striking out the definition of "Designer".

SECTION 44. Said section 2 of said chapter 30B, as so appearing, is hereby further amended by inserting after the definition of "Purchase description" the following definition:-

"Related professionals", professionals engaged in professional services, including land surveying, landscape architecture, environmental science, planning and licensed site professionals, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein, including professional services performed by contract that are associated with research, planning, development, design, investigations, inspections, surveying and mapping, tests, evaluations, consultations,

comprehensive planning, program management, value engineering, construction, alteration or repair of real property and such other professional services or incidental services which members of the related professions and individuals in their employ may logically or justifiably perform, including master plans, studies, surveys, soil tests, cost estimates or program, preparation of drawings, plans or specifications, supervision or administration of a construction contract, construction management or scheduling, conceptual designs, plans and specifications, construction phase services, soils engineering, drawing reviews, cost estimating, preparation of operation and maintenance manuals and other related services; provided, however, that nothing herein shall be construed to constitute regulation or oversight of any designated firms or identified professional services.

SECTION 45. Said chapter 30B is hereby further amended by adding the following section:-

Section 21. (a) For the purposes of this section the following words shall have the following meanings:

“Agency”, a department, commission, council, board, bureau, committee, institution, agency, state college or university, government corporation, authority or other establishment or procurement office of the commonwealth.

“Architectural and engineering services”, (i) professional services of an architectural or engineering nature, as defined by state law, which are required to be performed or approved by a person licensed, registered or certified to provide those services as described herein; (ii) professional services of an architectural or engineering nature performed by contract that are associated with research planning, development, design, investigations, inspections, tests, evaluations, consultations, program management, value engineering, construction, alteration or repair of real property; and (iii) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions and individuals in their employ may logically or justifiably perform, including studies, investigations, surveying and mapping, soil tests, construction phase services, drawing reviews, evaluations, consultations, comprehensive planning, program management, conceptual designs, plan and specifications, soils engineering, cost estimates or programs, preparation of drawings, plans, or specifications, supervision or administration of a construction contract, construction management or scheduling, preparation of operation and maintenance manuals and other related services.

“Firm”, an individual, firm, partnership, corporation, association or other legal entity authorized by law to practice the professions of architecture, engineering, land surveying, landscape architecture, environmental science, planning or program management.

“Project”, a capital improvement project or a design, study, plan, survey or new or existing program activity of a state agency, including the development of new or existing programs that require architectural, engineering or related professional services, but shall not include a public building construction project undertaken under chapters 7, 149 and 149A.

“Related professional services”, (i) professional services, including land surveying,

landscape architecture, environmental science and planning, which are required to be performed or approved by a person licensed, registered or certified to provide such services as described herein; (ii) professional services performed by contract that are associated with research, planning, development, design, investigations, inspections, surveying and mapping, tests, evaluations, consultations, comprehensive planning program management, value engineering, construction, alteration or repair of real property; and (iii) such other professional services, or incidental services, which members of the related professions as described herein and individuals in their employ may logically or justifiably perform, including master plans, studies, surveys, soil tests, cost estimates or programs, preparation of drawings, plans or specifications, supervision or administration of a construction contract, construction management or scheduling, conceptual designs, plans and specifications, construction phase services, soils engineering, drawing reviews, cost estimating, preparation of operation and maintenance manuals and other related services; provided, however, that nothing herein shall be construed to constitute a regulation or oversight of any designated firms or identified professionals' services.

(b) For those agencies that prequalify architectural, engineering, and related services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(c) Whenever a project requiring architectural, engineering or related professional services is proposed for a state agency, the agency shall provide no less than 14 days advance notice published in a professional services bulletin or advertised on the official state agency website setting forth the projects and services to be procured. The professional services bulletin shall be made available to each firm that requests the information. The professional services bulletin shall include a description of each project and shall state the time and place for an interested firm to submit a letter of interest and, if required by the public notice, a statement of qualifications. If the agency determines that a sole source selection of a qualified firm is in the best interest of the agency, then the public notice provisions of this subsection shall not apply.

(d) An agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications, and the agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based on factors that the agency may determine in writing are applicable. The agency may conduct discussions with and require presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services. An agency shall not, prior to selecting a firm for negotiation, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost or any other measure of compensation.

(e) (1) An agency shall select architects, engineers and related professional firms on

the basis of qualifications for the type of professional services required. An agency may solicit or use pricing policies and proposals or other pricing information to determine consultant compensation only after the agency has selected a firm and initiated negotiations with the selected firm.

(2) The procedures that an agency creates for the screening and selection of firms shall be within the sole discretion of the agency and may be adjusted to accommodate the agency's scope, schedule and budget objectives for a particular project. Adjustments to accommodate an agency's objectives may include provision for the direct appointment of a firm if the value of the project does not exceed \$25,000 or if the agency determines that a sole source selection of a qualified firm is in the best interest of the agency and the project is not publicly advertised.

(3) The decision of an agency that has complied with this chapter shall be final and binding.

(f) (1) The agency and the selected firm shall discuss and refine the scope of services for the project and shall negotiate conditions including, but not limited to, compensation level and performance schedule based on scope of services. The compensation level paid shall be reasonable and fair to the agency as determined solely by the agency. In making such determination, the agency shall take into account the estimated value of the services to be rendered and the scope, complexity and professional nature thereof.

(2) If the agency and the selected firm are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, in writing, formally terminate negotiations with the selected firm. The agency shall then negotiate with the second ranked most qualified firm. The negotiation process shall continue in this manner through successive ranked firms until an agreement is reached or the agency terminates the consultant contracting process.

(g) This chapter shall not apply to architectural, engineering and related professional services contracts of less than \$25,000 or sole source contracts that are awarded to a qualified firm as determined to be in the best interest of the agency where only 1 firm has been solicited regarding the project and the project is not publicly advertised.

(h) This chapter shall not apply to the procurement of architectural, engineering, and related professional services by agencies: (i) when an agency determines in writing that it is in the best interest of the commonwealth to proceed with the immediate selection of a firm: or (ii) in emergencies when immediate services are necessary to protect the public health and safety including, but not limited to, earthquake, tornado, storm, or natural or manmade disaster.

(i) Each agency shall evaluate the performance of each firm upon completion of a contract. That evaluation shall be made available to the firm which may submit a written response, with the evaluation and response retained solely by the agency. The evaluation and response shall not be made available to any other person or firm and shall be exempt from disclosure under section 10 of chapter 66.

(j) Each contract for architectural, engineering and related professional services by

an agency shall contain a certificate signed by a representative of the agency and the firm that each has complied with this chapter.

SECTION 46. Section 1 of chapter 32 of the General Laws is hereby amended by striking out, in line 203, as appearing in the 2006 Official Edition, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 47. Said section 1 of said chapter 32 is hereby further amended by inserting after the word "connector", in line 211, as so appearing, the following words:- , the Massachusetts Department of Transportation.

SECTION 48. Section 2 of said chapter 32, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 29 and 30, the words "Turnpike Authority" and inserting in place thereof, in each instance, the following words:- Department of Transportation.

SECTION 49. Section 5 of said chapter 32, as so appearing, is hereby amended by striking out, in line 40, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 50. Section 7 of said chapter 32, as so appearing, is hereby amended by striking out, in line 208, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 51. Section 11 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 177 and 184, the words "Turnpike Authority" and inserting in place thereof, in each instance, the following words:- Department of Transportation.

SECTION 52. Section 14 of said chapter 32, as so appearing, is hereby amended by striking out, in line 9, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 53. Section 15 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 54. Section 20 of said chapter 32, as so appearing, is hereby amended by striking out subdivision (4½).

SECTION 55. Said section 20 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 815, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 56. Subdivision (7) of section 22 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (e).

SECTION 57. Section 23 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 10 and 11, and in line 19, the words "Turnpike Authority" and inserting in place thereof, in each instance, the following words:- Department of Transportation.

SECTION 58. Section 24 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "Turnpike Authority" and inserting in place thereof

the following words:- Department of Transportation.

SECTION 59. Section 25 of said chapter 32, as so appearing, is hereby amended by striking out, in line 96, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 60. Section 28 of chapter 32, as so appearing, is hereby amended by striking out, in line 233, the words "Turnpike Authority" and inserting in place thereof the following words: - Department of Transportation.

SECTION 61. Section 28 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 234, 244, 247 and 248, 250, 254 and 255, and in line 258, the words "Turnpike Authority" and inserting in place thereof, in each instance, the following words:- Department of Transportation.

SECTION 62. Section 102 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 76 and 77, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

NO SECTION 63.

SECTION 64. Section 2 of chapter 32A of the General Laws is hereby amended by inserting after the words "the Massachusetts Life Sciences Center", inserted by section 16 of chapter 130 of the acts of 2008, the following words:- , the Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority.

SECTION 65. Section 24 of chapter 40B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 14, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 66. Section 5 of chapter 59 of the General Laws is hereby amended by striking out clause Thirty-eighth, as so appearing, and inserting in place thereof the following clause:-

Thirty-eighth, In determining the valuation, for city and town tax purposes, of any privately-owned airport, the value of any improvements on or to the landing area shall not be included so long as the owner grants free use of the landing area to the general public for the landing, taking off and taxiing of aircraft; provided, however, that the airport shall meet the minimum requirements set forth by the aeronautics division in rules and regulations issued pursuant to section 39 of chapter 90 and is certified by the aeronautics division to be included within the needs of civil aeronautics as established by the state airport plan prepared pursuant to section 39A of said chapter 90 and is approved for commercial operation by the aeronautics division.

SECTION 67. Section 7 of chapter 64A of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 68. Chapter 64A of the General Laws is hereby amended by striking out section 13, as appearing in section 4 of chapter 233 of the acts of 2008, 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 Commonwealth Transportation 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 from the excise imposed in section 4, and related 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 Commonwealth Transportation 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 in section 2C of chapter 131.

SECTION 69. Section 5 of chapter 64E of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 8, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 70. Said chapter 64E is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. All sums received under this chapter as excises, penalties, forfeitures, interest, costs of suits and fines shall be credited to the Commonwealth Transportation Fund to be used for transportation-related purposes.

SECTION 71. Section 3 of chapter 64F of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 72. Said chapter 64F is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. All sums received under this chapter as excises, penalties, forfeitures, interest, costs of suits and fines shall be credited to the Commonwealth Transportation Fund to be used for transportation-related purposes.

SECTION 73. Section 25A of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word “commission” and inserting in place thereof the following word:- division.

SECTION 74. Section 26A of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word “commission” and inserting in place thereof the following word:- division.

SECTION 74A. Section 1 of chapter 81 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word 'department' and inserting in place thereof the following word:- division.

SECTION 75. Chapter 81A of the General Laws is hereby repealed.

SECTION 76. Section 7A of chapter 85 of the General Laws, as appearing in the

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2006 Official Edition, is hereby amended by striking out, in line 34, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 77. Section 1 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 57, the word "department" and inserting in place thereof the following word:- division.

SECTION 78. Section 1A of said chapter 90 is hereby amended by striking out the words 'or by the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority or the Massachusetts Port Authority', inserted by section 16 of chapter 303 of the acts of 2008, and inserting in place thereof the following words:- or the Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority or the Massachusetts Port Authority.

SECTION 79. Section 7A of said chapter 90 is hereby amended by striking out, in line 94, as appearing in the 2006 Official Edition, the words "Highway Fund" and inserting in place thereof the following words:- Commonwealth Transportation Fund established in section ZZZZ of chapter 29.

SECTION 80. Section 20G of said chapter 90, as so appearing, is hereby amended by striking out, in line 2, the words "Turnpike Authority" and inserting in place thereof the following words:- Department of Transportation.

SECTION 81. Said chapter 90 is hereby amended by striking out section 34, as amended by section 19 of chapter 303 of the acts of 2008, and inserting in place thereof the following section:-

Section 34. The fees received under the preceding sections, together with all other fees received by the registrar or any other person under the laws of the commonwealth relating to the use and operation of motor vehicles and trailers, shall be disposed of as follows: (i) \$2 from every motorcycle registration issued pursuant to section 2 shall be deposited into the General Fund and used solely for the purpose of promoting and advancing motorcycle safety; (ii) all fees from the issuance of veterans plates pursuant to section 2, in excess of the fees set for the registration of the motor vehicle, shall be deposited into the General Fund; and (iii) any amount remaining after compliance with clauses (i) and (ii) shall be deposited into the Commonwealth Transportation Fund established in section ZZZZ of chapter 29.

SECTION 82. Section 34½ of said chapter 90 is hereby repealed.

SECTION 83. Section 35 of said chapter 90, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 74, the word "commission" and inserting in place thereof the following word:- division.

SECTION 84. Said section 35 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 75 and 76, the words "director of aeronautics employed by the commission" and inserting in place thereof the following words:- administrator for aeronautics.

SECTION 85. Section 50 of said chapter 90, as so appearing, is hereby amended by striking out, in line 5, the words “chairman of the commission” and inserting in place thereof the following words:- administrator for aeronautics.

SECTION 86. Section 1 of chapter 90C of the General Laws is hereby amended by striking out, in line 59, the words “Turnpike Authority”, as appearing in the 2006 Official Edition, and inserting in place thereof the following words:- Department of Transportation.

SECTION 87. Section 1 of chapter 90E of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the word “department” and inserting in place thereof the following word:- division.

SECTION 88. Said section 1 of said chapter 90E, as so appearing, is hereby further amended by striking out, in line 17, the words “commissioner of” and inserting in place thereof the following words:- administrator for.

SECTION 89. Section 1 of chapter 90H of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word “department” and inserting in place thereof the following word:- division.

SECTION 90. Said section 1 of said chapter 90H, as so appearing, is hereby further amended by striking out, in line 5, the words “commissioner of the department of” and inserting in place thereof the following words:- administrator for.

SECTION 91. The first paragraph of section 35 of chapter 92 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The commission shall submit its plans for any such connection to the secretary of the department of transportation and the administrator for highways so that it may be included in their capital plans.

SECTION 92. Section 1A of chapter 119A of the General Laws, as so appearing, is hereby amended by striking out, in line 82, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 93. Section 40A of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 95, the word “commission” and inserting in place thereof the following words:- division.

SECTION 94. Section 45 of said chapter 131, as so appearing, is hereby amended by striking out, in line 36, the word “commission” and inserting in place thereof the following words:- division.

SECTION 95. Section 21 of chapter 142 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 96. Section 3A of chapter 143 of the General Laws, as so appearing, is hereby amended by striking out in line 27, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 97. Section 94 of said chapter 143 is hereby amended by striking out, in line 10, as so appearing, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 98. Section 20 of chapter 149A of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(d) Except for section 39M of chapter 30, all other provisions of the public bidding laws, including sections 39F, 39G, 39J, 39N, 39O 39P and 39R of said chapter 30 and sections 26, 27, 27A, 27B, 27C, 27D, 29, 29C and 34A of chapter 149, shall apply to all design build projects procured pursuant to this chapter in the same manner as they apply to public works projects generally procured pursuant to said section 39M said of said chapter 30.

SECTION 99. The definition of “Employer in section 1 of chapter 150E of the General Laws, as amended by section 7 of chapter 42 of the acts of 2007, is hereby further amended by adding the following sentence:- In the case of employees of the Massachusetts Department of Transportation, “employer” shall mean the Massachusetts Department of Transportation or any individual designated by the board of that department to represent it or act in its interest in dealing with employees.

SECTION 100. Section 7 of said chapter 150E is hereby amended by inserting after the word “commission,” in line 23, as appearing in the 2006 Official Edition, the following words:- Massachusetts Department of Transportation.

SECTION 101. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation

SECTION 102. Said section 73 of said chapter 152, as so appearing, is hereby further amended by striking out, in line 9, the words “any police officer of”.

SECTION 103. The first paragraph of said section 73 of said chapter 152, as so appearing, is hereby further amended by inserting after the first sentence the following sentence:- Notwithstanding the any general or special law to the contrary, any present or former Massachusetts Bay Transportation Authority employee or retiree entitled to compensation under section 31, 34, 34A, 35, 35A or 36 who is also entitled to a pension by reason of the same injury shall elect whether he will receive such compensation or such pension and shall not receive both, except in the manner and to the extent provided by section 14 of chapter 32; provided, however, that the requirement to make such election shall apply to all former Massachusetts Bay Transportation Authority employees or retirees presently receiving or entitled to receive benefits under said section 31, 34, 34A, 35, 35A or 36 who are also receiving or entitled to a pension by reason of the same injury.

SECTION 104. Section 1 of chapter 159A of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words “Turnpike Authority” and inserting in place thereof the following words:- Department of Transportation.

SECTION 105. Section 1 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Department' and inserting in place thereof the following definition:-

'Department', the mass transit division within the department of transportation.

SECTION 106. Said section 1 of said chapter 161A, as so appearing, is hereby further amended by striking out the definition of 'Secretary' and inserting in place thereof the following definition:-

'Secretary', the secretary of transportation for the department of transportation.

SECTION 107. Paragraph (g) of section 5 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out the first subparagraph and inserting in place thereof the following subparagraph:-

The authority shall establish a program for mass transportation consistent with this chapter. The program for mass transportation and any revisions thereto shall be submitted for comment and recommendation to the advisory board not less than 60 days prior to the adoption thereof. The authority shall prepare a written response to reports submitted to it by the advisory board which response shall state the basis for any substantial divergence between the actions of the authority and the recommendations contained in such reports of the advisory board. The program shall be reviewed not less than every 5 years to evaluate the achievement of its aims and to re-evaluate its conformity with this chapter.

SECTION 108. Said chapter 161A is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Section 7. The authority shall be governed and its corporate powers exercised by a board of directors. The board shall consist of the 5 members appointed by the governor for terms of 4 years, 2 of whom shall be experts in the field of public or private transportation finance, 2 of whom shall have practical experience in transportation planning and policy and 1 of whom shall be a registered civil engineer with at least 10 years experience. One of the members shall be appointed by the governor to serve as chairperson of the board; provided, however, that said designee shall not be an employee of the authority, department or any division thereof. Not more than 3 of the directors shall be members of the same political party. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such member. A member shall be eligible for reappointment. A member may be removed from his appointment by the governor for cause. The governor may appoint a designee pursuant to section 6A of chapter 30. A majority of the directors shall constitute a quorum, which shall be required to take any particular action. The directors shall meet monthly; provided, however, that such meeting shall occur no later than the fifteenth day of the month. Each meeting shall provide a sufficient opportunity for public comment.

SECTION 109. Section 7A of said chapter 161A, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Whenever the approval of the advisory board or of the 14 cities and towns or of the 51 cities and towns or of the other served communities is required for any appointment or action by the governor or the authority, such approval shall be deemed to have been granted unless, within 30 days of the submission thereof, the advisory board of the 14 cities and towns or the 51 cities and towns or the other served communities has its disapproval to the

governor or to the authority in writing.

SECTION 110. Subsection (a) of section 13 of said chapter 161A, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 111. Said chapter 161A is hereby further amended by striking out the section 20, as so appearing, and inserting place thereof the following section:-

Section 20. The board shall approve a preliminary itemized budget for the subsequent fiscal year not later than March 15 prior to the beginning of that fiscal year. The authority shall submit to the advisory board a final itemized budget not later than April 15 prior to the beginning of the fiscal year.

The itemized budget shall establish a projection of operating costs and revenues for each commuter rail, rapid transit, bus and water line or route, each maintenance facility and for each department and unit of the authority. The itemized budget shall identify expenditures in such a manner that establishes the cost of operating the service provided on each such line or route. In conjunction with the itemized budget, the authority shall also calculate any additional costs that would be incurred in the event that service on each such line or route is mandated to expand or change beyond the level of service established or proposed by the itemized expenditure budget.

The board shall forward not later than November 15 of each year to the governor, the secretary of administration and finance, the joint committee on transportation and the house and senate committees on ways and means the estimated capital or operating cost the authority projects to incur in the following fiscal year for expansions or changes in service imposed by the general court on the authority after July 1, 2000.

No expenses shall be incurred in excess of those shown in the budget; provided, however, that revenues shall exceed expenses at the close of each fiscal year in the operating funds of the authority by an amount equal to 1/2 of 1 per cent of the dedicated revenue source. The itemized budget may from time to time be amended by the board. The final budget and any supplementary budget shall provide for payment of all debt service payments or other payments due under financing obligations including, without limitation, leases, reimbursement obligations or interest exchange agreements for which the commonwealth has pledged its credit or contract assistance or is otherwise liable. If, during the fiscal year, the authority projects that total revenues for the fiscal year will be insufficient to meet total expenses, the authority shall take immediate steps to increase revenues or decrease expenses, other than debt service payments or other payments due under such financing obligations, such that a deficit will not occur in the following fiscal year and shall file with the secretary of administration and finance a deficit reduction plan delineating such steps. Upon the filing of such plan, the authority may, if it will otherwise have insufficient funds to pay expenses, draw on the Stabilization Fund in section 19 or issue temporary notes pursuant to section 12 for the subsequent fiscal year.

SECTION 112. Section 38 of said chapter 161A, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "to the same extent as though the authority were a street railway company".

SECTION 113. Said section 38 of said chapter 161A, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 114. Section 43 of said chapter 161A, as so appearing, is hereby amended by striking out, in line 7, the words "not less than".

SECTION 115. Said section 43 of said chapter 161A, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the purposes of this section, the term 'railroad' shall include any person, railroad corporation or other legal entity in the business of providing rail transportation which contracts or enters into a legal agreement with the Massachusetts Bay Transportation Authority for the provision or accommodation of commuter rail services. For the purposes of this section, the term 'commuter rail services' shall include all services performed by a railroad pursuant to a contract or any other agreement with the Massachusetts Bay Transportation Authority in connection with the transportation of rail passengers including, but not limited to, the operation of trains, trackage and equipment, or the construction, reconstruction or maintenance of railroad equipment, tracks and any appurtenant facilities or the provision of trackage rights over lines owned by any such railroad.

SECTION 116. Section 1 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Department' and inserting in place thereof the following definition:-

'Department', the mass transit division within the department of transportation.

SECTION 117. Said section 1 of said chapter 161B, as so appearing, is hereby further amended by striking out the definition of 'Secretary' and inserting in place thereof the following definition:-

'Secretary', the administrator of transportation for mass transit within the department of transportation.

SECTION 118. Section 2 of chapter 161C of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Executive office' and inserting in place thereof the following definition:-

'Executive office', the office of planning and programming established under chapter six C.

SECTION 119. Said section 1 of said chapter 161C, as so appearing, is hereby further amended by striking out the definition of 'Secretary' and inserting in place thereof the following definition:-

'Secretary', the administrator of transportation for mass transit within the department of transportation.

SECTION 120. Section 2 of chapter 161D of the General Laws, as so appearing, is hereby amended by striking out the definition of 'Executive office' and inserting in place thereof the following definition:-

'Executive office', the office of planning and programming established under chapter six C.

SECTION 121. Said section 2 of said chapter 161D, as so appearing, is hereby further amended by striking out the definition of 'Secretary' and inserting in place thereof the following definition:-

'Secretary', the administrator of transportation for mass transit within the department of transportation.

SECTION 122. Section 1 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in lines 243 to 244, the words "Turnpike Authority as provided in chapter 598 of the acts of 2958" and inserting in place thereof the following words:- Department of Transportation.

SECTION 123. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby amended by inserting after the word "including", in line 40, the following words:- the Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority, any duly constituted regional transit authority and the Massachusetts Turnpike Authority and.

SECTION 124. Said section 1 of said chapter 258, as so appearing, is hereby amended by striking out, in lines 50 to 52, inclusive, the words "the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority" and inserting in place thereof the following words:- the Massachusetts Port Authority, the Massachusetts Department of Transportation.

SECTION 125. Said section 1 of said chapter 258, as so appearing, is hereby further amended by adding the following definition:-

"Serious bodily injury", bodily injury which results in a permanent disfigurement, or loss or impairment of a bodily function, limb or organ.

SECTION 126. The first paragraph of section 10 of said chapter 258, as so appearing, is hereby amended by adding the following subsection:-

(k) any claim against the Massachusetts Bay Transportation Authority for serious bodily injury.

SECTION 127. Section 1 of chapter 465 of the acts of 1956 is hereby amended by inserting after subsection (a) the following new subsection:-

(a $\frac{1}{2}$) The words advisory board shall mean the advisory board established pursuant to section 36 of this act.

SECTION 128. Said chapter 465 is hereby further amended by adding the following section:-

Section 36. (a) There shall be an advisory board to the authority consisting of 1 voting representative of each of the following cities and towns: Braintree, Bedford, Brookline, Cambridge, Chelsea, Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln, Malden, Melrose, Medford, Milton, Nahant, Quincy, Revere, Somerville, Weymouth, and Winthrop and Worcester; provided, further, that the city of Boston shall have

7 voting representatives, 1 of whom shall be a resident of the Beacon Hill or South End sections of the city of Boston, 1 of whom shall be a resident of the East Boston section of the city of Boston, 1 of whom shall be a resident of the Dorchester or Roxbury sections of the city of Boston, 1 of whom shall be a resident of the Charlestown section of Boston, 1 of whom shall be a resident of the South Boston section of the city of Boston, 1 of whom shall be a resident of the Roslindale or Hyde Park sections of the city of Boston, and 1 of whom shall be a resident of the 3 West Roxbury or Jamaica Plain sections of the city of Boston. The members of the advisory board shall be appointed by the chief executive officer of each city or town.

(b) Said advisory board may act at a regular periodic meeting called in accordance with its by-laws; or at a special meeting called by the authority; or if a majority of board members choose to do so. A quorum of the advisory board shall consist of a simple majority of voting members present, and the advisory board may act, except as otherwise provided in paragraph (f), by affirmative casting of a majority of the votes represented in the quorum. The advisory board shall be deemed to be a governing body for the purposes of, and shall be subject to, section 11A½ of chapter 30A of the General Laws.

(c) Said advisory board shall annually elect a chairperson, a vice-chairperson, a secretary and such officers as said advisory board might determine. Each officer may be removed by a two-thirds vote of the advisory board without cause. In the event of a vacancy, said board shall fill the vacancy for the unexpired term. Each member of said advisory board shall serve without compensation.

(d) The advisory board shall without limitation:

(i) make recommendations to the authority on annual current expense expenditure budgets submitted to the advisory board under paragraph (g);

(ii) hold hearings, which may be held jointly with the authority at the discretion of the advisory board and said authority, on matters relating to said authority;

(iii) review the annual report of the authority and to prepare comments thereon to the authority and the governor, and to make such examinations of the reports on the authority's records and affairs as the advisory board deems appropriate; and

(iv) make recommendations to the governor and the general court respecting the authority and its programs.

(e) Within 30 days of receiving any proposed current expense budget of the authority or within 30 days of receiving any proposed amended expense budget of the authority, the advisory board shall hold a public hearing on matters relating to said budget for the purpose of ascertaining, for subsequent report to the authority if necessary, the views of the public thereon.

(f) The advisory board may incur annual expenses, not to exceed \$25,000 for office and related expenses. Said annual expenses shall be paid by the authority.

(g) The authority shall provide any information including, but not limited to, annual current expense expenditure budgets and capital expenditure reports, requested by the advisory board which are necessary for the discharge of its duties; provided, however, that

the advisory board shall not be granted access to any information if it be determined by the executive director of the authority and the director of security for the authority that the release of such information would be detrimental to public safety, or if providing such information would be in violation of any federal statute or regulation of the Federal Aviation Administration or other federal agency; provided, further, that said determination shall be made in writing which shall be delivered to the advisory board within 2 business days.

SECTION 129. Section 2 of chapter 634 of the acts of 1971, as most recently amended by section 1 of chapter 364 of the acts of 1990, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Following acquisition of the bridges by the department, the department shall, in its sole discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-of-way of the Massachusetts Bay Transportation Authority, which may be required when the department is performing inspection, maintenance and repair, reconstruction or replacement of any such bridges.

SECTION 130. Subsection (c) of section 83 of chapter 4 of the acts of 2003, as amended by section 8 of chapter 228 of the acts of 2007, is hereby amended by striking out the words "Central Artery and Statewide Road and Bridge Infrastructure Fund established under section 63 of chapter 10 of the General Laws" and inserting in place thereof the following words:- Commonwealth Transportation Fund established in section 2zzz of chapter 29 of the General Laws

SECTION 131. The first sentence of subsection (b) of section 11 of chapter 233 of the acts of 2008 is hereby amended by inserting after the word "engineering" the following words:- "and construction".

SECTION 132. Notwithstanding section 31 of chapter 15 of the acts of 1988 or any other general or special law to the contrary, the Massachusetts Bay Transportation Authority may sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of the public parking garage constructed and operated by the authority and the land acquired by the authority pursuant to such law, subject to such terms, restrictions, covenants and conditions, for facilitating economic development, employment opportunities and increase of the tax base, as determined by the authority.

SECTION 133. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation and the Massachusetts Turnpike Authority shall develop and implement a transfer agreement providing for the orderly transfer and provisional appointment of personnel from the authority to the Massachusetts Department of Transportation consistent with the provisions contained herein as well as the transfer of all assets, liabilities, obligations and debt of the authority to Massachusetts Department of Transportation; Upon the assumption of the outstanding liabilities, obligations and debt of the authority by the Massachusetts Department of Transportation, the authority shall be dissolved and, without further conveyance or other act, all the assets, liabilities, obligations and debt as well as all rights, powers and duties of the authority shall be transferred to, and assumed by, the Massachusetts Department of Transportation. Unless specifically provided

to the contrary, the terms “turnpike”, “Ted Williams tunnel”, “Sumner tunnel”, and “metropolitan highway system” as used in this section, and elsewhere in this act, shall have the meanings described in chapter 81A of the General Laws.

(b) On the date the authority is dissolved: (i) ownership, possession and control of all personal property, including, but without limitation, all equipment, books, maps, papers, plans, records and documents of whatever description pertaining to the design, construction, use, operation and general affairs of the turnpike and metropolitan highway system which are in the possession of the Massachusetts Turnpike Authority or any division, unit, officer or employee thereof shall pass to, and be vested in, the Massachusetts Department of Transportation without consideration or further evidence of transfer and shall thereafter be in the possession and control of the highway division; (ii) ownership, possession and control of all real property, including, without limitation, all land, buildings, highways, bridges, tunnels and other highway elements of whatever description that are owned by the Massachusetts Turnpike Authority or any division or unit thereof shall pass to and be vested in the Massachusetts Department of Transportation without consideration or further evidence of transfer and shall thereafter be a part of the state highway system under the possession and control of the highway division; provided, however, that before such dissolution, the Massachusetts Turnpike Authority shall be authorized to transfer, for nominal consideration, to the Massachusetts Bay Transportation Authority, all of its right title and interest in the land, track and other property comprising the rail line and right of way extending from the South Bay section of the city of Boston to the city of Newton; provided, further, that the authority shall retain any portion of, or interest in, such rail line and right-of-way deemed by the authority or the highway division, with the approval of the Massachusetts Department of Transportation, to be necessary for the operation of the turnpike or the metropolitan highway system; and (iii) all duly existing contracts, leases, or obligations of the Massachusetts Turnpike Authority with respect to the turnpike or metropolitan highway system which remain in force immediately before the effective date of the dissolution of the authority, shall be deemed to be the obligations of the Massachusetts Department of Transportation. No existing right or remedy under this section shall be lost, impaired or affected by this act. The Massachusetts Department of Transportation shall have authority to exercise all rights and enjoy all interests conferred upon the Massachusetts Turnpike Authority by the contracts, leases or obligations. In the case of collective bargaining agreements, any obligations under the agreements shall expire on the stated date of expiration of such agreements.

(c) The transfer of the assets, liabilities, obligations and debt of the Massachusetts Turnpike Authority to the Massachusetts Department of Transportation under this act shall be effective upon dissolution of the authority and shall bind all persons with or without notice and without any further action or documentation. Without derogating from the foregoing, the department may, from time to time, execute and record and file for registration with any registry of deeds or the land court or with the secretary of the commonwealth, as appropriate, a certificate confirming the commonwealth's ownership of any interest in real or personal property formerly held by the Massachusetts Turnpike Authority and transferred

pursuant to the provisions of this act and establishing and confirming the limits of state highways so transferred.

(d) This act shall not limit or impair the rights, remedies, or defenses of the commonwealth, the Massachusetts Department of Transportation, or the Massachusetts Turnpike Authority in or to any such action including, without limitation, section 18 of chapter 81 of the General Laws and chapter 258 of the General Laws. All actions or proceedings shall be subject to the provisions of said section 18 of said chapter 81 and said chapter 258. Except as expressly excepted by the previous sentence, actions and proceedings against or on behalf of the Massachusetts Turnpike Authority shall continue unabated and, from and after the date of dissolution of the authority, may be completed against or by the department.

(e) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by the Massachusetts Turnpike Authority under chapter 81A of the General Laws shall be impaired, and the department, as successor in interest to the Massachusetts Turnpike Authority, shall maintain the covenants of the trust indentures pertaining to such bonds so long as such bonds shall remain outstanding.

(f) Notwithstanding any powers granted to the Massachusetts Department of Transportation under section 3 of chapter 6C, the Massachusetts Department of Transportation shall not exercise the powers to increase tolls on the turnpike or the metropolitan highway system, each as defined in section 1 of chapter 6C, until the transfer authorized in this section becomes effective. The Massachusetts department of transportation shall not exercise the power granted by section 20 of chapter 6C until the transfer authorized in this section becomes effective.

SECTION 134. Notwithstanding any general or special law to the contrary, any order, rule, or regulation duly promulgated, or any license, permit, certificate or approval duly granted, by or on behalf of the Massachusetts Turnpike Authority shall continue in effect from and after the date of dissolution of the authority and shall be enforced by the Massachusetts Department of Transportation until superseded, revised, rescinded or cancelled by the Massachusetts Department of Transportation.

SECTION 135. Notwithstanding any other general or special law to the contrary, the Massachusetts Department of Transportation may enter into contracts to create and permit employee contributions to individual retirement accounts for employees of the department pursuant to sections 64A to 64C, inclusive, of chapter 29 of the General Laws.

SECTION 136. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall, in consultation with the Federal Highway Administration, inventory the requirements for, and assume the responsibilities of, rehabilitating and reconstructing the turnpike and metropolitan highway system in compliance with Title 23 of the United States Code. The inventory shall include operational and safety considerations associated with direct access to the mainline roadway from (i) maintenance, administration and state police facilities, (ii) emergency median crossovers, and (iii) adjacent local roadways and service plazas.

SECTION 137. (a) each employee of the Massachusetts Turnpike Authority whose salary is paid out of revenue generated by the authority as defined in section 3 of chapter 81A of the General Laws, and whose salary is accounted for on the books of the Massachusetts Turnpike Authority as arising from revenue generated by that authority shall become an employee of the Massachusetts Department of Transportation.

(b) All officers and employees of the Massachusetts Turnpike Authority transferred to the service of the Massachusetts Department of Transportation shall be transferred without impairment of seniority, retirement or other statutory rights of employees, without loss of accrued rights to holidays, sick leave, vacation and other benefits, except as otherwise provided in this act. Terms of service of employees of the Massachusetts Turnpike Authority shall not be deemed to be interrupted by virtue of transfer to the Massachusetts Department of Transportation.

SECTION 138. (a) Notwithstanding any general or special law to the contrary, employees of the Massachusetts Turnpike Authority who become state employees under this act and who are eligible for group insurance coverage pursuant to chapter 32A of the General Laws shall receive the full extent of benefits provided to existing state employees. The employees shall cease to be eligible or insured by the authority. The group insurance commission, hereinafter referred to as the commission, shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits pursuant to said chapter 32A.

(b) Notwithstanding any general or special law to the contrary, retired employees of the Massachusetts Turnpike Authority and the surviving spouses of active or retired authority employees who are eligible for group insurance coverage pursuant to this section and said chapter 32A shall have said eligibility and coverage transferred to the commission and shall receive the full extent of benefits provided to existing state employees. The persons shall cease to be eligible or insured by the authority. The commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under said chapter 32A. All questions relating to group insurance rights, obligations, costs and payments shall be determined solely by the group insurance commission, and shall include the manner and method for the payment of all required premiums applicable to all such coverage.

(c) The human resources division of the executive office for administration and finance shall assume the obligations of the Massachusetts Turnpike Authority to employees who become state employees and who are covered under a health and welfare trust fund agreement. Any monies in the authority's employees' group insurance trust fund shall be transferred to the group insurance commission trust fund established in section 9 of said chapter 32A.

(d) Any monies in the Massachusetts Turnpike Authority's Claims Trust Fund shall be transferred to the commission. The Massachusetts Turnpike Authority's treasurer shall

provide the commission with an accounting of the claims trust fund which shall be for the 1 year period immediately preceding the effective date of the transfer and shall include a calculation of the employee, retiree and surviving spouse contributions that are in excess of the claims costs and expenses of the plans for which the contributions were made. The treasurer shall routinely forward to the commission any claims for health insurance claims made on behalf of the active employees and retirees of the authority.

(e) Nothing in this section shall be construed to affect the eligibility and coverage of retired Massachusetts Turnpike Authority employees and the surviving spouses of active or retired Massachusetts Turnpike Authority employees who are eligible for group insurance coverage under a plan offered by the Massachusetts Turnpike Authority or who are insured under a plan offered by the Massachusetts Turnpike Authority.

SECTION 139. Notwithstanding the provisions of any general or special law to the contrary, employees of the Massachusetts Turnpike Authority who are hired after the effective date of this act shall become members of the state retirement system, and notwithstanding the provisions of any general or special law to the contrary including, but not limited to, paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws, said system shall be responsible for all liability attributable to the service of such employees. The liabilities attributable to the service of such employees shall be recoverable by the commonwealth pursuant to the terms of section 8. Employees hired by said authorities after the effective date of this act shall not be members of either authority's retirement system.

SECTION 140. Notwithstanding any general or special law to the contrary, an employee, retiree, surviving spouse or dependent of the Massachusetts Bay Transportation Authority and who becomes or who is eligible for group insurance coverage under insurance plans offered by the authority or who is insured under such a plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance commission and such person shall cease to be eligible or insured under the plans previously offered by the Massachusetts Bay Transportation Authority; provided, however, that employees whose benefits are provided under the terms of an existing collective bargaining agreement shall be transferred on the expiration date of that agreement; provided, further, that for all other employees this transfer shall be effective January 1, 2010.

Upon transfer to the group insurance commission all employees, retirees, surviving spouses or dependents of the Massachusetts Bay Transportation Authority shall be deemed "employees" in accordance with the provisions of section 2 of chapter 32A of the General Laws and shall be subject to all of the provisions of said chapter or any superseding language. If the Massachusetts Bay Transportation Authority has monies in an employee's group insurance trust fund related to the employees transferred to the group insurance commission, these funds shall be transferred to the group insurance commission trust fund established in section 9 of chapter 32A.

Upon transfer: (i) all benefits of all employees, retirees, surviving spouses or dependents of the Massachusetts Bay Transportation Authority shall be provided through the

group insurance commission for all purposes; and (ii) employees, retirees, surviving spouses or dependents of the Massachusetts Bay Transportation Authority transferred to the group insurance commission's benefits coverage shall receive group insurance benefits determined exclusively by the commission, the coverage shall not be subject to collective bargaining, and no other reimbursements or other contractual obligations shall be paid by the Massachusetts Bay Transportation Authority for health care benefits not provided through the group insurance commission.

SECTION 141. Notwithstanding any general or special law to the contrary, on and after the effective date of this act, the Massachusetts Turnpike Authority shall not enter into any contract to employ a person as an employee or officer beyond July 1, 2010.

SECTION 142. The terms and conditions of any collective bargaining agreement that is in effect upon dissolution of the Massachusetts Turnpike Authority with respect to employees of said authority shall continue in effect until the stated expiration date of such agreement, at which point the agreement shall expire. Notwithstanding the provisions of any general or special law to the contrary, upon the effective date of this act, the authority shall not engage in negotiations for future collective bargaining agreements.

The personnel administrator of the commonwealth, in consultation with the Massachusetts Department of Transportation, shall complete a study of job titles in the former Massachusetts Turnpike Authority. The personnel administrator, in consultation with said department, shall determine the appropriate commonwealth job titles for former employees of the authority transferred to the department. Employees transferred to the department shall be placed in job titles as determined by the personnel administrator, and shall be paid wages and receive benefits consistent with the commonwealth bargaining unit contract governing such job title(s). Employees not transferred to the department shall be released pursuant to the provisions of any applicable collective bargaining agreement or authority policy in place upon the effective date of this act.

SECTION 143. Notwithstanding any general or special law to the contrary, on and after the effective date of this act the Massachusetts Turnpike Authority shall not enter into any new or amended employment agreements, which fix the compensation and conditions of employment or otherwise bind the authorities to designated contract periods.

SECTION 144. (a) As used in this section and section 145 the following words shall, unless the context clearly requires, have the following meanings:

"Authority", the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956.

"Bridge", the Tobin Memorial Bridge, formerly known as the Mystic River Bridge, constructed and owned by the authority pursuant to chapter 465 of the acts of 1956.

"Department", the Massachusetts Department of Transportation established pursuant in chapter 6C of the General Laws.

(b) Notwithstanding any general or special law to the contrary, not later than September 1, 2009 the authority shall transfer the bridge, owned and operated by the authority,

to the department to be under the control of the department. Ownership, possession, and control of the bridge, including, but not limited to, all equipment, books, maps, papers, plans, records and documents of whatever description pertaining to the design, construction, use, operation, and general affairs of the bridge which are in the possession of the authority or any division, unit, officer or employee thereof shall pass to and be vested in the department to be under the control of the department without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of said department.

(c) Notwithstanding any general or special law to the contrary, authority bridge personnel deemed necessary by the department for the operation, management, design, construction, reconstruction, repair, maintenance, or improvement of the bridge, transferred under subsection (b), shall be transferred to the department. The terms and conditions of any collective bargaining agreement covering bridge personnel that is in effect upon the transfer of such personnel to the department shall remain in effect until the stated date of expiration of such agreement, at which point the agreement shall expire; provided, however, that upon the effective date of this act, the authority shall not engage in negotiations for future collective bargaining agreements covering such employees.

Notwithstanding any general or special law to the contrary, the personnel administrator of the commonwealth, in consultation with the department, shall complete a study of job titles held by employees of the department who are former authority personnel assigned to the bridge. The personnel administrator shall determine the appropriate job titles for former employees of the authority transferred to the department. Following the stated date of expiration of any existing collective bargaining agreements, employees transferred to the department shall be placed in job titles as determined by the personnel administrator, and shall be paid wages and receive benefits consistent with the bargaining unit contract governing such job titles.

(d) Notwithstanding any general or special law to the contrary, all duly existing contracts, leases, and obligations of the authority regarding the bridge shall continue in effect and shall remain the liability of the authority; provided, however, that all contracts and obligations related to any collective bargaining agreement shall be assumed by the department, except to the extent expressly inconsistent with this act; and provided further, that in the case of collective bargaining agreements, any obligations assumed by the department under said agreements shall expire on the stated date of expiration of such agreements. No existing right or remedy of any character shall be lost, impaired, or affected by this act.

(e) On and after the effective date of this act, the authority shall not increase its net workforce of employees working primarily on the bridge.

SECTION 145. (a) All bridge employees transferred to the service of the department shall be transferred without impairment of seniority, civil service status, retirement or other statutory rights of employees, without reduction in compensation or salary grade, notwithstanding any change in job titles or duties, without loss of accrued rights to holidays, sick leave, vacation and other benefits, except as otherwise provided in this act. Terms of

service of bridge employees shall not be deemed to be interrupted by virtue of transfer to the department.

(b) Except to the extent expressly inconsistent with this act, any collective bargaining agreement and related contracts and obligations in effect for such transferred employees immediately before the transfer date shall continue as if the employees had not been so transferred, until the expiration date of such collective bargaining agreement.

(c) Nothing in this section shall be construed to confer upon any employee any right not held immediately prior to the date of the transfer or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

(d) Notwithstanding any general or special law to the contrary, a bridge employee who is employed by the authority on the effective date of this act and who becomes an employee of the department and who is eligible for group insurance coverage under insurance plans offered by the authority or who is insured under such a plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance commission effective on the date of such transfer and such a person shall cease to be eligible or insured under the plans previously offered by the authority.

(e) The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under chapter 32A of the General Laws; provided, however, that a bridge employee who was covered by a collective bargaining agreement on the date of the transfer to the department shall continue to receive the group insurance benefits required by his respective collective bargaining agreement until the expiration date of such agreement. All questions relating to group insurance rights, obligations, costs and payments shall be determined by the group insurance commission and shall include the manner and method for the payment of all required premiums applicable to all such coverage.

(f) If the authority has monies in an employees' group insurance trust fund related to the bridge employees transferred to the department, these funds shall be transferred to the group insurance Commission Trust Fund established in section 9 of said chapter 32A.

(g) Nothing in this section shall be construed to affect the eligibility and coverage of retired bridge employees and the surviving spouses of active or retired bridge employees who are eligible for group insurance coverage under a plan offered by the authority or who are insured under a plan offered by the authority.

SECTION 146. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transportation Authority or any successor, shall enter into an agreement to establish or amend existing retirement or pension benefits only if any employee hired after the effective date of the agreement or amendment may not receive a retirement or pension benefit prior to the completion of 25 years of credited pension service and attained 55 years of age. The Massachusetts Bay Transportation Authority is not prohibited by this section from permitting retirement prior to attaining age 55; provided, however, that either: (i) the

employee is entitled to a disability pension under the Massachusetts Bay Transportation Authority retirement system or (ii) the employee has earned the maximum percentage allowed under the retirement formula of the Massachusetts Bay Transportation Authority retirement system and that the employee waives the ability to collect a pension and retirement benefit due until attaining age 55.

SECTION 147. (a) The secretary of the department of transportation shall make such plans and arrangements as may be necessary to ensure the efficient transfer of: (i) the Massachusetts turnpike authority's functions, assets, liabilities, and obligations; (ii) the Maurice J. Tobin Memorial Bridge owned and operated by the Massachusetts Port Authority; and (iii) the vehicular bridges, appurtenances, and designated parkways under the control of the department of conservation and recreation, to the department pursuant to this act.

The secretary shall have the authority to promulgate new rules and regulations as deemed necessary to effectuate the purposes of the transfers.

Any order, rule or regulation duly promulgated by or on behalf of the department of highways, the Massachusetts aeronautics commission, the registry of motor vehicles, and the Massachusetts Turnpike Authority, shall continue in full force and effect to the extent consistent with this act and the laws of the commonwealth, and shall continue to be enforced, until superseded, revised, rescinded or cancelled by the secretary of the department of transportation.

SECTION 148. (a) Notwithstanding any general or special law to the contrary, Worcester regional airport, as currently owned by the city of Worcester and operated by the Massachusetts Port Authority, is hereby transferred from the city of Worcester to the Massachusetts Port Authority on the July first following one year after the effective date of this act, subject to the following terms and conditions: (i) the Worcester regional airport shall be transferred to the Massachusetts Port Authority for fair compensation which may be paid in installments and which may consider the actual amount of any expenditures, subsidies and operational costs assumed or provided to date to or for the Worcester regional airport by said Massachusetts Port Authority, in addition to any other federal and state funding and grant assistance, and (ii) the right, title and interest of the city in the Worcester regional airport shall be conveyed within 1 year upon the transfer date set by this act

(b) Upon the transfer of the airport by the city of Worcester to the Massachusetts Port Authority pursuant to this section, the Massachusetts Port Authority shall be responsible for the ownership, operation and maintenance of the Worcester regional airport and, except as otherwise agreed to by the parties, the city shall cease to be responsible for such ownership, operation and maintenance. All warranties and all contract and indemnification rights and obligations arising out of the design, construction, operation and maintenance of the airport shall remain in full force and effect following such transfer. The provisions of this section shall not limit or in any way impair the rights, remedies or defenses of the city of Worcester or the Massachusetts Port Authority in or to any such action.

SECTION 149. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall establish an office of transition management for

transportation within the executive office for administration and finance to accomplish the purposes of this act for a period not to exceed 2 years from the effective date of this act; provided, however, the secretary may maintain the office for more than 2 years if necessary to ensure the orderly transfer of transportation assets and functions pursuant to this act. Agencies from within that executive office including, but not limited to, the human resources division and the division of capital asset management and maintenance, as well as the executive office of transportation and public works and the department of labor shall staff the office.

The office shall temporarily monitor compliance with this act and shall: (i) recommend to the secretary of transportation and public works rules and regulations not inconsistent with this act to facilitate the orderly, expeditious transfer of assets and functions from the executive office of transportation and public works, the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the department of conservation and recreation and the department of highways to the Massachusetts Department of Transportation; (ii) develop administrative processes to assure continuity of employment and operations during the transitions; (iii) identify opportunities for potential efficiencies and cost savings; (iv) recommend legislation to realize such savings and efficiencies; and (v) resolve issues or assist government agencies with the transition of transportation agencies.

Ninety days after the effective date of this act and quarterly thereafter until such transition period is complete, the office shall submit a report to the governor, the secretary of administration and finance, the joint committee on transportation, the senate and house committees on ways and means and the clerks of the senate and the house of representatives, relative to the progression of the incorporation of the agencies and authorities into the Massachusetts Department of Transportation.

The report shall include, but shall not be limited to, plans for the assignment and reassignment of resources including personnel, equipment and supplies into the Massachusetts Department of Transportation. The reports shall also include the status of the transition of roads, bridges, designated parkways and any other transportation assets of the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the department of conservation and recreation and the department of highways and shall further include approximate schedules for the completion of the transition.

SECTION 150. (a) Notwithstanding the provisions of any general or special law to the contrary, the executive office for administration and finance and the Massachusetts Department of Transportation shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property, and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows: (1) the functions of the executive office of transportation and public works, as the transferor agency, to the Massachusetts Department of transportation as the transferee agency; (2) the functions of the department of highways, as the transferor agency, to the Massachusetts department of transportation, highway division, as the transferee agency; (3) the functions of the registry of motor vehicles, as the transferor agency, to the Massachusetts department

of transportation, motor vehicles division, as the transferee agency; (4) the functions of the aeronautics commission, as the transferor agency, to the Massachusetts department of transportation, aeronautics division, as the transferee agency.

(b) The employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits,. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

Notwithstanding the provisions of any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E.

Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the Massachusetts Department of Transportation.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the Massachusetts Department of Transportation.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the Massachusetts Department of Transportation.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 151. The secretary of the Massachusetts Department of Transportation, in consultation with the secretary of the executive office of labor and workforce development

and director of workforce development shall institute a workforce retraining initiative to mitigate potential impacts to employees displaced by the organizational efficiencies and agency restructuring directed by this act. The secretary of the Massachusetts Department of Transportation and the secretary of labor and workforce development, or their designees, shall establish a committee to coordinate the workforce retraining initiative and adopt policies that identify and categorize displaced employees, while advancing workforce development opportunities for the employees whose lack of skills may prevent or limit their successful employment. The committee shall include representatives from labor unions likely to be affected by this act, representatives from the business industry and representatives from the human resources division of the executive office for administration and finance. The procedures shall outline and recommend various retraining programs available to employees identified as being displaced by this act, establish eligibility criteria and base skills requirements for the administration of these programs, promote program accountability and job placement through the division of career services and one-stop career centers, identify available professional development and technical assistance needs and resources and encourage economic diversification and industry growth through technology-focused training.

The director of workforce development together with agencies and other entities that provide employment or training services in the commonwealth, shall utilize existing state and federal grant funding, including funding for workforce retraining programs at existing institutions, community colleges, labor organizations and administrative entities to implement the workforce retraining initiative. Where applicable, the director may utilize any funds received pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. § 2801, as amended, to provide additional funding for the workforce retraining initiative.

In the event an employee displaced by the operation of this act does not have severance or other termination benefits, the department of transportation shall pay, for a period not to exceed 2 months following the date of termination of employment, the then current salary for such employee.

SECTION 152. Notwithstanding sections 9 to 10, inclusive, of chapter 161B of the General Laws or any other general or special law to the contrary, all regional transit authorities established in said chapter 161B shall move to a forward funded budgeting system not later than July 1, 2011. The secretary of the executive office for administration and finance shall develop a plan for accomplishing this conversion to forward funding and to seek the necessary appropriations to implement the plan. The secretary may promulgate rules and regulations to effectuate the purposes of this section.

SECTION 153. Notwithstanding any general or special law to the contrary, the highway division of the Massachusetts Department of Transportation shall enter into an agreement with the Massachusetts Bay Transportation Authority to assume all bridge inspection responsibilities for any bridges owned and operated by the authority.

SECTION 154. Notwithstanding any general or special law to the contrary, the bureau of environmental health within the department of public health shall conduct a comprehensive baseline study of the health effects of particulate air pollution from surface and air transportation. The study shall focus on understanding the health impacts from fine and ultrafine particulate matter upon populations that are located within 500 feet of any roadway with 50,000 or more motor vehicle trips per day, or any rail line regularly used by diesel locomotives or within 1 mile of any airport with more than 500 enplanements per week as reported between January 1, 2007 and January 1, 2008 or within 1 mile of the port of the city of Boston; provided, however, that the study may include, but shall not be limited to, examining respiratory and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-related particles. The following departments and agencies shall provide information to the bureau relevant to this study: the department of environmental protection; the office of planning and programming within the Massachusetts Department of Transportation, the division of aeronautics; and the central transportation planning staff of the Boston metropolitan planning organization. The bureau shall report its findings together with suggested legislation, if any, to the house and senate committees on ways and means not later than June 30, 2010.

SECTION 155. The office of the state auditor shall perform a close-out audit of each agency or authority admitted to the Massachusetts Department of Transportation. The audit shall include a catalogue of any issues relating to the agency or authority's current and future finances and operations, current and future revenues or debt structure, and internal policies and procedures, that the state auditor believes are not within financial accounting board standards of practice or may violate the General Laws.

SECTION 156. (a) Notwithstanding any other provision of this act or any other general or special law to the contrary, commencing on July 1, 2009, all amounts of any kind received by the commonwealth which are derived from, or related to, the operation of the state highway system, as defined in chapter 6C of the General Laws, shall be deemed to be held in trust for, and shall be transferred and paid over to, the Massachusetts Transportation Trust Fund when received without further appropriation to be applied to the purposes of the authority. All amounts of any kind received by the Massachusetts Turnpike Authority which are derived from the operation of the turnpike, as defined in said chapter 6C, shall be deemed to be held in trust for, and shall be transferred and paid over to, the Massachusetts Transportation Trust Fund when received without further appropriation to be applied to the purposes of the department.

(b) Notwithstanding any other provision of this act or any other general or special law to the contrary, commencing on July 1, 2010, all amounts of any kind received by the Massachusetts Port Authority which are derived from, or related to, the operation of the Tobin memorial bridge, as defined in section 1 of chapter 6C of the General Laws, shall be deemed to be held in trust for, and shall be transferred and paid over to, the Massachusetts Department of Transportation when received without further appropriation to be applied to the purposes of the said Massachusetts Department of Transportation. All amounts of any

kind received by the Massachusetts Turnpike Authority which are derived from the operation of the metropolitan highway system, as defined in said section 1 of said chapter 6C, shall be deemed to be held in trust for, and shall be transferred and paid over to, the Massachusetts Department of Transportation when received without further appropriation to be applied to the purposes of the Massachusetts Department of Transportation.

SECTION 157. The secretary of transportation shall submit a report on the progress and all expenditures related to state transportation infrastructure projects undertaken through use of federal funds received under the American Recovery and Reinvestment Act of 2009 to 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 transportation and the chairs of the senate and house committees on bonding, capital expenditures and state assets. The report shall include, but not be limited to: 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 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. The report shall also include the total number of employees and outside contractors and amount expended on the salaries and benefits for such employees and outside contractors that are specifically working on projects to be carried out as part of projects funded through said American Recovery and Reinvestment Act of 2009. The report shall be submitted annually on December 31 until the culmination of any project funded with funds authorized by said American Recovery and Reinvestment Act of 2009.

SECTION 158. All uncommitted and unexpended funds and authorizations, which have been appropriated from time to time to the executive office of transportation and public works, including any agency and authority within the executive office, including but not limited to, funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of the acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of the acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of the acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303 of the acts of 2008, shall be transferred to the Massachusetts Department of Transportation for use by the department or any of its divisions for purposes consistent with such authorizations.

SECTION 159. (a) Effective upon the date of dissolution of the Massachusetts Turnpike Authority: (1) the Massachusetts Turnpike Authority employees' retirement system shall continue under the provisions of sections 1 to 28, inclusive of said chapter 32; (2) the management of the Massachusetts Turnpike Authority employees' retirement system shall

be transferred to the state board of retirement in section 18 of chapter 10 of the General Laws which board shall have with respect thereto the general powers and duties set forth in subdivision (5) of section 20 of said chapter 32; (3) all data, files, papers and records and other materials of the retirement board provided for in paragraph (b) of subdivision (41/2) of said section 20 of said chapter 32 shall be transferred to and held by the state board of retirement; (4) the funds of the Massachusetts Turnpike Authority employees' retirement system in the custody of the secretary-treasurer of the authority shall be transferred to the state treasurer who shall thereafter be and perform the duties of the treasurer-custodian of such funds which shall then be held by the state treasurer for the exclusive benefit and use of the members of the Massachusetts Turnpike Authority employees' retirement system and their beneficiaries; and (5) the retirement board in said paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 43 shall be abolished; provided, however, that the members and officers thereof shall continue to be authorized to do all such things and take all such action as may be necessary or desirable to be done or taken by them to effectuate the transfers to be made pursuant to this section.

(b) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a default in its obligations under chapter 32 of the General Laws, the payment of all annuities, pensions, retirement allowances and refunds of accumulated total deductions and of any other benefits granted under the sections 1 to 28, inclusive, of said chapter 32 are hereby made obligations of the commonwealth in the case of any such payments from funds of the Massachusetts turnpike authority employees' retirement system.

SECTION 160. Notwithstanding any general or special law to the contrary, in making initial appointments to the board of directors of the Massachusetts Department of Transportation established pursuant to Chapter 6C of the General Laws, the governor shall appoint 4 additional members, 1 of whom shall be appointed for a term of 1 year, 1 of whom shall be appointed for a term of 2 years, 1 of whom shall be appointed for a term of 3 years, 1 of whom shall be appointed for a term of 4 years and 1 of whom shall be appointed for a term of 5 years.

SECTION 161. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may enter into such contracts or agreements with the Massachusetts Department of Transportation and may transfer proceeds of the bonds and notes of the commonwealth issued for transportation purposes to the Massachusetts Department of Transportation as it deems necessary to carry out the purposes of the statutory provisions authorizing such bonds or notes.

SECTION 162. Notwithstanding any general or special law to the contrary, any existing or future balance in the Infrastructure Fund, established in section 20 of said chapter 29 of the General Laws, shall be credited to the Commonwealth Transportation Fund established in section 2ZZZ of said chapter 29, provided that such crediting shall not affect in any way the obligations of the commonwealth relating to special obligation bonds issued pursuant to said section 20 of said chapter 29, and the pledge of pledged funds, as defined in said section 20 of said chapter 29, to secure the payment of such bonds is hereby ratified

and confirmed in all respects and shall remain in full force and effect as long as any such special obligation bonds issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by funds in the fund.

SECTION 163. Notwithstanding any general or special law to the contrary, the comptroller shall transfer the balance of the Highway Fund established in section 34 of chapter 90 of the General Laws to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

SECTION 164. Notwithstanding any general or special law to the contrary, the comptroller shall transfer the balance of the Deferred Maintenance Trust Fund established in section 69A of Chapter 10 of the General Laws, to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

SECTION 165. Notwithstanding any general or special law to the contrary, any project or phase thereof that has received an opinion of the secretary of the executive office of energy and environmental affairs that it is not subject to the jurisdiction of the secretary pursuant chapter 30 of the General Laws shall be governed by the regulations and procedures in effect prior to the effective date of this act, and any project or phase thereof that has received, prior to the effective date of this regulation, any 1 or more of a variance, special permit, comprehensive permit, certificate of occupancy, or building permit followed within 5 years thereafter by a certificate of occupancy, or the developer of which has entered into an agreement of the department of conservation and recreation or the applicable executive office secretary to fund traffic improvements or traffic mitigation, shall in any such case be governed by the regulations and procedures in effect prior to the effective date of these regulations so long as the applicable variance, permit or certificate continues in force and effect or, if applicable, so long as such agreement has not been duly terminated on account of the failure of the project developer to meet its obligations under such agreement and in any case unless the applicant elects, in writing, to be governed by this regulation and the procedures hereunder.

SECTION 166. This act shall provide additional, alternative and complete methods for accomplishing the purpose of this act and shall be construed to be supplemental and additional to, and not in derogation of any powers conferred upon the Massachusetts Department of Transportation and others by law; provided, however, that insofar as the provisions of this act are inconsistent with any general or special law, administrative order or regulation, the provisions of this act shall be controlling.

SECTION 167. (a) There shall be in the division of highways within the Massachusetts Department of Transportation a tollpayer advocate. The tollpayer advocate shall serve without compensation and may attend all meetings of the board of directors of the department and all meetings of any subsidiary board. The tollpayer advocate shall advocate on behalf of the tollpayers to ensure that their interests are fully understood and considered by the board in its deliberations and decisions.

(b) There shall be in the division of highways within the Massachusetts Department

of Transportation a ridership advocate. The ridership advocate shall serve without compensation and may attend all meetings of the board of directors of the department and all meetings of any subsidiary board. The ridership advocate shall advocate on behalf of the riders of the public transit system to ensure that the public transit system maintains high standards of quality and punctuality.

SECTION 168. Notwithstanding any general or special law to the contrary, the comptroller shall transfer the balance of the Central Artery and Statewide Road and Bridge Infrastructure Fund established in section 63 of chapter 10 of the General Laws, to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

SECTION 169. Notwithstanding any general or special law to the contrary, the Massachusetts Turnpike Authority, or any successor authority or agency shall extend the time permissible for an account holder to dispute an overcharge of the electronic toll collection system to a period of 3 years from the time of the overcharge unless the Turnpike authority, or any successor authority or agency, chooses to extend the disputing time frame.

SECTION 170. The members of the special public-private infrastructure oversight commission established in section 70 of chapter 7 of the General Laws, shall be appointed not later than August 30, 2009.

SECTION 171. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation, established in section 1 of chapter 6C of the General Laws, shall develop an inventory of all real property owned by the department. The inventory shall be filed with the clerks of the house and senate not later than 180 days after the effective date of this act.

SECTION 172. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall complete an inventory of all information technology systems currently used by the agencies or assets that are being transferred to the department pursuant to this act. The inventory shall include a description of each system in use that is adequate to permit the identification of redundancies among such systems. The director of systems integration shall consult with the chief information officer of the commonwealth in completing the inventory. A report of the results of the inventory shall be delivered to the chief information officer of the commonwealth, the chairs of the house and senate committees on ways and means, the chairs of the house and senate committees on bonding, capital expenditures and state assets and the house and senate chairs of the joint committee on transportation not later than April 1, 2010.

SECTION 173. Notwithstanding any general or special law to the contrary, the Massachusetts Department of Transportation shall be operated and maintained free of tolls when: (i) all notes and bonds issued by the department relating to the turnpike and payable from turnpike revenues have been paid or a sufficient amount for the payment of all such notes or bonds and the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the holders of such notes or bonds; and (ii) the turnpike is deemed to

be in good condition and repair to the satisfaction of the department.

SECTION 174. The initial progress report required under subsection (b) of section 5 of chapter 6C of the General Laws shall be filed by the Massachusetts Department of Transportation on December 15, 2009.

SECTION 175. The Massachusetts Bay Transportation Authority may enter into an agreement with the attorney general whereby the attorney general may assume the representation of the authority or any of its officers and employees sued in their official or individual capacities for acts or omissions within the scope of their office or employment, in such judicial proceedings, whether pending on the effective date of this act or commenced thereafter, as the attorney general deems appropriate, in the same manner as the attorney general provides to other state agencies and their officers and employees; provided, however, that any such agreement shall provide for payment to the attorney general of all direct and indirect costs of such representation, and the attorney general may retain and expend such funds without further appropriation for the purpose of defraying such costs; and provided further, that when providing such representation, employees of the attorney general shall remain public employees acting within the scope of their employment for purposes of chapter 258 of the General Laws.

SECTION 176. Notwithstanding the provisions of section 35 of chapter 92 of the General Laws, or any other general or special law to the contrary, the department of conservation and recreation shall transfer the care, custody and control of all vehicular bridges and underpasses, to the Massachusetts Department of Transportation to be held for the same purposes; provided, however, that the following bridges or underpasses shall not be transferred to the authority until the department of conservation and recreation completes an appropriate phase of design, /or construction and renovation work an upon the execution of a memorandum of understanding by the commissioner of the department of conservation and recreation and the secretary of transportation: Boston University Bridge, River Street at Mother Brook, Woods Memorial Bridge, Craddock Bridge, Craige Dam Bridge, Lech Walesa/Mount Vernon Street Bridge, Patten's Cove Bridge, Cheney Bridge, Mystic Valley Parkway over Alewife Brook, Neponset River Bridge, General Edwards Drawbridge, Trestle/Charles River Bridge and the Hugh Farren Bridge; provided, however, that said bridges shall be transferred not later than December 31, 2014.

SECTION 177. Notwithstanding the provisions of section 35 of chapter 92 of the General Laws, or any other general or special law to the contrary, the department of conservation and recreation shall transfer the care, custody and control of the following parkways to the Massachusetts Department of Transportation to be held for the same purposes: McGrath and O'Brien Highways in the cities of Cambridge and Somerville, the Carrol parkway, Middlesex avenue in the city of Medford, William Casey highway overpass in the Jamaica Plain section of the city of Boston, Columbia road in the South Boston section of the city of Boston, Morton street in Boston and Gallivan boulevard in the Dorchester section of the city of Boston.

Not later than 1 year from the effective date of this act, the Massachusetts Department of Transportation and department of conservation and recreation shall file with the house and senate committees on ways and means and the joint committee on transportation a report concerning an evaluation and study of all other parkways and boulevards under the care, custody and control of the department of conservation and recreation and proposed for transfer to the Authority. The report shall include standards to protect the scenic and historic integrity of the parkways and related infrastructure, including, without limitation, snow removal on pedestrian pathways, traffic and safety protocols associated with Fourth of July events and other public events and programs devoted to recreation and public enjoyment. The report shall also include recommendations to facilitate the orderly expeditious transfer of identified parkways and boulevards to the Authority and proposed legislation to effectuate the recommendations contained in said report.

SECTION 178. (a) The transfer of said bridges, underpasses and parkways identified in sections 176 and 177 of this act shall include all approaches, appurtenant structures, works and systems, and all books, records, documents, agreements, contracts, licenses, permits and other legal obligations associated with the bridges or necessary for the Massachusetts Department of Transportation to operate, manage, maintain, reconstruct and repair the bridges.

(b) Any alteration, reconstruction, redesign, maintenance, improvement or repair of the bridges, underpasses and parkways transferred by this act 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. Such standards shall include, but not be limited to, snow removal on pedestrian pathways, traffic and safety protocols associated with Fourth of July events and other public events and programs devoted to recreation and public enjoyment, and shall be developed by the department of conservation and recreation and agreed to by the Massachusetts Department of Transportation not later than 1 year from the effective date of this act.

(c) Not later than 1 year from the effective date of this act, the Massachusetts Department of Transportation and the department of conservation and recreation shall file with the division of capital asset management and maintenance and the secretary of administration and finance a report documenting the extent of the bridges, underpasses and parkways transferred to the department pursuant to this act and documenting the standards required by the section. Upon receipt of said report, the division of capital asset management and maintenance shall take any required actions under section 40K of chapter 7 of the General Laws relative to specifically defining and documenting the boundaries of the transfers affected by sections 176 and 177.

(d) All unexpended funds and authorizations, which have been appropriated, from time to time, for the engineering, design, permitting, construction, reconstruction, maintenance and other services essential to the operation of the bridges transferred by this section but not yet expended, including, but not limited to, funds authorized by section 2A

of chapter 233 of the acts of 2008, line item 2890-0800, shall be transferred from the department of conservation and recreation to the Authority as of the date of the transfer provided for in this section, and may thereafter be expended by the Massachusetts Department of Transportation; provided, however, that the department of conservation and recreation shall retain any unexpended funds and authorizations for the engineering, design, permitting, construction, reconstruction, maintenance, preservation, operation and other services essential to the operation of the bridges not transferred by this section.

(e) Department of conservation and recreation personnel deemed necessary by the department and the Massachusetts Department of Transportation for the design, construction, reconstruction, repair, maintenance, or improvement of bridges, underpasses, parkways and appurtenances transferred under this act shall be transferred to the Massachusetts Department of Transportation, together with the funds associated with their salary and benefits, without interruption of service within the meaning of section 9A of chapter 30, without impairment of civil service status, seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The transfer shall not impair the civil service status of any such transferred employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

(f) All duly existing contracts, leases and obligations of the department of conservation and recreation shall continue in effect but shall be assumed by the Massachusetts Department of Transportation. No existing right or remedy of any character shall be lost, impaired or affected by this act.

(g) Notwithstanding section 35 of chapter 92 of the General Laws, chapter 233 of the acts of 2008, or any other general or special law to the contrary, section 13 of chapter 233 of the acts of 2008 shall not apply to any bridge, underpass or parkway transferred from the department of conservation and recreation to the Authority under sections 176 and 177 of this act.

(h) Notwithstanding other general or special law to the contrary, the transfer of the bridges, underpasses, parkways and appurtenances set forth in sections 176 to 178, inclusive, should be effectuated upon a vote by the Authority to assume the responsibility for the liabilities, obligations and debts associated with said bridges, underpasses, parkways, and appurtenances.

SECTION 179. Except as provided in sections 176 to 178, inclusive, nothing in this

act shall be construed to transfer any lands, roadways, parkways, boulevards, bridge underpasses, approaches or other facilities under the care, custody or control of the department of conservation and recreation.

SECTION 180. Notwithstanding any general law or special law to the contrary, the colonel of state police, in consultation with the secretary of the department of transportation, shall implement cost-saving measures, including, but not limited to, those related to the payment of overtime expenses for members of the state police fulfilling an assignment pursuant to section 29 of chapter 22C of the General Laws.

SECTION 181. Notwithstanding any general or special law to the contrary, any employee who retires from the executive office of transportation, the department of highways, the registry of motor vehicles, the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the Massachusetts aeronautics commission, or the Massachusetts Department of Transportation shall not be employed by the agency or authority from which the employee retired or any successor agency or authority to the agency or authority from which the employee retired, within 1 year after such retirement.

SECTION 182. The board of the Massachusetts Department of Transportation shall have the power to exercise its powers under chapter 6C and other provisions of this act on November 1, 2009.

SECTION 183. Sections 108, 144 and 145 shall take effect on November 1, 2009.

SECTION 184. Sections 133, 134 to 139, inclusive, and 141 to 143, inclusive, shall take effect on January 1, 2010.

SECTION 185. Except as otherwise provided in this act, this act shall take effect on July 1, 2009.

Approved June 26, 2009.

Chapter 26. 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 forthwith to make supplemental appropriations for fiscal year 2009 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 appropria-

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tion act and other appropriation acts for fiscal year 2009, 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, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.**JUDICIARY***Committee for Public Counsel Services*

0321-1510	\$9,384,188
0321-1520	\$2,075,987

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

0521-0000	\$44,684
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OFFICE OF THE STATE COMPTROLLER*Office of the State Comptroller*

1599-3384	\$4,090,226
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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE*Human Resources Division*

1750-0100	\$250,000
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EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES*Office of the Secretary of Health and Human Services*

4000-0500	\$21,419,707
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EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS*Highway Department*

6010-0002	\$579,894
6030-7201	\$4,490,922

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, 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
Reserves

- 1599-1031 For a reserve to meet the costs identified by the department of public health associated with responding to an outbreak of the H1N1 virus; provided, that funds may be expended on staffing costs within the state laboratory, dissemination of public information, antiviral medication for the treatment or prevention of the H1N1 virus and the purchase of laboratory equipment specific for the testing for the H1N1 virus; provided further, that funds from this item shall not be expended on salaries or contracts for personnel hired by the department of public health on or after April 15, 2009; provided further, that the secretary of health and human services shall submit a spending plan to the executive office for administration and finance and the house and senate committees on ways and means before the disbursement of funds from this reserve; and provided further, that the department of public health and the executive office of health and human services shall seek federal reimbursement for any eligible expenditures from this reserve \$2,845,216
- 1599-1701 For a reserve for the state share of costs to certain municipalities and municipal lighting plants as identified by the Federal Emergency Management Agency for Emergency Declaration 3296 relating to the December 2008 severe winter storm, for the counties of Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk and Worcester; provided, that not less than \$150,000 shall be expended for an emergency assistance safety grant as appearing in item 7007-0900 of section 2 of chapter 182 of the acts of 2008; and provided further, that not less than \$150,000 shall be expended to the town of Spencer for the reimbursements of costs associated with the drinking water emergency in April 2007 \$6,300,000

SECTION 2C. For the purpose of making available in fiscal year 2010 balances of appropriations which otherwise would revert on June 30, 2009, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 182 of the acts of 2008. Amounts in this

section are re-appropriated from the funds designated for the corresponding item in said section 2 of said chapter 182. The sums re-appropriated in this section shall be in addition to any amounts available for these purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Reserves

1599-1004 \$7,203,513

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT
Department of Business and Technology

7007-0900 \$1,100,000

SECTION 3. Chapter 6 of the General Laws is hereby amended by striking out section 116E, as appearing in section 1 of chapter 525 of the acts of 2008, and inserting in place thereof 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, 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 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.

(e) 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 4. Chapter 7A of the General Laws is hereby amended by striking out section 12, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 12. (a)(1) All reports published under this section shall be filed with the governor, the secretary of administration and finance, the house and senate committees on ways and means and the clerks of the house and senate and any other parties specified in general or special law.

(2) The comptroller shall prepare an annual statutory basis financial report based on the final closing of the accounting records. The report shall be published annually not later than October 31.

(3) The statutory basis financial report shall present fairly the aggregated financial statements for the budgeted governmental funds and tables of beginning and ending balances, revenues, sources, expenditures and uses for the non-budgeted governmental funds and the capital project governmental funds. These statements shall be reviewed in accordance with professional standards established by the American Institute of Certified Public Accountants. The reports shall be prepared in accordance with the accounting system established by the comptroller under section 7, as cash outflows, including expenditures made under section 13 of said chapter 29 and cash inflows including receipts of federal grants and subsidies from other governmental entities for reimbursement of such expenditures.

(4) The comptroller shall include, supplemental to the aggregated financial statements in the statutory basis financial report, a statement of the consolidated net surplus in the budgetary funds for the preceding fiscal year, under section 5C of chapter 29 and the amount by which such surplus exceeds the maximum allowable amount under section 2H of chapter 29.

(5) Accompanying the statutory basis financial statements, the comptroller shall include financial statements for the budgeted funds that compare the budgeted amounts to final operations for each fund subject to appropriation.

(6) The comptroller may include narratives, statistical tables and other disclosures and reference material in the statutory basis financial report that the comptroller considers, in his professional judgment, appropriate.

(b) The comptroller shall prepare an annual federal funds report based on the final closing of the accounting records which shall be published not later than the second Wednesday in January and shall present fairly all federal funds received by each agency and department during the fiscal year. The report shall include for each program of federal financial participation the opening balances, revenues and other sources, expenses and other uses and ending balances for the fiscal year. The final federal funds report shall be audited in conjunction with the state single audit and the report of the auditor shall be included.

(c) The comptroller shall prepare a comprehensive annual financial report in conformity to generally-accepted accounting principles for governments which shall be published not later than the second Wednesday in January. The report shall be audited in accordance with generally-accepted auditing standards and generally-accepted governmental

auditing standards and the report of the auditor shall be included.

SECTION 5. Chapter 21A of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2A. The secretary shall be the state natural resource trustee and may compromise or settle any claim for damages for injury and for destruction or loss of natural resources, including the costs of assessing and evaluating the injury, destruction or loss, incurred or suffered as a result of a release or threat of release, under section 5 of chapter 21E, 42 U.S.C. §9607(f) 33 U.S.C. §2706 and other applicable law in accordance with this section. If any such claim, including the costs of assessment, is valued at less than \$100,000, or at a higher amount determined in writing by the attorney general, the secretary may settle and compromise the claim if the secretary has given written notice and all pertinent information regarding the settlement to the attorney general or his designee at least 30 days before execution of the settlement. The secretary may settle and compromise claims valued at greater than \$100,000, or at a higher amount determined in writing by the attorney general, only with the prior written approval of the attorney general or his designee.

SECTION 6. Section 4 of chapter 29D of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The board of trustees shall consist of 7 trustees, including the secretary of administration and finance or a designee, the executive director of the group insurance commission or a designee, the executive director of the public employee retirement administration commission or a designee, the state treasurer or a designee, the comptroller or a designee and 2 additional trustees, 1 of whom shall be appointed by the governor and 1 of whom shall be appointed by the state treasurer. The appointed trustees shall serve for terms of 5 years and shall be experienced in the field of investment, financial management, law and public management. Trustees shall be eligible for reappointment.

SECTION 7. Section 24 of chapter 32A of the General Laws, inserted by section 8 of chapter 61 of the acts of 2007, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be established and set up on the books of the commonwealth a fund to be known as the State Retiree Benefits Trust Fund. The Health Care Security Trust board of trustees established in section 4 of chapter 29D shall be the trustee of and shall administer the fund in accordance with that section. The fund shall be an expendable trust not subject to appropriation.

SECTION 8. Said section 24 of said chapter 32A, as so inserted, is hereby further amended by adding the following 3 subsections:-

(f) The trustees shall adopt an annual budget for the fund and supplemental budgets that the trustees consider necessary, subject to the approval of the general court. Funding for the budget shall be from the investment return of the fund. If the general court takes no final action to disapprove a budget within 60 days after its filing with the clerk of the house of representatives and the clerk of the senate, the budget shall be considered to be approved. If the general court disapproves a budget within 60 days after it has been filed, the trustees

shall operate under the annualized budgetary level most recently approved pending the filing and subsequent approval of any other annual or supplemental budget request.

(g) The trustees shall engage actuaries experienced in retiree health care costs to perform annual actuarial calculations in accordance with Government Accounting Standards Board Statements 43 and 45, using data as needed from the group insurance commission, the public employee retirement administration commission, the state treasurer and the comptroller and prepare funding schedules to be filed in accordance with section 25.

(h) The trustees shall engage an independent auditor to perform an annual audit of the State Retiree Benefits Trust Fund's assets, liabilities, net assets, investments and operations on an annual basis in accordance with government auditing standards and policies established by the comptroller. The annual audit report shall be made available to all participating subdivisions, authorities, boards or instrumentalities not later than September 15.

SECTION 9. Section 2 of chapter 38 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 6, the words "in Forensic Pathology" and inserting in place thereof the following words:- with certification in anatomic pathology and subspecialty certification in forensic pathology.

SECTION 10. Said section 2 of said chapter 38, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words " , a diplomat of the American Board of Anatomic and Forensic Pathology".

SECTION 11. Chapter 85 of the General Laws is hereby amended by striking out section 11C, as appearing in section 6 of chapter 525 of the acts of 2008, 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.

NO SECTION 12.

SECTION 13. Section 132 of chapter 58 of the acts of 2006 is hereby amended by

striking out, in line 11, the word “thereafter” and inserting in place thereof the following words:- for 2 years after the effective date of this section and then bi-annually.

SECTION 14. Chapter 139 of the acts of 2006 is hereby amended by striking out section 96 and inserting in place thereof the following section:-

Section 96. Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2007.

SECTION 15. Chapter 61 of the acts of 2007 is hereby amended by striking out section 49 and inserting in place thereof the following section:-

Section 49. Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2008.

SECTION 16. Section 12 of chapter 135 of the acts of 2008 is hereby repealed.

SECTION 17. Item 0610-2000 of section 2 of chapter 182 of the acts of 2008 is hereby amended by striking out the words ”; and provided further, that funds available in fiscal year 2008 shall be available for expenditure until June 30, 2009”.

SECTION 18. Said section 2 of said chapter 182 is hereby further amended by striking out the item number “2800-0500” and inserting in place thereof the following item number:- 2800-0501.

SECTION 19. Said section 2 of said chapter 182 is hereby further amended by striking out the item number “2810-2040” and inserting in place thereof the following item number:- 2810-2041.

SECTION 20. Item 4000-0320 of said section 2 of said chapter 182 is hereby amended by adding the following words:- ; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 21. Said section 2 of said chapter 182 is hereby further amended by striking out the item number “4401-1100” and inserting in place thereof the following item number:- 4401-1101.

SECTION 22. Item 7007-0900 of said section 2 of said chapter 182 is hereby amended by inserting after the word “promotion”, inserted by section 48 of chapter 302 of the acts of 2008, the following words:- security, public safety costs.

SECTION 23. Item 7035-0002 of said section 2 of said chapter 182 of the acts of 2008 is hereby amended by striking out the words “; provided further, that funds shall only be expended in the CC, HH, PP, and UU object classes”.

SECTION 24. Item 8000-0202 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 25. Said chapter 182 is hereby further amended by striking out section 81

and inserting in place thereof the following section:-

Section 81. Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2009.

SECTION 26. Section 86 of said chapter 182 is hereby amended by striking out the figure “\$372,000,000” and inserting in place thereof the following figure:- \$352,000,000.

SECTION 27. Subsection (b) of section 88 of said chapter 182 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Not less than \$1,102,561,456 shall be transferred from the General Fund to the Commonwealth Care Trust Fund and not less than \$47,996,382 shall be transferred from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund.

SECTION 28. Section 2C of chapter 302 of the acts of 2008 is hereby amended by striking out the item number “7010-0016” and inserting in place thereof the following item number:- 7010-0216.

SECTION 29. Section 61 of said chapter 302 is hereby repealed.

SECTION 30. Section 2A of chapter 303 of the acts of 2008 is hereby amended by striking out the item number “6033-0817” and inserting in place thereof the following item number:- 6035-0817.

SECTION 31. Said section 2A of said chapter 303 is hereby further amended by striking out the item number “6033-0837” and inserting in place thereof the following item number:- 6035-0837.

SECTION 32. Section 2B of said chapter 303 is hereby amended by striking out the item number “6033-0867” and inserting in place thereof the following item number:- 6035-0867.

SECTION 33. Said section 2B of said chapter 303 is hereby amended by striking out the item number “6033-0877” and inserting in place thereof the following item number:- 6035-0877.

SECTION 34. Said section 2B of said chapter 303 is hereby amended by striking out the item number “6033-0887” and inserting in place thereof the following item number:- 6035-0887.

SECTION 35. Section 2C of said chapter 303 is hereby amended by striking out the item number “6001-0801” and inserting in place thereof the following item number:- 6001-0881.

SECTION 36. Said section 2C of said chapter 303 is hereby further amended by striking out the item number “6001-0802” and inserting in place thereof the following item number:- 6001-0882.

SECTION 37. Said section 2C of said chapter 303 is hereby further amended by striking out the item number “6001-0804” and inserting in place thereof the following item number:- 6001-0884.

SECTION 38. Said section 2C of said chapter 303 is hereby further amended by striking out the item number “6001-0805” and inserting in place thereof the following item

number:- 6001-0885.

SECTION 39. Section 2E of said chapter 303 is hereby amended by striking out the item number "6001-0813" and inserting in place thereof the following item number:- 6001-0820.

SECTION 40. Section 2C of chapter 304 of the acts of 2008 is hereby amended by striking out the item number "0640-0300" and inserting in place thereof the following item number:- 0640-0301.

SECTION 41. Section 2D of said chapter 304 is hereby amended by striking out the item number "0330-9999" and inserting in place thereof the following item number:- 0330-9997.

SECTION 42. Section 2A of chapter 312 of the acts of 2008 is hereby amended by striking out the item number "0526-2010" and inserting in place thereof the following item number:- 0526-2012.

SECTION 43. Subsection (b) of section 7 of chapter 377 of the acts of 2008 is hereby amended by striking out the word "middlesex" and inserting in place thereof the following word:- middle.

SECTION 44. Section 13 of chapter 5 of the acts of 2009 is hereby amended by striking out the words "chapter 188" and inserting in place thereof the following words:- section 88 of said chapter 182.

SECTION 45. Notwithstanding any general or special law to the contrary, for fiscal years 2009 and 2010, net recoveries generated by a contract entered into by the comptroller under section 29E of chapter 29 of the General Laws for accounts receivable cost recovery services shall be deposited as unrestricted revenue in the General Fund; provided, however, that federal funds shall be returned to the federal government and any amounts to be financed through the sale of bonds shall be used to reduce the amount financed.

SECTION 46. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the secretary of administration and finance, transfer not more than \$2,681,250 from the General Fund to the Department of Energy Resources Credit Trust Fund, established in subsection (b) of section 13 of chapter 25A of the General Laws.

SECTION 47. Notwithstanding any general or special law to the contrary, the comptroller shall reduce the final local aid payment under chapter 70 of the General Laws for fiscal year 2009 to be made in June 2009 by \$412,000,000 if the secretary of administration and finance certifies in writing to the comptroller and has provided written notice to the house and senate committees on ways and means, that federal grant funds in the amount of \$412,000,000 have been obligated or expended so that all school districts will receive the full amount appropriated in section 3 of chapter 182 of the acts of 2008.

SECTION 48. Notwithstanding subsection (c) of section 10 of chapter 152 of the acts of 1997, not later than June 30, 2009, \$65,000,000 of the balance in the Convention Center Fund, which the state treasurer and the secretary of administration and finance have determined to exceed the amount necessary to satisfy the requirement of sufficiency under

said subsection (c) of said section 10 of said chapter 152, shall be transferred to the General Fund.

SECTION 49. Notwithstanding any general or special law to the contrary, federal grant funds in items 7061-0004 and 7061-0005 distributed to school districts in fiscal years 2009 and 2010 through the State Fiscal Stabilization Fund under Title XIV of the American Reinvestment and Recovery Act of 2009 shall not be subject to indirect charges under section 32A of chapter 35 of the General Laws and section 5D of chapter 40 of the General Laws. Subsection (f) of section 6B of chapter 29 of the General Laws shall not apply to these funds. School districts shall continue to provide for and make contributions to appropriate pension funds, as required by paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws, for employees whose salaries are paid from these federal funds in the same manner as contributions are made when receiving state education aid under chapter 70 of the General Laws.

SECTION 50. Notwithstanding any general or special law to the contrary, the unexpended balances of all capital accounts which otherwise would revert on June 30, 2009, but which are necessary to fund obligations during fiscal year 2010, are hereby re-authorized; but this re-authorization shall terminate upon enactment of capital account extension legislation.

SECTION 51. If Senate, No. 2087 of 2009, "An Act Modernizing the Transportation Systems of the Commonwealth," enacted by the Senate and House of Representatives on June 18, 2009, becomes law, sections 52 to 60 shall take effect, but not otherwise.

SECTION 52. Section 133 of Senate, No. 2087 is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) The Massachusetts Turnpike Authority shall be dissolved and, without further conveyance or other act, all assets, liabilities, obligations, debt, rights, powers and duties of the authority shall be transferred to and assumed by the Massachusetts Department of Transportation, as the successor to the authority. Unless specifically provided to the contrary, the terms "turnpike", "Ted Williams tunnel", "Sumner tunnel", and "metropolitan highway system", as used in this section and elsewhere in this act, shall have the meanings prescribed to them in chapter 6C of the General Laws.

SECTION 53. Section 144 of Senate, No. 2087 is hereby amended, in subsection (b), in the first sentence, by striking out the words "not later than September 1, 2009" and inserting in place thereof the following words:- effective as of January 1, 2010.

SECTION 54. Said section 144 is hereby further amended, in subsection (d), in the first sentence, by striking out the words "shall remain the liability of the authority" and inserting in place thereof the following words:- all rights and obligations thereunder shall transfer to the department on January 1, 2010 as the successor to the authority with respect thereto.

SECTION 55. Section 156 of Senate, No. 2087 is hereby amended, in subsection

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(a), in the first sentence, by striking out the word "July" and inserting in place thereof the following word:- November.

SECTION 56. Said section 156 is hereby further amended, in said subsection (a), by striking out the last sentence.

SECTION 57. Said section 156 is hereby further amended, in subsection (b), in the first sentence, by striking out the word "July" and inserting in place thereof the following word:- January.

SECTION 58. Said section 156 is hereby further amended, in said subsection (b), by striking out the last sentence.

SECTION 59. Senate, No. 2087 of 2009 is hereby further amended by inserting after section 181 the following section:-

Section 181A. The provisions of the second sentence of section 15 of chapter 6C of the General Laws that salaries and benefits of employees of the Massachusetts Department of Transportation shall be classified and funded as operating expenditures rather than as capital expenditures shall take effect on July 1, 2012. The Massachusetts Department of Transportation shall develop a plan not later than July 1, 2010, that provides for the conversion of the salaries and benefits of all employees from the department's capital expenditures to the department's operating expenditures by not later than July 1, 2012, including the proposed method of financing said conversion. This plan shall be filed with the joint committee on transportation, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means.

SECTION 60. Senate, No. 2087 is hereby further amended by striking out sections 183, 184 and 185 and inserting in place thereof the following 3 sections:-

Section 183. Sections 14, 33, 34, 35, 68, 70, 71, 72, 79, 81, 82, 130, 141, 143, 146, 149, 162, 163, 164 and 168 shall take effect on July 1, 2009.

Section 184. The provisions of sections 8 and 9 that relate to powers and responsibilities of the Massachusetts Department of Transportation with respect to the Maurice J. Tobin Memorial Bridge shall take effect on January 1, 2010.

Section 185. Except as otherwise provided herein, this act shall take effect on November 1, 2009.

SECTION 61. If House, No. 4129, "An Act Making Appropriations for the Fiscal Year 2010 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements," enacted by the Senate and House of Representatives on June 19, 2009, becomes law, section 62 shall take effect, but not otherwise.

SECTION 62. House, No. 4129 is hereby amended by striking out sections 28, 46 and 158.

SECTION 63. Section 44 shall take effect as of March 19, 2009.

Approved June 29, 2009.

Chapter 27. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2010 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2009, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D and 3, for the several purposes and subject to the conditions specified in sections 2, 2B, 2D and 3, are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof for the fiscal year ending June 30, 2010. All sums appropriated under this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of an agency, board, department, commission or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth. Each agency, board, department, commission or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment.

SECTION 1A. In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June 30, 2010 are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for said fiscal year as set forth and authorized in sections 2 and 2B. The comptroller shall keep a distinct account of actual receipts from each such source by each such fund to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein and to include a full statement comparing

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

Fiscal Year 2010 Revenue by Source and Budgeted Fund (in Millions)

Source	All Budgeted Funds*	General Fund	Commonwealth Transportation Fund	Other**
Alcohol. Bev.	69.5	69.5	0.0	0.0
Cigarettes	483.9	483.9	0.0	0.0
Corporations	1,455.8	1,455.8	0.0	0.0
Deeds	95.9	95.9	0.0	0.0
Estate Inheritance	211.4	211.4	0.0	0.0
Financial Institutions	270.8	270.8	0.0	0.0
Income	10,372.2	10,372.2	0.0	0.0
Insurance	351.4	351.4	0.0	0.0
Motor Fuels	638.2	0.0	637.3	0.9
Public Utilities	88.9	88.9	0.0	0.0
Room Occupancy	104.1	67.7	0.0	36.5
Sales-Regular	2,755.3	2,755.3	0.0	0.0
Sales-Meals	627.6	627.6	0.0	0.0
Sales-Motor Vehicles	440.2	440.2	0.0	0.0
Miscellaneous	2.7	2.7	0.0	0.0
UI Surcharges	21.1	0.0	0.0	21.1
Total Consensus Tax Revenues:	17,989.0	17,293.3	637.3	58.5
Transfer to School Modernization and Reconstruction Trust (SMART)				
Fund for School Building Authority	(607.1)	(607.1)	0.0	0.0
Transfer to MBTA State and Local Contribution Fund	(767.1)	(767.1)	0.0	0.0
Transfer to Pension Reserves				
Investment Trust Fund for Pension Contribution	(1,376.6)	(1,376.6)	0.0	0.0
Total Consensus Tax Revenue for Budget:	15,238.2	14,542.5	637.3	58.5

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Source	All Budgeted Funds*	General Fund	Commonwealth Transportation Fund	Other**
Revenue Changes				
Sales Tax increase to 6.25%	759.0	759.0	0.0	0.0
Sales Tax Dedicated to Transportation	(275.0)	(275.0)	0.0	0.0
Elimination of Alcohol Sales Tax Exemption	78.8	78.8	0.0	0.0
Annualized Value of Additional Auditors	26.0	26.0	0.0	0.0
Satellite Television Tax	25.9	25.9	0.0	0.0
Film Tax Credit Modification	20.0	20.0	0.0	0.0
Total Taxes Available for Budget:	15,872.9	15,177.2	637.3	58.5
Non-Tax Revenue				
Federal Reimbursements	8,278.0	8,272.7	0.0	5.3
Departmental Revenue	2,644.8	2,099.7	523.2	21.9
Consolidated Transfers	413.1	706.3	(77.1)	(216.1)
GRAND TOTAL	27,208.9	26,255.9	1,083.5	(130.4)

* Includes revenue deposited into and transfers out of the Workforce Training Fund, Mass Tourism Fund, Inland Fish and Game Fund, and Stabilization Fund.

** Includes tax revenue of \$21.1 M into the Workforce Training Fund, \$36.5 M into the Mass Tourism Fund and \$0.9 M into the Inland Fish and Game Fund.

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

Non-Tax Revenue: Department Summary

Revenue Source	Unrestricted Non-Tax	Restricted Non- Tax	Total Non-Tax
Judiciary			
Supreme Judicial Court	\$2,760,900	\$0	\$2,760,900
Committee for Public Counsel	\$0	\$750,000	\$750,000
Appeals Court	\$440,697	\$0	\$440,697
Trial Court	\$78,061,750	\$53,000,000	\$131,061,750
<i>TOTALS:</i>	\$81,263,347	\$53,750,000	\$135,013,347
District Attorneys			
Plymouth District Attorney's Office	\$0	\$0	\$0
District Attorney's Association	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Executive Office			
Governor's Office	\$0	\$0	\$0
<i>TOTALS:</i>	\$0	\$0	\$0
Secretary of the Commonwealth			
Secretary of the Commonwealth	\$194,948,640	\$30,000	\$194,978,640
<i>TOTALS:</i>	\$194,948,640	\$30,000	\$194,978,640
Treasurer and Receiver-General			
Office of the Treasurer	\$239,390,683	\$0	\$239,390,683
State Lottery Commission	\$203,870,621	\$758,755,378	\$962,625,999
<i>TOTALS:</i>	\$443,261,304	\$758,755,378	\$1,202,016,682
Attorney General			
Office of the Attorney General	\$18,867,581	\$650,000	\$19,517,581
<i>TOTALS:</i>	\$18,867,581	\$650,000	\$19,517,581
State Ethics Commission			
State Ethics Commission	\$32,466	\$0	\$32,466
<i>TOTALS:</i>	\$32,466	\$0	\$32,466
Inspector General			
Office of the Inspector General	\$0	\$404,250	\$404,250
<i>TOTALS:</i>	\$0	\$404,250	\$404,250
Office of Campaign and Political Finance			
Office of Campaign and Political Finance	\$55,500	\$0	\$55,500
<i>TOTALS:</i>	\$55,500	\$0	\$55,500
Massachusetts Commission Against Discrimination			
Massachusetts Commission Against Discrimination	\$158,196	\$2,000,054	\$2,158,250
<i>TOTALS:</i>	\$158,196	\$2,000,054	\$2,158,250

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Revenue Source	Unrestricted Non-Tax	Restricted Non- Tax	Total Non-Tax
Office of the State Comptroller			
Office of the State Comptroller	\$453,808,895	\$0	\$453,808,895
<i>TOTALS:</i>	\$453,808,895	\$0	\$453,808,895
Executive Office for Administration and Finance			
Executive Office for Administration and Finance	\$31,000,000	\$0	\$31,000,000
Secretary of Administration and Finance	(\$1,289,312,820)	\$1,000,000	(\$1,288,312,820)
Division of Capital Asset Management & Maintenance	\$7,056,867	\$16,550,000	\$23,606,867
Bureau of State Office Buildings	\$164,842	\$0	\$164,842
Civil Service Commission	\$20,000	\$0	\$20,000
Group Insurance Commission	\$566,055,095	\$850,000	\$566,905,095
Division of Administrative Law Appeals	\$60,502	\$0	\$60,502
George Fingold Library	\$1,000	\$5,000	\$6,000
Department of Revenue	\$175,401,789	\$6,547,280	\$181,949,069
Appellate Tax Board	\$1,937,037	\$300,000	\$2,237,037
Human Resources Division	\$3,000	\$3,501,760	\$3,504,760
Operational Services Division	\$0	\$900,000	\$900,000
Operational Services Division	\$691,492	\$1,358,000	\$2,049,492
Information Technology Division	\$170	\$595,695	\$595,865
Public Employee Retirement Administration	\$179	\$0	\$179
<i>TOTALS:</i>	(\$506,920,847)	\$31,607,735	(\$475,313,112)
Executive Office of Energy & Environmental Affairs			
Executive Office of Energy & Environmental Affairs	\$5,191,899	\$275,000	\$5,466,899
Department of Environmental Protection	\$39,427,944	\$903,817	\$40,331,761
Department of Fish and Game	\$15,004,755	\$217,989	\$15,222,744
Department of Agricultural Resources	\$5,927,815	\$0	\$5,927,815
Department of Conservation and Recreation	\$17,806,611	\$8,970,572	\$26,777,183
Department of Public Utilities	\$11,006,153	\$2,375,000	\$13,381,153
Department of Energy Resources	\$3,238,091	\$0	\$3,238,091
<i>TOTALS:</i>	\$97,603,268	\$12,742,378	\$110,345,646

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Revenue Source	Unrestricted Non-Tax	Restricted Non- Tax	Total Non-Tax
Department of Early Education and Care			
Department of Early Education and Care	\$198,409,463	\$0	\$198,409,463
<i>TOTALS:</i>	\$198,409,463	\$0	\$198,409,463
Executive Office of Health and Human Services			
Department of Veterans' Services	\$15,188	\$300,000	\$315,188
Secretary of Health and Human Services	\$5,394,386,032	\$225,100,000	\$5,619,486,032
Division of Health Care Finance and Policy	\$240,250,677	\$0	\$240,250,677
Mass Commission for the Blind	\$2,800,874	\$0	\$2,800,874
Massachusetts Rehabilitation Commission	\$3,050,526	\$0	\$3,050,526
Mass Commission for the Deaf	\$153,846	\$0	\$153,846
Chelsea Soldiers' Home	\$11,963,847	\$330,661	\$12,294,508
Holyoke Soldiers' Home	\$11,765,694	\$365,000	\$12,130,694
Department of Youth Services	\$1,211,426	\$0	\$1,211,426
Department of Transitional Assistance	\$501,915,554	\$2,450,000	\$504,365,554
Department of Public Health	\$144,120,181	\$57,789,435	\$201,909,616
Department of Children and Families	\$197,251,332	\$3,172,812	\$200,424,144
Department of Mental Health	\$101,807,501	\$125,000	\$101,932,501
Department of Developmental Services	\$447,561,754	\$150,000	\$447,711,754
Department of Elder Affairs	\$1,208,454,600	\$0	\$1,208,454,600
<i>TOTALS:</i>	\$8,266,709,032	\$289,782,908	\$8,556,491,940
Executive Office of Transportation & Public Works			
Secretary of Transportation	\$706,602	\$27,344	\$733,946
Massachusetts Aeronautics Commission	\$410,749	\$0	\$410,749
Mass Highway	\$8,252,926	\$500,000	\$8,752,926
Registry of Motor Vehicles	\$507,215,172	\$6,393,906	\$513,609,078
<i>TOTALS:</i>	\$516,585,449	\$6,921,250	\$523,506,699
Board of Library Commissioners			
Board of Library Commissioners	\$2,000	\$0	\$2,000
<i>TOTALS:</i>	\$2,000	\$0	\$2,000
Executive Office of Housing & Economic Development			
Department of Housing & Community Development	\$2,602,560	\$2,329,213	\$4,931,773
Department of Business Development	\$100	\$0	\$100
Office of Consumer Affairs and Business Regulation	\$1,000,000	\$500,000	\$1,500,000

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Revenue Source	Unrestricted Non-Tax	Restricted Non- Tax	Total Non-Tax
Division of Banks	\$17,921,502	\$5,000,000	\$22,921,502
Division of Insurance	\$70,779,741	\$0	\$70,779,741
Division of Professional Licensure	\$15,372,629	\$0	\$15,372,629
Division of Standards	\$2,024,269	\$418,751	\$2,443,020
State Racing Commission	\$2,999,131	\$0	\$2,999,131
Department of Telecommunications and Cable	\$4,351,597	\$0	\$4,351,597
<i>TOTALS:</i>	\$117,051,529	\$8,247,964	\$125,299,493
Executive Office of Labor & Workforce Development			
Department of Workforce Development	\$259,105	\$0	\$259,105
Department of Labor	\$1,627,962	\$252,850	\$1,880,812
Division of Industrial Accidents	\$25,307,277	\$0	\$25,307,277
Division of Labor Relations	\$5,892	\$0	\$5,892
<i>TOTALS:</i>	\$27,200,236	\$252,850	\$27,453,086
Department of Elementary and Secondary Education			
Department of Elementary and Secondary Education	\$7,686,000	\$0	\$7,686,000
<i>TOTALS:</i>	\$7,686,000	\$0	\$7,686,000
Department of Higher Education			
Board of Higher Education	\$0	\$0	\$0
University of Massachusetts	\$45,363,341	\$0	\$45,363,341
Bridgewater State College	\$3,043,997	\$0	\$3,043,997
Fitchburg State College	\$3,171,228	\$0	\$3,171,228
Framingham State College	\$2,478,160	\$0	\$2,478,160
Massachusetts College of Liberal Arts	\$371,415	\$0	\$371,415
Salem State College	\$3,511,560	\$0	\$3,511,560
Westfield State College	\$2,749,770	\$0	\$2,749,770
Worcester State College	\$2,793,692	\$0	\$2,793,692
Massachusetts Maritime Academy	\$318	\$0	\$318
Berkshire Community College	\$289,833	\$0	\$289,833
Bristol Community College	\$715,101	\$0	\$715,101
Cape Cod Community College	\$594,030	\$0	\$594,030
Greenfield Community College	\$347,661	\$0	\$347,661
Holyoke Community College	\$999,417	\$0	\$999,417
Mass Bay Community College	\$1,168,852	\$0	\$1,168,852
Massasoit Community College	\$979,538	\$0	\$979,538
Mount Wachusett Community College	\$421,978	\$0	\$421,978
Northern Essex Community College	\$782,537	\$0	\$782,537
North Shore Community College	\$889,664	\$0	\$889,664
Quinsigamond Community College	\$520,316	\$0	\$520,316

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Revenue Source	Unrestricted Non-Tax	Restricted Non- Tax	Total Non-Tax
Springfield Technical Community College	\$1,041,234	\$0	\$1,041,234
Roxbury Community College	\$243,750	\$529,843	\$773,593
Middlesex Community College	\$594,522	\$0	\$594,522
Bunker Hill Community College	\$1,467,443	\$0	\$1,467,443
TOTALS:	\$74,539,357	\$529,843	\$75,069,200
Executive Office of Public Safety and Security			
Executive Office of Public Safety and Security	\$100,000	\$0	\$100,000
Office of the Chief Medical Examiner	\$0	\$1,700,000	\$1,700,000
Criminal History Systems Board	\$8,216,685	\$0	\$8,216,685
Department of State Police	\$800,242	\$22,916,200	\$23,716,442
Criminal Justice Training Council	\$1,500	\$900,000	\$901,500
Department of Public Safety	\$18,786,816	\$1,946,997	\$20,733,813
Department of Fire Services	\$19,897,335	\$25,000	\$19,922,335
Merit Rating Board	\$20,000	\$0	\$20,000
Military Division	\$2,500	\$1,400,000	\$1,402,500
Emergency Management Agency	\$787,630	\$0	\$787,630
Department of Corrections	\$11,292,933	\$5,600,000	\$16,892,933
Parole Board	\$1,000,000	\$600,000	\$1,600,000
TOTALS:	\$60,905,641	\$35,088,197	\$95,993,838
Sheriffs			
Sheriff's Department Hampden	\$796,136	\$2,164,458	\$2,960,594
Sheriff's Department Worcester	\$132,000	\$0	\$132,000
Sheriff's Department Middlesex	\$166,000	\$950,000	\$1,116,000
Sheriff's Department Franklin	\$842,500	\$2,600,000	\$3,442,500
Sheriff's Department Hampshire	\$30,000	\$250,000	\$280,000
Sheriff's Department Essex	\$643,362	\$2,000,000	\$2,643,362
Sheriff's Department Berkshire	\$40,000	\$1,250,000	\$1,290,000
Sheriff's Department Association	\$0	\$344,790	\$344,790
Sheriff's Department Barnstable	\$4,948,448	\$250,000	\$5,198,448
Sheriff's Department Bristol	\$4,089,663	\$6,500,000	\$10,589,663
Sheriff's Department Dukes	\$1,047,541	\$0	\$1,047,541
Sheriff's Department Nantucket	\$7,031,251	\$2,500,000	\$9,531,251
Sheriff's Department Norfolk	\$862,517	\$0	\$862,517
Sheriff's Department Plymouth	\$4,562,765	\$16,000,000	\$20,562,765
Sheriff's Department Suffolk	\$14,999,189	\$8,000,000	\$22,999,189
TOTALS:	\$40,191,372	\$42,809,248	\$83,000,620
Total Non-Tax Revenue:	\$10,092,358,429	\$1,243,572,055	\$11,335,930,484

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0320-0003	For the operation of the supreme judicial court, including salaries of the chief justice and the 6 associate justices	\$7,965,766
0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk county	\$1,174,133
0321-0001	For the operation of the commission on judicial conduct	\$452,657
0321-0100	For the services of the board of bar examiners	\$1,111,341

Committee for Public Counsel Services.

0321-1500	For the operation of the committee for public counsel services, as authorized by chapter 211D of the General Laws; provided, that the committee shall submit a report to the clerks of the house of representatives and senate and the house and senate committees on ways and means, not later than February 1, 2010, that shall include, but not be limited to, the following: (a) the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population and cost; (c) the total number of persons who received legal services by the committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and geographic location; (e) the amount paid, if any, to the committee by clients for services rendered by type of case and geographic location; (f) the average cost for services rendered by the committee by type of case; and (g) the average number of hours spent per attorney or staff per type of case; provided further, that the committee shall submit a report to the house and senate committees on ways and means not later than February 1, 2010, on the progress of the public defender division; provided further, that said report shall include the following: (a) the number of offices that are in operation; (b) the number of staff hired to work in the district offices; and (c) the estimated savings the commonwealth has realized from having cases assigned to public defenders as opposed to being assigned to private bar advocates; provided further, that the committee shall submit a report to the house and senate committees on ways and means not later than February 1, 2010, projecting the cost of a possible expansion of the public	
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	defender division to handle 50 per cent of all indigent cases assigned to the committee; and provided further, that said report shall include, but not be limited to, the following: (a) the number of additional attorneys necessary to handle 50 per cent of all indigent cases; (b) the initial costs associated with the possible expansion; (c) the projected annualized cost of operating the expanded public defender division; and (d) the estimated savings the commonwealth would realize by having these cases assigned to public defenders as opposed to private bar advocates	\$28,645,024
0321-1510	For compensation paid to private counsel assigned to criminal and civil cases under subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 11 of said chapter 211D; provided, that not more than \$2,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2010	\$125,370,957
0321-1518	For the chief counsel for the committee for public counsel services which may expend an amount not to exceed \$750,000 from revenues collected from fees charged for attorney representation of indigent clients	\$750,000
0321-1520	For fees and costs as defined in section 27A of chapter 261 of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in said section 27A of said chapter 261; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2010	\$13,532,500
0321-1600	For the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth; provided, that the corporation shall submit a report to the house and senate committees on ways and means not later than January 29, 2010 that shall include, but not be limited to, the following: (a) the number of persons whom the programs funded by the corporation assisted in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population, and cost; and (c) the total number of indigent or otherwise disadvantaged residents of the commonwealth who received services of the corporation, by type of case and geographic location; and provided further, that the corporation may con-	

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	tract with any organization for the purpose of providing the representation	\$9,500,000
0321-2000	For the operation of the mental health legal advisors committee and for certain programs for the indigent mentally ill, established pursuant to section 34E of chapter 221 of the General Laws	\$707,599
0321-2100	For the Massachusetts correctional legal services committee	\$902,016
0321-2205	For the expenses of the social law library located in Suffolk county	\$1,506,704

Appeals Court.

0322-0100	For the appeals court, including the salaries, traveling allowances and expenses of the chief justice, recall judges and the associate justices	\$10,827,256
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Trial Court.

0330-0101	For the salaries of the justices of the 7 departments of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfer of funds from this item to any other item of appropriation within 30 days of the transfer	\$49,836,452
0330-0300	For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreement, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rental and leases, operation of courthouse facilities, rental of county court facilities, witness fees, printing expenses, equipment maintenance and repairs, court interpreter program, insurance and chargeback costs, the Massachusetts sentencing commission, permanency mediation services, court security and judicial training; provided, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than February 1, 2010, detailing the number of court officers, per diem court officers and security personnel located in each trial court of the commonwealth; provided further, that the chief justice for administration and management may expend funds for guardian ad litem services; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d)	

and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30, or any other general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any such veteran, who holds a trial court office or position in the service of the commonwealth not classified under chapter 31, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who: (1) has held the office or position for not less than 1 year; and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that the report shall include, but not be limited to, the number of cases in which the assessment was reduced or waived by a judge or clerk-magistrate within the courts; and provided further, that the report shall be submitted to the victim and witness assistance board on or before January 11, 2010 \$196,185,324

0330-3333 For the chief justice for administration and management which may expend for the operation of the trial court an amount not to exceed \$27,000,000 from fees charged and collected pursuant to section 3 of chapter 90C, chapter 185, section 22 of chapter 218 and sections 2, 4A, 4B, 4C, 39 and 40 of chapter 262 of the General Laws; provided, that a schedule detailing the full allotment of said \$27,000,000 shall be submitted to the house and senate committees on ways and means not later than February 1, 2010; provided further, that the first \$53,000,000 of revenue received from the fees shall be deposited in the General Fund and not retained; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the chief justice may incur expenses and the comptroller shall certify for payments amounts not to exceed the lower of one half of this authorization or the most recent revenue estimate, as reported in the state accounting system . \$27,000,000

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- 0330-3334 For the chief justice for administration and management which may expend for the operation of the department an amount not to exceed \$26,000,000 from fees charged and collected under section 87A of chapter 276 of the General Laws; provided, that any expenditures or allocations shall be made in accordance with schedules submitted to the house and senate committees on ways and means not later than 30 days before the expenditures or allocations are made; provided further, that a schedule detailing the full allotment of said \$26,000,000 shall be submitted to the house and senate committees on ways and means not later than February 1, 2010; and provided further, that the fees shall continue to be transmitted to the treasurer for deposit into the General Fund before the expenditure authorized by this item. \$26,000,000
- 0330-3337 For additional expenses associated with the operation of the trial court; provided, that a schedule detailing all transfers shall be submitted to the house and senate committees on ways and means not later than February 1, 2010 \$11,192,192

Superior Court Department.

- 0331-0100 For the operation of the superior court department; provided, that funds shall be expended for the medical malpractice tribunals in accordance with section 60B of chapter 231 of the General Laws; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping \$21,740,332

District Court Department.

- 0332-0100 For the operation of the district court department, including a civil conciliation program; provided, that notwithstanding the provisions of any general or special law to the contrary, the district court of Chelsea shall be the permanent location for the northern trial session to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that the clerk magistrate shall utilize whatever space within the facility-at-large he deems necessary to comply with S.J.C. Rule 3:12, Canon 3(A)6 \$36,312,991

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Probate and Family Court Department.

0333-0002 For the operation of the probate and family court department . . . \$19,313,743

Land Court Department.

0334-0001 For the operation of the land court department \$2,214,118

Boston Municipal Court Department.

0335-0001 For the operation of the Boston municipal court department \$7,172,575

Housing Court Department.

0336-0002 For the operation of the housing court department \$3,975,411

Juvenile Court Department.

0337-0002 For the operation of the juvenile court department \$10,462,218

Office of the Commissioner of Probation.

0339-1001 For the office of the commissioner of probation; provided, that notwithstanding any general or special law, rule or regulation to the contrary, the commissioner, subject to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers; provided further, that the associate probation officers shall only perform in-court functions and shall assume the in-court duties of the currently employed probation officers who shall be reassigned within the probation service subject to collective bargaining agreements to perform intensive, community-based supervision of probationers, including the provisions of intensive supervision and community restraint services as described in item 0339-1003; provided further, that funds from this item shall be expended for the costs associated with full implementation of chapters 303 and 418 of the acts of 2006 to ensure effective supervision of probationers who are monitored through global positioning system bracelets; provided further, that no funds shall be expended from this line item to cover the costs of building leases; provided further, that notwithstanding any general or special law, rule or regulation to the contrary, probation officer personnel and probation clerical support staff

assigned to the courts shall be provided with suitable office space in their current location in and around the various divisions and departments of the trial court, as the case may be, or in suitable office space as appropriate, with the advice and consent of the commissioner; provided further, that the office shall enter into an interagency service agreement with the department of revenue to verify income data and to utilize the department's wage reporting and bank match system for the purpose of weekly tape-matching, for the purposes of determining an individual's eligibility for appointment of indigent counsel, as defined in chapter 211D of the General Laws; provided further, that the office shall submit quarterly reports to the house and senate committees on ways and means detailing the progress of eligibility verification with the department; and provided further, that the report shall include, but not be limited to, the number of individuals to be found misrepresenting assets, revenue generated through collection of indigent client fees, the average indigent client fee that each court division collects per case since the effective date of this act, recommendations on improvements in verifying eligibility for counsel and other pertinent information to ascertain the effectiveness of verification \$131,138,285

0339-1003 For the operation of the trial court office of community corrections, including the costs of personnel; provided, that funds shall be expended for the cost of intensive supervision and community corrections programs; provided further, that the programs shall include, but not be limited to, tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution, and community incapacitation or restraint; provided further, that the number of placements in the programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that funds from this item shall be expended to cover the costs of the programs that are undertaken and administered by court probation offices and county sheriffs offices; provided further, that said funds shall be expended for the purpose of providing such programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth,

Suffolk, and Worcester counties in fiscal year 2010; provided further, that the executive director of the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with the probation offices and sheriffs offices for the provision of such programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that such agreements and memoranda shall be entered into at the direction of the executive director; provided further, that the executive director shall submit a spending and management plan for the programs to the house and senate committees on ways and means not later than January 29, 2010; and provided further, that the plan shall include the projected number of probationers to be served by each program and include a description of the oversight and services provided to the probationers \$24,193,548

0339-2100 For the office of the jury commissioner in accordance with chapter 234A of the General Laws \$2,412,913

Suffolk District Attorney

0340-0100 For the Suffolk district attorney’s office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, the domestic violence unit and the children’s advocacy center; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys’ association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that the office shall submit a report to the house and

senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$15,188,357

0340-0101 For the overtime costs of state police officers assigned to the Suffolk district attorney's office \$337,431

Middlesex District Attorney

0340-0200 For the Middlesex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1 , 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district,

juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$13,038,535

0340-0201 For the overtime costs of state police officers assigned to the Middlesex district attorney's office \$491,890

Eastern District Attorney.

0340-0300 For the Eastern district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault

prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; and provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the

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	law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program	\$8,011,057
0340-0301	For the overtime costs of state police officers assigned to the Eastern district attorney's office	\$480,334

Worcester District Attorney.

0340-0400 For the Worcester district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law

firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$8,466,451

0340-0401	For the overtime costs of state police officers assigned to the Worcester district attorney's office	\$393,809
0340-0410	For the analysis of narcotic drug synthetic substitutes, poisons, drugs, medicines and chemicals at the University of Massachusetts Medical School in order to support the law enforcement efforts of the district attorneys, the state police and municipal police departments	\$400,000

Hampden District Attorney.

0340-0500	For the Hampden district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws;	
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provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office’s special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$7,623,079

0340-0501 For the overtime costs of state police officers assigned to the Hampden district attorney’s office \$323,713

Hampshire/Franklin District Attorney.

0340-0600 For the Hampshire/Franklin district attorney’s office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys’ association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per

cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in said fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$4,746,396

0340-0601 For the overtime costs of state police officers assigned to the Hampshire/Franklin district attorney's office \$280,236

Norfolk District Attorney.

0340-0700 For the Norfolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district,

juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$7,810,091

0340-0701 For the overtime costs of state police officers assigned to the Norfolk district attorney's office \$406,958

Plymouth District Attorney.

0340-0800 For the Plymouth district attorney's office, including the victim

and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any

	funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer	\$6,774,559
0340-0801	For the overtime costs of state police officers assigned to the Plymouth district attorney's office	\$409,373

Bristol District Attorney.

0340-0900 For the Bristol district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the

following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer

\$7,048,574

0340-0901 For the overtime costs of state police officers assigned to the Bristol district attorney's office

\$310,779

Cape and Islands District Attorney.

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachusetts Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address

of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that the office shall submit a report to the executive director of the Massachusetts' district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$3,445,389

0340-1001 For the overtime costs of state police officers assigned to the Cape and Islands district attorney's office \$265,462

Berkshire District Attorney.

0340-1100 For the Berkshire district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, the drug task force and the domestic violence unit; provided, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, summarizing the number and types of criminal cases managed or prosecuted by the office in calendar year 2009 and the disposition or status thereof, which shall be delineated by each jurisdiction of the district, juvenile, probate, superior, appeals, and supreme judicial court in which the cases were managed or prosecuted; provided further, that for each jurisdiction of said courts, the report shall include, but not be limited to, the following: (a) the type of criminal case; (b) the total number of defendants charged under the type of case; and (c) summary of dispositions or statuses thereof; provided further, that 50 per cent of fees payable pursuant to Massachu-

sets Rules of Criminal Procedure 15 (d) and 30 (c)(8) for appeals taken by the office shall be paid from this item; provided further, that the office shall submit a report to the executive director of the Massachusetts district attorneys' association no later than February 1, 2010, detailing the office's use of drug forfeiture funds collected pursuant to chapter 94C of the General Laws; provided further, that the report shall include, but not be limited to, the following: (a) the amount of the funds deposited into the office's special law enforcement trust fund in fiscal years 2007, 2008 and 2009; (b) a description of how the funds were used in those fiscal years; and (c) the balance of the trust fund as of January 1, 2010; provided further, that the office shall submit a report to the house and senate committees on ways and means no later than February 1, 2010, detailing the total number and use of private attorneys participating in any volunteer prosecutor program; provided further, that the report shall include, but not be limited to, the following: (a) the total number of personnel from private law firms participating in the program; (b) the name and address of the law firms; (c) the duties performed by the personnel; and (d) the benefits and cost savings associated with the program; provided further, that no assistant district attorney shall be paid an annual salary of less than \$37,500; and provided further, that at least 30 days before transferring any funds authorized in this item from the AA object class, the district attorney shall notify the house and senate committees on ways and means of its intention to make that transfer \$3,354,920

0340-1101 For the overtime costs of state police officers assigned to the Berkshire district attorney's office \$204,882

DISTRICT ATTORNEYS' ASSOCIATION.

0340-2100 For the operation of the Massachusetts district attorneys' association, including the implementation and related expenses of the district attorneys' office automation and case management and tracking system; provided, that expenses associated with the system may be charged directly to this item; provided further, that the 11 district attorneys of the commonwealth may contribute a portion of their fiscal year 2010 appropria-

of children presently receiving supportive child care, and the number of medical and psychiatric consultation requests made by the department's social workers; provided further, that the report shall include the number of approved foster care placements; provided further, that the report shall also include the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically-necessary; provided further, that the report shall include the number of children under the department of children and families care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; provided further, that the report shall also contain the number of children served by supervised visitation centers and the number of those children who are reunified with their families; provided further, that the report shall contain information on the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; provided further, that the report shall also contain, for each area office, the number of kinship guardianship subsidies that it provided for the calendar quarters ending on March 31, 2009 and June 30, 2009, the number of kinship guardianship subsidies provided in the month covered by the report, and the number of kinship guardianship subsidies provided in that month for which federal reimbursement was received; provided further, that the report shall also contain, for each area office, the total spending on services other than case management services provided to families for the purposes of keeping a child with his parents or reunifying the child with his parents, spending by type of the service, and the unduplicated number of families that receive the services; provided further, that the report shall also contain for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where the families are sheltered, the total cost and average cost per family of those shelters, and a description of how the department determines who does or

does not qualify for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities; provided further, that the report shall also contain the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then re-enter an out-of-home placement within 6 months; provided further, that not later than November 2, 2009, the department shall submit a report to the house and senate committees on ways and means and the chairs of the joint committee on children and families that includes any rules, regulations, or guidelines established by the department to carry out its duties pursuant to chapter 119, including, but not limited to (a) criteria used to determine whether a child has been abused or neglected; (b) guidelines for removal of a child from the home; and (c) standards to determine what reasonable efforts are made to keep a child in the home; provided further, that the commissioner of the department of children and families may transfer funds between items 4800-0030, 4800-0038, and 4800-0041, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; and provided further, that not more than 5 per cent of any item shall be transferred in fiscal year 2010 \$69,880,096

4800-0016 For the department of children and families which may expend for the operation of the transitional employment program an amount not to exceed \$500,000 from revenues collected from various state, county and municipal government entities, as well as state authorities, for the costs related to the provision of services by the participants and the overhead costs and expenses incurred by the not-for-profit managing agent selected by the commissioner for administering the program; provided, that notwithstanding any general or special law to the contrary, the commissioner of the department of children

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and families may enter into a contract with Roca, Inc., a not-for-profit community-based agency, to manage the transitional employment program and to provide services to participants from the aging out population, parolees, probationers, youth service releases, or other community residents considered to have employment needs \$500,000

4800-0025 For foster care review services \$2,689,807

4800-0030 For local and regional administration and coordination of services provided by lead agencies and regional resource centers; provided, that flex services provided by these agencies shall be funded from this item \$7,000,000

4800-0036 For a sexual abuse intervention network program to be administered in conjunction with the district attorneys \$697,508

4800-0038 For stabilization, unification, reunification, permanency, adoption, guardianship and foster care services provided by the department of children and families; provided, that \$5,600,000 made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, may be spent on adoption and foster care services; provided further, that services funded through this item shall include shelter services, substance abuse treatment, family reunification networks, young parent programs, parent aides, education and counseling services, family preservation services, foster care, adoption and guardianship subsidies, tiered reimbursements used to promote the foster care placement of children with special medical and social needs, assessment of the appropriateness of adoption for children in the care of the department for more than 12 months, protective services provided by partnership agencies, targeted recruitment and retention of foster families, respite care services, post-adoption services, support services for foster, kinship and adoptive families and juvenile firesetter programs; provided further, that the regional offices shall work with the contracted entities for children placed in the intensive foster care system and with the receiving communities of these children to ensure all necessary services are provided; provided further, that funding may be expended on the young parent support program, supervised visitation programs, children's advocacy centers, services for child victims of sexual abuse and assault, family support and stabilization services, and community-based support and education programs helping low-income,

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0526-0100 For the operation of the Massachusetts historical commission	\$750,000
0527-0100 For the operation of the ballot law commission	\$11,018
0528-0100 For the operation of the records conservation board	\$35,119
0540-0900 For the registry of deeds located in Lawrence in the former county of Essex	\$1,103,998
0540-1000 For the registry of deeds located in Salem in the former county of Essex	\$2,933,894
0540-1100 For the registry of deeds in the former county of Franklin	\$487,561
0540-1200 For the registry of deeds in the former county of Hampden	\$1,827,990
0540-1300 For the registry of deeds in the former county of Hampshire	\$511,582
0540-1400 For the registry of deeds located in Lowell in the former county of Middlesex	\$1,208,477
0540-1500 For the registry of deeds located in Cambridge in the former county of Middlesex	\$3,128,511
0540-1600 For the registry of deeds located in Adams in the former county of Berkshire	\$278,586
0540-1700 For the registry of deeds located in Pittsfield in the former county of Berkshire	\$474,287
0540-1800 For the registry of deeds located in Great Barrington in the former county of Berkshire	\$234,535
0540-1900 For the registry of deeds in the former county of Suffolk	\$1,950,823
0540-2000 For the registry of deeds located in Fitchburg in the former county of Worcester	\$726,432
0540-2100 For the registry of deeds located in the city of Worcester in the former county of Worcester	\$2,345,612

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver General.

0610-0000 For the office of the treasurer and receiver-general; provided, that the treasurer shall provide computer services required by the teachers' retirement board; provided further, that the treasurer's office shall submit a report to the victim and witness assistance board which details the amount of assessments transmitted to the treasurer during the previous calendar year on a monthly basis from the courts, the registrar of motor vehicles and the sheriff or superintendent of any correctional facility pursuant to section 8 of chapter 258B; provided further, that the report shall be submitted to the board on or before January 15, 2010; provided further, that funds may be expended for the payment of bank fees; provided further, that

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	payments shall be made to public safety employees killed in the line of duty pursuant to section 100A of chapter 32 of the General Laws; provided further, that financial assistance shall be made available to injured firefighters; and provided further, that the treasurer's office shall pay half of the administrative costs of the municipal finance oversight board from this item	\$9,599,373
0610-0050	For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least 1 chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission shall work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; provided further, that \$100,000 shall be expended for the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs; and provided further, that the commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the traffic of alcoholic beverages	\$2,157,305
0610-0140	For the purpose of funding administrative, transactional and research expenses associated with maintaining and increasing the interest earnings on the Commonwealth's General and Stabilization Fund investments	\$22,250
0610-2000	For payments made to veterans pursuant to section 16 of chapter 130 of the acts of 2005; provided, that the office of the state treasurer may expend not more than \$150,000 for costs incurred in the administration of these payments; and provided further, that the treasurer shall notify the house and senate committees on ways and means upon the expenditure of the funds appropriated herein	\$3,155,604
0611-1000	For bonus payments to war veterans	\$44,500

Lottery Commission.

0640-0000 For the operation of the state lottery commission and arts lottery;

	provided, that no funds shall be expended from this item for any costs associated with the promotion or advertising of lottery games; provided further, that positions funded by this item shall not be subject to chapters 30 and 31 of the General Laws; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund	\$77,172,416
0640-0005	For the costs associated with the continued implementation of monitor games; provided, that any sums expended on promotional activities shall be limited to point-of-sale promotions and agent newsletters; and provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery fund to the General Fund	\$2,875,484
0640-0010	For the promotional activities associated with the state lottery program; provided, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund	\$2,000,000
0640-0096	For the purpose of the commonwealth's fiscal year 2010 contributions to the health and welfare fund established pursuant to the collective-bargaining agreement between the lottery commission and the service employees international union, Local 254, AFL-CIO; provided, that the contributions shall be paid to the trust fund on such basis as the collective bargaining agreement provides; and provided further, that 25 per cent of the amount appropriated in this item shall be transferred quarterly from the State Lottery Fund to the General Fund	\$355,945

MASSACHUSETTS CULTURAL COUNCIL.

0640-0300	For the services and operations of the council, including grants to or contracts with public and non-public entities; provided, that notwithstanding any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections 52 to 58, inclusive, of chapter 10 of the General Laws in amounts and at times as the council may determine pursuant to section 54 of said chapter 10; provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the Arts Lottery Fund to the Gen-	
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eral Fund; provided further, that any funds expended from this item for the benefit of schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and conditions; provided further, that the council shall not expend funds from this item for any grant or contract recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that a person employed under this item shall be considered an employee within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining unit; and provided further, that the Local Cultural Council Grant Program shall provide a minimum grant of no less than the amount detailed in item 0640-0300 in section 2 of chapter 182 of the acts of 2008 per municipality \$9,692,945

Debt Service.

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth; provided, that notwithstanding any general or special law to the contrary, the state treasurer may make payments pursuant to section 38C of chapter 29 of the General Laws from this item, items 0699-9100, 0699-2004 and item 0699-0016; provided further, that the payments shall pertain to the bonds, notes, or other obligations authorized to be paid from each item; provided further, that notwithstanding any general or special law to the contrary, the comptroller may transfer the amounts that would otherwise be unexpended on June 30, 2010, from item 0699-0015 to items 0699-9100, 0699-2004 and 0699-0016 or from items 0699-9100, 0699-2004 and 0699-0016 to item 0699-0015 which would otherwise have insufficient amounts to meet debt service obligations for the fiscal year ending June 30, 2010; provided further, that each amount transferred shall be charged to the funds as specified in the item to which the amount is transferred; and provided further, that payments on bonds issued pursuant to section 2O of said chapter 29 shall be paid from this item and shall be charged to the Infrastructure sub-fund of the Commonwealth Transportation Fund \$1,825,000,000
General Fund 60%
Commonwealth Transportation Fund 40%

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0699-0016	For the payment of interest, discount and principal on certain indebtedness incurred under chapter 233 of the acts of 2008 for financing the accelerated bridge program	\$12,000,000
	Commonwealth Transportation Fund	100%
0699-2004	For the payment of interest, discount and principal on certain indebtedness which may be incurred for financing the central artery/third harbor tunnel funding shortfall	\$91,719,000
	Commonwealth Transportation Fund	100%
0699-9100	For the payment of costs associated with any bonds, notes or other obligations of the commonwealth, including issuance costs, interest on bonds, bond and revenue anticipation notes, commercial paper, and other notes pursuant to sections 47 and 49B of chapter 29 of the General Laws and for the payment to the United States pursuant to section 148 of the Internal Revenue Code of 1986 of any rebate amount or yield reduction payment owed with respect to any bonds or notes or other obligations of the commonwealth; provided, that the treasurer shall certify to the comptroller a schedule of the distribution of costs among the various funds of the commonwealth; provided further, that the comptroller shall charge costs to the funds in accordance with the schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 2010 shall be charged to the various funds or to the General Fund or Commonwealth Transportation Fund debt service reserves	\$52,104,529
0699-9101	For the purpose of depositing with the trustee under the trust agreement authorized in section 10B of chapter 11 of the acts of 1997, an amount to be used to pay the interest due on notes of the commonwealth issued pursuant to section 9 of said chapter 11 and secured by the Federal Highway Grant Anticipation Note Trust Fund	\$36,694,000
	Commonwealth Transportation Fund	100%

Department of Veterans Services.

1410-0010	For the operation of the department of veterans' services; provided, that the department may fund a housing specialist from this item; provided further, that the department may expend funds for the Glory 54th Brigade; provided further, that the secretary of veterans' affairs shall submit a report to the joint committee on veterans' and federal affairs and the house and	
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	senate committees on ways and means not later than December 31, 2009, on the secretariat's implementation of and the outreach efforts of the "welcome home bill"; and provided further, that the report shall include the participation rates for service, hindrances to enrollment for the program, and recommendations, including any necessary statutory or other changes to increase the number of service men and women who apply for such service	\$2,159,172
1410-0012	For services to veterans, including the maintenance and operation of outreach centers; provided, that the department shall not reduce the amount allocated to a program or its successor listed in this item as appearing in section 2 of chapter 182 of the acts of 2008 by more than 25 per cent in fiscal year 2010; provided further, that the centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; and provided further, that these centers shall also provide services to veterans who were discharged after September 11, 2001, and their families	\$1,738,686
1410-0015	For the women veterans' outreach program	\$50,000
1410-0018	The department may expend not more than \$300,000 for the maintenance and operation of Agawam and Winchendon veterans' cemeteries from revenue collected from fees, grants, gifts or other contributions to the cemeteries; prior appropriations continued	\$300,000
1410-0100	For the revenue maximization project of the executive office of elder affairs to identify individuals eligible for veterans' pensions who are currently receiving home health care services	\$98,000
1410-0250	For veterans homelessness services, provided, that the department shall not reduce the amount allocated to a program or its successor listed in this item as appearing in section 2 of chapter 182 of the acts of 2008 by more than 25 per cent in fiscal year 2010	\$2,083,073
1410-0251	For the maintenance and operation of homeless shelters and transitional housing for veterans at the New England Center for Homeless Veterans located in the city of Boston	\$2,278,543
1410-0300	For the payment of annuities to certain disabled veterans and the parents and un-remarried spouses of certain deceased veterans; provided, that the payments shall be made pursuant to section 6B of chapter 115 of the General Laws; provided	

further, that the department shall take reasonable steps to terminate payments upon the death of a recipient; provided further, that the department shall prorate annuity payments to ensure that the total payments in fiscal year 2010 shall not exceed the amount appropriated herein; and provided further, that the secretary of veterans' services shall file with the house and senate committees on ways and means a report detailing the number of applications received for annuities offered under this program at the end of each fiscal quarter . . \$18,944,760

1410-0400 For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans under section 6 of chapter 115 of the General Laws; provided, that notwithstanding any general or special law to the contrary, 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns; provided further, that pursuant to section 9 of said chapter 115, the department shall reimburse cities and towns for the cost of United States flags placed on the graves of veterans on Memorial Day; provided further, that notwithstanding any general or special law to the contrary, the secretary of veterans' services shall continue a training program for veterans' agents and directors of veterans' services in cities and towns; provided further, that the department of veterans' services shall provide such training in several locations across the commonwealth; provided further, that training will be provided annually and on an as needed basis to veterans services organizations to make them aware of the provision of said chapter 115 and all other benefits to which a veteran or the veteran's dependents may be entitled; provided further, that any person applying for veterans' benefits to pay for services available under chapter 118E of the General Laws, shall also apply for medical assistance under said chapter 118E to minimize cost of the commonwealth and its municipalities; provided further, that veterans' agents shall complete applications authorized by the executive office under said chapter 118E for any veteran, widow and dependent applying for medical assistance under said chapter 115; provided further, that the veterans' agent shall file the application for the veteran or dependent for assistance under

said chapter 118E; provided further, that the executive office shall act on all said chapter 118E applications and advise the applicant and the veterans' agent of the applicant's eligibility for said chapter 118E healthcare; provided further, that the veterans' agent shall advise the applicant of the right to assistance for medical benefits under said chapter 115 pending approval of the application for assistance under said chapter 118E by the executive office; provided further, that the secretary may supplement healthcare pursuant to said chapter 118E with healthcare coverage under said chapter 115 if he determines that supplemental coverage is necessary to afford the veteran or dependent sufficient relief and support; provided further, that payments to or on behalf of a veteran or dependent pursuant to said chapter 115 shall not be considered income for the purposes of determining eligibility under said chapter 118E; and provided further, that benefits awarded pursuant to section 6B of said chapter 115 shall be considered countable income \$27,864,000

1410-0630 For the administration of the veterans' cemeteries in the towns of
Agawam and Winchendon \$864,237

Office of the State Auditor

0710-0000 For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with sections 52 to 55, inclusive, of chapter 7 of the General Laws and shared oversight of the central artery/third harbor tunnel project \$15,137,016

0710-0100 For the operation of the division of local mandates \$391,384

0710-0200 For the operation of the bureau of special investigations; provided, that the office shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the office of the state auditor, the total value of settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in collections \$1,647,654

0710-0225 For the operation of the Medicaid Audit Unit within the Division of Audit Operations in an effort to prevent and to identify fraud and abuse in the MassHealth system; provided, that the federal reimbursement for any expenditure from this line item shall not be less than 50 per cent; and provided further, that

the division shall submit a report no later than December 1, 2009 to the house and senate committee ways and means detailing all findings on activities and payments made through the MassHealth system \$790,702

ATTORNEY GENERAL.
Office of the Attorney General.

- 0810-0000 For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, all regional offices, a high-tech crime unit and the victim and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with chapters 258B and 258C of the General Laws; provided further, that the attorney general shall submit to the general court and the secretary for administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0810-0004 indicating both the number and costs for each category of claim; and provided further, that funds may be expended to continue youth violence prevention initiatives . . \$23,452,981
- 0810-0004 For compensation to victims of violent crimes; provided, that notwithstanding chapter 258C of the General Laws, if a claimant is 60 years of age or older at the time of the crime and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with said chapter 258C even if the claimant has suffered no out-of-pocket loss; provided further, that compensation to such claimant shall be limited to a maximum of \$50; and provided further, that notwithstanding any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section 5 of chapter 258B of the General Laws . . . \$2,188,340
- 0810-0007 For the overtime costs of state police officers assigned to the attorney general; provided, that costs associated with those officers shall not be funded from item 8100-0007; and provided further, that expenditures shall not be made on or after the effective date of this act which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item \$463,869

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- 0810-0013 For the office of the attorney general which may expend for a false claims program an amount not to exceed \$650,000 from revenues collected from enforcement of the false claims law; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$650,000
- 0810-0014 For the operation of the department of public utilities proceedings unit within the office of attorney general, pursuant to section 11E of chapter 12 of the General Laws; provided, that notwithstanding any general or special law to the contrary, the amount assessed under said section 11E of said chapter 12 of the General Laws, shall equal the amount expended from this item; and provided further, that funds shall be expended for the expenses of legal and technical personnel and associated administrative and travel expenses relative to participation in regulatory proceedings at the Federal Energy Regulatory Commission on behalf of Massachusetts ratepayers \$2,355,145
- 0810-0021 For the operation of the Medicaid fraud control unit; provided, that the federal reimbursement for any expenditure from this item shall not be less than 75 per cent of the expenditure; provided further, that funds shall continue to be used specifically for the investigation and prosecution of abuse, neglect, mistreatment and misappropriation based on referrals from the department of public health pursuant to section 72H of chapter 111 of the General Laws; provided further, that the unit shall provide training for all investigators of the department's division of health care quality responsible for the investigations on a periodic basis pursuant to a comprehensive training program to be developed by the division and the unit; and provided further, that training shall include instruction on techniques for improving the efficiency and quality of investigations of abuse, neglect, mistreatment and misappropriation pursuant to said section 72H of said chapter 111 \$3,467,021
- 0810-0045 For the labor law enforcement program pursuant to subsection (b) of section 1A of chapter 23 of the General Laws; provided,

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	that notwithstanding any general or special law to the contrary, a non-management position funded by this item shall be considered a job title in a collective bargaining unit as prescribed by the labor relations commission and shall be subject to chapter 150E of the General Laws	\$3,497,224
0810-0201	For the costs incurred in administrative or judicial proceedings on insurance as authorized by section 11F of chapter 12 of the General Laws; provided, that funds made available in this item may be used to supplement the automobile insurance fraud unit and the workers' compensation fraud unit of the office of the attorney general; provided further, that funds shall be expended for costs associated with health insurance rate hearings; and provided further, that notwithstanding any general or special law to the contrary, the amount assessed for these costs shall be equal to the amount expended from this item	\$1,539,942
0810-0338	For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding any general or special law to the contrary, the amount assessed for these costs shall be equal to the amount appropriated by this item	\$438,506
0810-0399	For the investigation and prosecution of workers' compensation fraud; provided, that notwithstanding any general or special law to the contrary, the amount assessed for these costs shall be equal to the amount appropriated by this item; provided further, that the attorney general shall investigate and prosecute, when appropriate, employers who fail to provide workers' compensation insurance in accordance with the laws of the commonwealth; and provided further, that the unit shall investigate and report on all companies not in compliance with chapter 152 of the General Laws	\$284,456

Victim and Witness Assistance Board.

0840-0100	For the operation of the victim and witness assistance board; provided, that the board shall submit a comprehensive report compiled from the information required of and submitted to the office by the trial court, the registry of motor vehicles and the state treasurer relative to the collection of assessments for the previous calendar year under section 8 of chapter 258B of the General Laws; and provided further, that the report shall be submitted to the house and senate committees on ways and means on or before February 16, 2010	\$549,090
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0840-0101 For the salaries and administration of the SAFEPLAN advocacy program, to be administered by the Massachusetts office of victim assistance; provided, that the office shall submit to the house and senate committees on ways and means, not later than February 1, 2010, a report detailing the effectiveness of contracting for the program including, but not limited to, the number and type of incidents to which the advocates responded, the type of services and service referrals provided by the domestic violence advocates, the cost of providing such services and the extent of coordination with other service providers and state agencies \$772,500

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission \$1,731,123

OFFICE OF THE INSPECTOR GENERAL.

0910-0200 For the operation of the office of the inspector general \$2,330,836

0910-0210 For the office of the inspector general which may expend revenues collected up to a maximum of \$404,250 from the fees charged to participants in the Massachusetts public purchasing official certification program and the certified public manager program for the operation of such programs; provided, that for the purpose of accommodating discrepancies between the receipts of retained revenues and related expenditures, the office of the inspector general may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$404,250

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300 For the operation of the office of campaign and political finance \$1,221,696

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.

0940-0100 For the office of the commission, including the processing and resolution of cases pending before the commission that were filed on or before July 1, 2005; provided, that on or before November 2, 2009, the commission shall submit to the house

and senate committees on ways and means a report on the total number of all currently pending cases and the total number of the cases in the investigation, conciliation, post-probable cause and pre-public hearing and post-hearing stages; provided further, that the commission shall file an update of the report with the committees on or before March 1, 2010; provided further, that the commission shall identify in the reports the number of cases in which the commission has determined there is probable cause to believe that a violation of chapter 151B of the General Laws has been committed in a case in which the Massachusetts Bay Transportation Authority is named as a respondent; provided further, that the commission shall report to the house and senate committees on ways and means, on or before November 2, 2009, the number of cases pending before the commission in which a state agency or state authority is named as a respondent, specifying those cases in which the Massachusetts Bay Transportation Authority is named as a respondent, and the number of the cases in which there is probable cause to believe that a violation of said chapter 151B has been committed; provided further, that the commission shall include in the report the total number of new cases filed in fiscal year 2009 and the total number of cases closed by the commission in fiscal year 2009; provided further, that funds made available in this item shall be in addition to funds available in item 0940-0101; provided further, that all positions, except clerical, shall be exempt from chapter 31 of the General Laws; and provided further, that the commission shall pursue the highest allowable rate of federal reimbursement \$2,563,587

0940-0101 For the Massachusetts commission against discrimination which may expend not more than \$1,930,054 from revenues from federal reimbursements received for the purposes of the United States Department of Housing and Urban Development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 2010 and federal reimbursements received for these and other programs in prior years; provided, that notwithstanding any general or special law to the contrary, the commission may also expend revenues generated through the collection of fees and costs so

	authorized; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$1,930,054
0940-0102	For the Massachusetts commission against discrimination which may expend not more than \$70,000 from revenues collected from fees charged for the training and certification of diversity trainers for the operation of the discrimination prevention certification program	\$70,000

OFFICE OF THE STATE COMPTROLLER.

1000-0001 For the office of the state comptroller; provided, that the amount of any federal funds and grant receipts credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and non-tax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary for administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services and the full-year estimate of revenues and revenues collected; provided further, that notwithstanding any general or special law to the contrary, the comptroller shall deduct \$1,000 from any item of appropriation in section 2 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts deducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted; provided further, that notwithstanding any general or special law to the contrary, the comptroller may enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for such

purpose; provided further, that 60 days before entering into any interdepartmental service agreement the comptroller shall notify the house and senate committees on ways and means; provided further, that the notification shall include, but not be limited to, a description of the project, the purpose and intent of the interdepartmental service agreement, a projection of the costs avoided in the current fiscal year, a copy of the contract with the private vendor including the proposed rate of compensation and any previous agreements related or similar to the new agreement with the above information; provided further, that payments to private vendors on account of such cost avoidance projects shall be made only from such actual cost savings as have been certified in writing to the house and senate committees on ways and means by the comptroller and the budget director as attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purpose of this item; and provided further, that the comptroller shall submit a report on such projects as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws \$8,056,789

Executive Office for Administration and Finance
Office of the Secretary of Administration and Finance

1100-1100 For the office of the secretary and the administration of the fiscal affairs division; provided, that the secretary shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report her resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status

	of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on labor and workforce development on or before December 1, 2009; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements	\$3,153,173
1100-1700	For the provision of information technology services within the executive office for administration and finance	\$31,058,555
	<i>Division of Capital Asset Management and Maintenance.</i>	
1102-3205	For the division of capital asset management and maintenance which may expend for the maintenance and operation of the Massachusetts information technology center, the state transportation building and the Springfield state office building an amount not to exceed \$16,250,000 in revenues collected from rentals, commissions, fees, parking fees and any other sources pertaining to the operations of said facilities; provided, that notwithstanding any general or special law to the contrary, and for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system	\$16,250,000
1102-3232	For the division of capital asset management and maintenance; provided, that the division may expend not more than \$300,000 received from application fees charged in conjunction with the certification of contractors and subcontractors pursuant to section 44D of chapter 149 of the General Laws; provided further, that only expenses, including staffing, incurred to implement and operate the certification program shall be funded from this item; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify	

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for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system \$300,000

Bureau of State Office Buildings.

- 1102-3301 For the operation of the bureau and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of state office buildings; provided, that the bureau shall retain jurisdiction over all contracts, purchases and payments for materials and services required in the operation of the bureau \$5,716,546
- 1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings \$6,428,590
- 1102-3307 For state house accessibility coordination, including communications access to public hearings and meetings; provided, that access shall include interpreter services for the deaf and hard of hearing \$196,166

Office on Disability.

- 1107-2400 For the Massachusetts office on disability \$547,637

Disabled Persons Protection Commission.

- 1107-2501 For the disabled persons protection commission; provided, that the commission shall facilitate compliance by the department of mental health and the department of developmental services with uniform investigative standards; provided further, that the commission shall report to the house and senate committees on ways and means no later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of developmental services and mental health, and the Massachusetts rehabilitation commission; provided further, that the report shall include: (a) the number of claims found to be substantiated; (b) the number of claims found to be unsubstantiated; and (c) the number of claims found to be falsely reported as a result of intentional and malicious action; and provided further, that the commission shall ensure that all calls received by the commission's 24-hour hotline are capable of being recorded, that all persons who call the hotline are immediately informed that all calls are routinely recorded and that each such person

is provided with the opportunity to elect that the call not be
recorded \$2,222,665

Civil Service Commission.

1108-1011 For the civil service commission; provided, that the General Fund shall be reimbursed for the appropriation herein through a fee charged on a per claim basis; provided further, that said commission shall develop and implement regulations to implement said reimbursement to the General Fund; and provided further, that the civil service commission may assess a fee upon the appointing authority when inappropriate action has occurred \$426,014

Group Insurance Commission.

1108-5100 For the administration of the group insurance commission; provided, that the commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 10B, 10C and 12 of chapter 32A of the General Laws \$2,704,328

1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 2010; provided, that notwithstanding any general or special law to the contrary, funds in this item shall not be available during the accounts-payable period of fiscal year 2010, and any unexpended balance in this item shall revert to the General Fund on June 30, 2010; provided, that the secretary of administration and finance shall charge the division of unemployment assistance and other departments, authorities, agencies and divisions, which have federal or other funds allocated to them for this purpose, for that portion of insurance premiums and plan costs as the secretary determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that funds may be expended from this item for the commonwealth's share of group insurance premium and plan costs provided to employees and retirees in prior fiscal years; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways

and means the amounts expended from this item for prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; provided further, that the secretary of administration and finance may charge all agencies for the commonwealth's share of the health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than 1 year; provided further, that the amounts received in payment for the charges shall be credited to the General Fund; provided further, that notwithstanding section 26 of chapter 29 of the General Laws, the commission may negotiate, purchase and execute contracts before July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding chapter 150E of the General Laws and as provided in section 8 of chapter 32A and for the purposes of section 14 of chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired before July 1, 1994, shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994, shall be 85 per cent; provided further, that the commonwealth's share of the group insurance premium for active employees upon retirement shall be 85 per cent; provided further, that the commonwealth's share of the premiums for active state employees hired on or before June 30, 2003 and their dependents shall be 80 per cent; provided further, that the commonwealth's share of the premiums for active state employees hired after June 30, 2003, and their dependents shall be 75 per cent; provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year; and provided further, that the group insurance commission may pay premium and plan costs for municipal employees and retirees who are enrolled in the group insurance commission's health plans pursuant to the commission's regulations \$959,909,873

1108-5201 For the costs incurred by the group insurance commission associ-

ated with providing municipal health insurance coverage pursuant to section 19 of chapter 32B of the General Laws; provided, that the commission may expend revenues in an amount not to exceed \$850,000 from the revenue received from administrative fees associated with providing municipal health insurance coverage pursuant to said section 19 of said chapter 32B; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system \$850,000

1108-5350 For elderly governmental retired employee premium payments \$526,789

1108-5400 For the costs of the retired municipal teachers' premiums and the audit of such premiums \$77,844,056

1108-5500 For the costs, notwithstanding chapter 32A of the General Laws to the contrary, of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivision, who are not otherwise provided those benefits pursuant to a separate appropriation or the terms of a contract or collective bargaining agreement; provided, that the employees shall pay 15 per cent of the monthly premium established by the commission for the benefits \$7,786,758

Division of Administrative Law Appeals.

1110-1000 For the operation of the division of administrative law appeals, established by section 4H of chapter 7 of the General Laws; provided, that the division shall maintain, to the fullest extent practicable, a complete physical and technological separation from any agency, department, board, commission or program whose decisions, determinations or actions may be appealed to it; provided further, that every decision issued by a commissioner or other head of agency, or designee, following the issuance of a recommended decision by an administrative law judge of the division, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws; and provided further, that funds shall be expended for the processing and adjudication of all pending and newly-filed department of environmental protection appeals \$1,102,462

George Fingold Library

1120-4005 For the administration of the library	\$866,742
1120-4006 For the George Fingold Library which may expend revenues collected up to a maximum of \$5,000 from the fees charged for copying services; provided, that the library shall submit a report that details revenue collected and expenditures made to the house and senate committees on ways and means on or before January 1, 2010	\$5,000

Department of Revenue.

1201-0100 For the operation of the department of revenue, including tax collection administration and audits of certain foreign corporations; provided, that the department may allocate funds to the office of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement unit, from this item to item 1201-0160, consistent with the costs attributable to said unit; provided further, that the department shall provide to the general court access to the municipal data bank; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account are positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning no earlier than December 1 and ending no later than November 30; provided further, that seasonal positions funded by this account may not be filled by an incumbent for more than 10 months within a 12 month period; provided further, that the department may conduct a public awareness and education outreach campaign about state and local tax credits, deductions, deferrals and exemptions and other tax information available to persons age 65 and over including, but not limited to, section 6 of chapter 62 and section 5 of chapter 59 of the General Laws; provided further, that the department may work in conjunction with the executive office of elder affairs in disseminating information and conducting the campaign; provided further, that the department may conduct the campaign from July 1, 2009, to April 15, 2010, inclusive, and shall report their efforts to the house and senate committee on ways and means and the joint

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	committee on elder affairs not later than May 31, 2010; and provided further, that the department shall also file an interim report to the house and senate committee on ways and means and the joint committee on elder affairs not later than January 1, 2010	\$88,539,813
1201-0118	For the operation of the division of local services	\$5,484,518
1201-0130	For the department of revenue which may expend for the operation of the department not more than \$17,280,000 from revenues collected by the additional auditors for an enhanced audit program; provided, that the auditors shall: (1) discover and identify persons who are delinquent either in the filing of a tax return or the payment of a tax due and payable to the commonwealth; (2) obtain such delinquent returns; and (3) collect such delinquent taxes for a prior fiscal year; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means that shall include, but not be limited to, the following: (1) the amount of revenue produced from these additional auditors; and (2) the amount of revenue produced by this item in fiscal years 2006, 2007, 2008 and 2009	\$17,280,000
1201-0160	For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities, and those agencies may expend the funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on ways and means upon the allocation of the funds; provided further, that the federal receipts associated with the child support computer network shall be drawn down at the highest possible rate of reimbursement and deposited into a revolving account to be expended for the network; provided further, that	

	federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system for federal incentives and said network in accounts 1201-0161, 1201-0410, and 1201-0412 .	\$40,530,864
1201-0164 For	the child support enforcement division; provided, that the division may expend revenues in an amount not to exceed \$6,547,280 from the federal reimbursements awarded for personnel and lower subsidiary related expenditures; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system .	\$6,547,280
1231-1000 For	the Commonwealth Sewer Rate Relief Fund, established in section 2Z of chapter 29 of the General Laws; provided, that the Massachusetts Water Resources Authority shall submit a report to the house and senate committees on ways means and the secretary of administration and finance no later than October 1, 2009 that shall include, but not be limited to, the following: (a) an analysis of the options for reducing operating costs of the authority; (b) the use of contracts with private entities for the operation and maintenance of facilities owned or operated by the authority; and (c) the cost savings	

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	and any legislation necessary to effectuate the proposed recommendations of the report	\$500,000
1232-0100	For underground storage tank reimbursements to parties that have remediated spills of petroleum products pursuant to chapter 21J of the General Laws	\$16,099,454
1232-0200	For the Underground Storage Tank Petroleum Cleanup Fund Administrative Review Board established by section 8 of chapter 21J of the General Laws and for the administration of the underground storage tank program associated with the implementation of said chapter 21J; provided, that notwithstanding section 4 of said chapter 21J or any other general or special law to the contrary, appropriations made in this item shall be sufficient to cover the administrative expenses of the underground storage tank program; provided further, that the board shall submit to the house and senate committees on ways and means a report on the status of the underground storage program, including, but not limited to, the number of municipal grants made for the removal and replacement of underground storage tanks and the reimbursements for remediated petroleum spills; provided further, that the report shall detail how many tanks are out of compliance with said chapter 21J; and provided further, that the report shall be submitted not later than February 16, 2010	\$1,394,271
1232-0300	For underground storage tank municipal grants to remove and replace the tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws	\$152,862
1233-2000	For the tax abatement program for certain veterans, widows, blind persons and the elderly; provided, that cities and towns shall be reimbursed for the abatements granted pursuant to clauses Seventeenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-first C½ and Fifty-second of section 5 of chapter 59 of the General Laws; provided further, that the commonwealth shall reimburse each city or town that accepts said clause Forty-first B or said clause Forty-first C for additional costs incurred in determining eligibility of applicants under those clauses in an amount not to exceed \$2 per exemption granted; and provided	

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	further, that for reimbursements to cities and towns for additional exemptions from the motor vehicle excise granted pursuant to the seventh paragraph of section 1 of chapter 60A of the General Laws	\$25,301,475
1233-2350	For the distribution to cities and towns of the balance of the State Lottery Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, and additional aid to municipalities, as provided for in section 3	\$936,376,140
1233-2400	For reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws	\$27,270,000

Appellate Tax Board.

1310-1000	For the operation of the appellate tax board; provided, that the board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, Worcester and southeastern Massachusetts; and provided further, that the board shall report to the house and senate committees on ways and means not later than December 1, 2009, on the number of hearings held at each location	\$1,925,270
1310-1001	The appellate tax board may expend revenues up to a maximum of \$300,000 from fees collected; provided, that in order to accommodate discrepancies between the receipt of retained revenues and related expenditures, the board may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$300,000

Reserves.

1599-0025	For the secretary of administration and finance to provide the commonwealth's customers with the convenience of expanded access to internet payment options and to improve revenue collections and cash flow; provided, that the secretary may expend an amount not to exceed \$1,000,000 collected from payments made electronically to subsidize the costs associated with processing those payments; and provided further, that the secretary, in consultation with the comptroller, may enter into agreements with state agencies to provide for an electronic transaction fee subsidy, which shall be structured to expire after 3 years	\$1,000,000
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1599-0050	For Route 3 North contract assistance payments	\$9,625,000
	Commonwealth Transportation Fund 100%	
1599-0093	For contract assistance to the water pollution abatement trust for debt service obligations of the trust, pursuant to sections 6, 6A and 18 of chapter 29C of the General Laws	\$67,900,000
1599-1030	For court monitor costs in compliance with the terms of the Rolland settlement agreement, dated June 16, 2008, Civil Action No. 98-30208-KPN, filed in the United States District Court of Massachusetts in order to provide active services for class members	\$2,263,600
1599-1970	For a reserve for the Massachusetts Turnpike Authority for costs incurred in fiscal year 2007 for the operation and maintenance of the Central Artery Ted Williams Tunnel Project pursuant to chapter 235 of the acts of 1998	\$25,000,000
	Commonwealth Transportation Fund 100%	
1599-3234	For the commonwealth's South Essex sewerage district debt service assessment	\$89,763
1599-3384	For a reserve for the payment of certain court judgments, settlements and legal fees, in accordance with regulations promulgated by the comptroller, which were ordered to be paid in the current fiscal year or a prior fiscal year; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amounts expended from this item	\$7,500,000
1599-3856	For rent and associated costs at the Massachusetts information technology center in Chelsea	\$600,000
1599-6425	For a reserve to support municipal regionalization; provided, that the funds in this item shall be used to provide grants and technical assistance to districts and municipalities, including councils on government, counties and regional planning authorities that are applying on behalf of 2 or more municipal entities, in the areas of planning, feasibility, transitional costs and related subject areas to promote cost effective and efficient delivery of local services by regionalization of services including, but not limited to, equipment, hardware, facilities, staff and operations; provided further, that the secretary of administration and finance shall promulgate regulations to implement this item not later than September 1, 2009; and provided further, that grants and technical assistance shall on-	

ly be provided to support regionalization of services that
 results in cost savings \$1,000,000

Division of Human Resources.

1750-0100 For the operation of the human resources division and the costs of administration, training, and customer support related to the commonwealth's human resources and compensation management system; provided, that the information technology division shall continue a chargeback system for its bureau of computer services, including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall be responsible for the administration of examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, technical assistance in selection and appointment to state and municipal appointing authorities; provided further, that notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the secretary of administration and finance shall charge a fee of not less than \$50 to be collected from each applicant for a civil service examination; provided further, that the division shall administer a program of state employee unemployment management, including, but not limited to, agency training and assistance; provided further, that the division shall administer the statewide classification system, including, but not limited to, maintaining a classification pay plan for civil service titles within the commonwealth in accordance with generally accepted compensation standards and reviewing appeals for reclassification; provided further, that the secretary of administration and finance shall file with the house and senate committees on ways and means the amounts of any economic benefits necessary to fund any incremental cost items contained in any collective bargaining agreements with the various classified public employees' unions; provided further, that the nature and scope of economic proposals contained in those agreements shall include all fixed percentage or dollar-based salary adjustments, non-base payments or other forms of compensation and all supplemental fringe benefits

	resulting in any incremental costs; and provided further, that any employee of the commonwealth who chooses to participate in a bone marrow donor program shall be granted a leave of absence with pay to undergo the medical procedure and for associated physical recovery time, but this leave shall not exceed 5 days	\$3,146,717
1750-0102	The human resources division may expend not more than \$2,726,760 from revenues collected from fees charged to applicants for civil service and non-civil service examinations and fees charged for the costs of goods and services rendered in administering training programs; provided, that the division shall collect from participating non-state agencies, political subdivisions, and the general public fees sufficient to cover all costs of the programs, including, but not limited to, a fee to be collected from each applicant for a civil service examination or non-civil examination, notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$2,726,760
1750-0119	For payment of workers' compensation benefits to certain former employees of Middlesex and Worcester counties; provided, that the division shall routinely recertify the former employees pursuant to current workers' compensation procedures	\$61,264
1750-0201	The human resources division may expend not more than \$775,000 from revenues collected for implementation of the medical and physical fitness standards program established pursuant to sections 61A and 61B of chapter 31 of the General Laws and chapter 32 of the General Laws; provided, that the personnel administrator shall charge a fee of not less than \$50 to be collected from each applicant who participates in the physical ability test; provided further, that the human resources division shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on the program including, but not limited to, the costs of personnel, consultants, administration of the wellness	

	program, establishment of standards and any other related costs of the program; and provided further, that the division shall report to the house and senate committees on ways and means by February 1, 2010, on the projected costs of the program for fiscal year 2010	\$775,000
1750-0300	For the commonwealth's contributions in fiscal year 2010 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that the contributions shall be calculated as provided in the applicable collective bargaining agreement and shall be paid to the health and welfare trust funds on a monthly basis or on such other basis as the applicable collective bargaining agreement provides	\$27,700,000

Operational Services Division.

1775-0100	For the operation of the operational services division, including the affirmative market program; provided, that the division shall expend funds for the purpose of achieving savings pursuant to this act	\$743,779
1775-0115	For the operational services division; provided, that the division may expend for the purpose of procuring, managing and administering statewide contracts an amount not to exceed \$900,000 from revenue collected from the statewide contract administrative fee; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel	\$900,000
1775-0124	For the operational services division; provided, that the division may expend an amount not to exceed \$500,000 from revenue collected in the recovery of cost-reimbursement and non-reimbursable over billing and recoupment for health and human service agencies and as a result of administrative reviews, as determined during the division's audits and reviews of providers pursuant to section 274 of chapter 110 of the acts of 1993; and provided further, that the division may only retain revenues collected in excess of \$207,350	\$500,000

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- 1775-0600 For the operational services division; provided, that the division may expend not more than \$805,000 in revenues from the sale of state and federal surplus personal property and the disposal of surplus motor vehicles, including, but not limited to, state police vehicles from vehicle accident and damage claims and from manufacturer warranties, rebates and settlements for the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property and the purchase of motor vehicles; provided further, that the division shall evaluate the use of technology, the internet, and online auctions to enhance the sales of surplus vehicles and submit a report of its findings to the house and senate committees on ways and means, and the house and senate committees on post audit and oversight on or before October 1, 2009; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel \$805,000
- 1775-0700 For the operational services division; provided, that the division may expend not more than \$53,000 in revenues collected in addition to the amount authorized in item 1775-1000 of section 2B for printing, photocopying, related graphic art or design work and other reprographic goods and services provided to the general public, including all necessary incidental expenses \$53,000

Information Technology Division.

- 1790-0100 For the operation of the information technology division; provided, that the division shall continue a chargeback system for its bureau of computer services including the operation of the commonwealth's human resources and compensation management system, which complies with the requirements of section 2B; provided further, that the division shall develop a formula to determine the cost that will be charged to each agency for its use of the human resources and compensation management system; provided further, that the division may

coordinate with any state agency or state authority which administers a grant program to develop a statewide grant information page on the commonwealth's official world wide web site, that shall include all necessary application forms and a grant program reference in a format that is retrievable and printable; provided further, that the division shall continue conducting audits and surveys to identify and realize savings in the acquisition and maintenance of communications lines; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May 31, 2010, with actual and projected savings and expenditures for the audits in the fiscal year ending June 30, 2010; provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item; provided further, that any planned information technology development project or purchase by any agency under the authority of the governor for which the total projected cost exceeds \$200,000, including the cost of any related hardware, software, or consulting fees, and regardless of fiscal year or source of funds, shall be reviewed and approved by the chief information officer before such agency may obligate funds for the project or purchase; provided further, that the chief information officer may establish rules and procedures necessary to implement this item; and provided further, that the division shall file a report by secretariat with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following: (a) financial statements detailing savings realized from the consolidation of information technology services within each executive office; (b) the number of personnel assigned to the information technology services within each executive office; and (c) efficiencies that have been achieved from the sharing of resources \$4,690,244

1790-0300 For the information technology division which may expend not more than \$595,695 from revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications

lines, services and equipment \$595,695

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.
Office of the Secretary.

2000-0100	For the operation of the office of the secretary of energy and environmental affairs, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, and the mosquito-borne disease vector control chapter program; provided, that the secretary shall investigate and submit a report within 120 days to the house and senate committees on ways and means, the house and senate committees on global warming and climate change and the joint committee on environment, natural resources and agriculture on the transfer of forest product marketing and promotion, as well as regulatory oversight on non-state and federally owned forest lands from the department of conservation and recreation to the department of agricultural resources through such interdepartmental agreements; and provided further, that the report shall include, but not be limited to, the following: (a) an identification of the employees that would be affected by consolidation and the item of appropriation that they are paid from; (b) the savings or efficiencies to be realized; (c) the improvements to the services expected; and (d) the source and amount of funding necessary to accomplish and maintain the transfer	\$6,382,555
2000-1700	For the operation of information technology services within the executive office of energy and environmental affairs, including the office of geographic and environmental information established in section 4B of chapter 21A of the General Laws	\$9,246,775
2001-1001	For the secretary of energy and environmental affairs who may expend not more than \$55,000 from fees charged to entities other than political subdivisions of the commonwealth for the distribution of digital cartographic and other data for the review of environmental notification forms pursuant to sections 61 to 62H, inclusive, of chapter 30 of the General Laws	\$55,000

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2010-0100	For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that funds may be expended for a recycling industry reimbursement program pursuant to section 241 of chapter 43 of the acts of 1997	\$514,001
2020-0100	For toxics use reduction technical assistance and technology in accordance with chapter 21I of the General Laws	\$688,204
2030-1000	For the operation of the office of environmental law enforcement; provided, that officers shall provide monitoring pursuant to the National Shellfish Sanitation Program; provided further, that the department shall maintain and operate the boat registration and titling offices in Hyannis and Fall River; and provided further, that funds from this item shall not be expended for the purposes of item 2030-1004	\$9,677,607
2030-1004	For environmental police private details; provided, that the office may expend revenues of up to \$220,000 collected from the fees charged for private details; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$220,000

Department of Public Utilities.

2100-0012	For the operation of the department of public utilities; provided, that notwithstanding the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied for fiscal year 2010 under said first paragraph shall be made at a rate sufficient to produce \$7,346,593	\$7,346,593
2100-0013	For the operation of the transportation division	\$461,489

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- 2100-0014 For the department of public utilities which may expend for the operation of the energy facilities siting board an amount not to exceed \$75,000 from application fees collected in fiscal year 2010 and prior fiscal years from utility companies \$75,000
- 2100-0015 For the department of public utilities which may expend for the operation of the transportation division an amount not to exceed \$2,300,000 from unified carrier registration fees collected in fiscal year 2010 and prior fiscal years from motor carrier companies \$2,300,000

Department of Environmental Protection.

- 2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research; provided, that section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws \$29,754,601
- 2200-0102 For the department of environmental protection which may expend an amount not to exceed \$903,817 from revenues collected from fees collected from wetland permits; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that the department shall submit a report by January 11, 2010 on implementation of the wetlands fee, the amount of the fee increase and the revenue that has been collected; and provided further, that the wetlands fees that will be directed into the General Fund shall not be lower than the amount deposited at the end of fiscal year 2004 \$903,817
- 2200-0107 For redemption centers; provided, that the department of environmental protection shall expend the funds appropriated in this item for a program to preserve the continuing ability of redemption centers to maintain operations in pursuit of the commonwealth's recycling goals consistent with section 323

	of chapter 94 of the General Laws; provided further, that for the purposes of this item and said chapter 94, a redemption center shall be any business registered with the commonwealth whose primary purpose is the redemption of reusable beverage containers; provided further, that the program shall take into consideration the volume of redeemables per redemption center, the length of time the center has been in operation, the number of returnables redeemed quarterly by the centers, the submission by the centers of documentation of their redeemed returnables to the department and the costs of transportation, packing, storage and labor; and provided further, that a redemption center shall be eligible for the funds if registered with the commonwealth as of April 1, 2003	\$475,000
2210-0100	For the implementation and administration of chapter 21I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means not later than February 1, 2010 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with said chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 21I	\$831,182
2220-2220	For the administration and implementation of the federal Clean Air Act, including the operating permit program, the emissions banking program, the auto-related state implementation program, the low emission vehicle program, the non-auto-related state implementation program, and the commonwealth's commitments under the New England Governors/Eastern Canadian Premiers Action Plans for reducing acid rain deposition and mercury emissions	\$983,303
2220-2221	For the administration and implementation of the operating permit and compliance program required under the federal Clean Air Act	\$1,957,473
2250-2000	For the purpose of state implementation of the federal Safe Drinking Water Act under section 18A of chapter 21A of the General Laws	\$1,576,198
2260-8870	For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding section 4 of chapter 21J of the General Laws	\$15,419,520
2260-8872	For the brownfields site audit program	\$1,456,260

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2260-8881 For the operation of the board of registration of hazardous waste site cleanup professionals, notwithstanding section 19A of chapter 21A of the General Laws \$342,117

Department of Fish and Game.

2300-0100 For the office of the commissioner; provided, that the commissioner's office shall assess and receive payments from the division of marine fisheries, the division of fisheries and wildlife, the public access board, the riverways programs, and all other programs under the control of the department of fish and game; provided further, that the purpose of those assessments shall be to cover appropriate administrative costs of the department, including but not limited to payroll, personnel, legal and budgetary costs; provided further, that the amount and contribution from each division or program shall be determined by the commissioner of fish and game; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than October 1, 2009 that details the level of assessments to each department under the control of the office of the commissioner in fiscal years 2008 and 2009 \$678,762

2300-0101 For a program of riverways protection, restoration and promotion of public access to rivers, including grants to public and nonpublic entities; provided, that the positions funded in this item shall not be subject to chapter 31 of the General Laws \$431,783

2310-0200 For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fisheries and wildlife programs, and for certain programs reimbursable under the federal Aid to Fish and Wildlife Restoration Act; provided, that funds from this item shall be made available to the University of Massachusetts Amherst for the purposes of wildlife and fisheries research in an amount not to exceed the amount received in fiscal year 2009 for such research; provided further, that the department may expend the amount necessary to restore anadromous fish

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in the Connecticut and Merrimack river systems; provided further, that expenditures for such programs shall be contingent upon prior approval of the proper federal authorities for reimbursement of at least 75 per cent of the amount so expended; and provided further, that funds shall be expended for the natural heritage and endangered species program		\$9,206,561
Inland Fisheries and Game Fund		100.0%
2310-0306 For the hunter safety training program		\$401,130
Inland Fisheries and Game Fund		100.0%
2310-0316 For the purpose of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections 2A and 2C of chapter 131 of the General Laws; provided, that funds shall not be expended from this item in the AA object class for the compensation of state employees assigned to any item		\$1,000,000
Inland Fisheries and Game Fund		100.0%
2310-0317 For the waterfowl management program established pursuant to section 11 of chapter 131 of the General Laws		\$45,000
Inland Fisheries and Game Fund		100.0%
2320-0100 For the administration of the public access board, including the maintenance, operation, and improvements of public access land and water areas; provided, that positions funded in this item shall not be subject to chapter 31 of the General Laws		\$513,182
2330-0100 For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research laboratory, marine research programs, a commercial fisheries program, a shellfish management program, including coastal area classification, mapping and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that funds shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the sum expended for the school for marine science and technology for research to minimize the economic impact of new fisheries management regulations shall not be reduced from fiscal year 2009 levels except in proportion to adjustments consistent with the department's budget adjustments; and provided further, that		

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	the division shall continue to develop strategies to improve federal regulations governing the commercial fishing industry so as to promote sustainable fisheries	\$4,720,397
2330-0120	For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff and the maintenance and updating of data	\$567,563
2330-0121	For the division of marine fisheries to utilize reimbursable federal sportfish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that the division of marine fisheries may expend revenues up to \$217,989 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing	\$217,989

Department of Agricultural Resources.

2511-0100	For the operation of the department of agricultural resources, including the division of administration, the expenses of the board of agriculture, the division of dairy services, division of regulatory services, the division of animal health, the division of agricultural technical assistance, the division of crop management and inspectional services, including a program of laboratory services at the University of Massachusetts Amherst, the pesticides board, and the division of agricultural development and fairs; provided, that funds may be expended for the statewide 4-H program	\$4,783,708
2511-0105	For the purchase of supplemental foods for the emergency food assistance program within the feeding America nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall reflect the feeding America allocation formula, to benefit the 4 regional food banks in the commonwealth; and provided further, that the department may assess an administrative charge not to exceed 2 per cent of the total appropriation herein	\$12,000,000
2511-3002	For the integrated pest management program	\$287,945

Department of Conservation and Recreation.

2800-0100 For the operation of the department of conservation and recreation; provided, that said department shall enter into an interagency service agreement with the department of state police to provide police coverage on department of conservation and recreation properties and parkways; provided further, that the department of state police shall reimburse said department of conservation and recreation for costs incurred by said department including, but not limited to, vehicle maintenance and repairs, the operation of department of state police buildings and other related costs; provided further, that notwithstanding any general or special law to the contrary, all offices and positions of the division performing construction activities for the department of conservation and recreation shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that notwithstanding section 3B of chapter 7 of the General Laws, the department shall establish or renegotiate fees, licenses, permits, rents and leases, and adjust or develop other revenue sources to fund the maintenance, operation and administration of the department; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 15, 2010; provided further, that notwithstanding any general or special law to the contrary, the department shall continue to fund a maintenance contract pursuant to item 2440-2014 of section 2 and section 29 of chapter 236 of the acts of 2002; provided further, that no funds shall be expended from this item for personnel overtime costs; provided further, that the department of conservation and recreation shall provide the house and senate committees on ways and means with a 30 day notice before any intersubsidary transfers or interagency service agreements and the reason for said transfer; provided further, that the amount transferred pursuant to interagency service agreements shall not increase from fiscal year 2009; and provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned

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	to that item after August 1, 2004, shall not be paid from any other item of appropriation	\$4,740,855
2800-0101	For the watershed management program to operate and maintain reservoirs, watershed lands and related infrastructure of the department and the office of water resources in the department of conservation and recreation; provided, that the amount of the payment shall be charged to the General Fund and shall not be included in the amount of the annual determination of fiscal year charges to the Massachusetts Water Resources Authority assessed to the authority under the General Laws; provided further, that the department shall continue to make payments pursuant to chapter 616 of the acts of 1957, as amended by section 89 of chapter 801 of the acts of 1963; and provided further, that the department shall continue to make payments pursuant to chapter 307 of the acts of 1987 for the use of certain land	\$1,250,528
2800-0401	For a program to provide stormwater management for all properties and roadways under the care, custody and control of the department of conservation and recreation; provided, that the department shall develop and implement a stormwater management program in compliance with federal and state stormwater management requirements; provided further, that the department shall inventory all existing stormwater infrastructure, assess its current stormwater practices, analyze long term capital and operational needs, and develop a stormwater management plan to comply with federal and state regulatory requirements; and provided further, that in order to protect public safety and to protect water resources for water supply, recreational and ecosystem uses, the department shall immediately implement interim stormwater management practices including, but not limited to, street sweeping, inspection and cleaning of catch basins, and emergency repairs to roadway drainage	\$731,258
2800-0501	For the operation of the beaches, pools and spray pools under the control of the department of conservation and recreation; provided, that the seasonal hires of the department of conservation and recreation's parks, beaches, pools and spray pools be paid from this item; provided further, that all beaches, pools and spray pools shall remain open and staffed from Memorial Day through Labor Day; provided further, that the beaches, pools and spray pools shall be fully maintained;	

provided further, that the department shall file quarterly reports with the house and senate committee on ways and means relative to the seasonal staffing levels at all of the department's facilities, which shall include, but not be limited to, the following: (a) the number of seasonal employees assigned to each facility; (b) the total amount of funding spent on seasonal employees at each facility; (c) the total amount of funding spent on each facility; and (d) the services and materials provided to each facility; provided further, that no funds from this item shall be expended for year-round seasonal employees; provided further, that seasonal employees who are hired before the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year 2009 shall continue to receive such benefits in fiscal year 2010 during the period of their seasonal employment; provided further, that no expenditures shall be made from this item other than for the purposes identified in this item; provided further, that notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this item shall be positions requiring the services of an incumbent, on either a full-time or less than full-time basis beginning not earlier than April 1 and ending not later than November 30, or beginning not earlier than September 1 and ending not later than April 30; and provided further, that notwithstanding said section 1 of said chapter 31, seasonal positions funded by this item shall not be filled by an incumbent for more than 8 months within a 12-month period

.....	\$13,135,383
2800-0700 For the office of dam safety; provided, that the department shall, in collaboration with the department of environmental protection and the department of fish and game, establish and maintain a comprehensive inventory of all dams, and develop a coordinated permitting and regulatory approach to dam removal for stream restoration and public safety; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than December 14, 2009, that shall include, but not be limited to, the following: (a) the number of staff that are assigned from this item and their job title; (b) the number of dam inspections that are scheduled for fiscal year 2010; and (c) the number of	

	dams that are in need of repair or replacement	\$427,428
2810-0100	For the operation of the department's state and urban parks; provided, that funds appropriated in this item shall be used to operate all of the division's parks, parkways, boulevards, roadways, bridges, and related appurtenances under the care, custody, and control of the division, flood control activities of the division, reservations, campgrounds, beaches and pools and for the oversight of rinks, to protect and manage the division's lands and natural resources, including the forest and parks conservation services and the bureau of forestry development; provided further, that the crossing guards located at department of conservation and recreation intersections shall continue to perform the duties where state police previously performed such duties; provided further, that the parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the department of conservation and recreation; provided further, that no funds from this item shall be made available for payment to true seasonal employees; provided further, that the rinks under the control of the department shall remain open and staffed for the full rink season; provided further, that the department may issue grants to public and nonpublic entities from this item; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means relative to the staffing levels at all state and urban parks, which shall include, but not be limited to, the following: (a) the number of staff assigned to each park; (b) the total number of visitors to each park; (c) the total acreage of each park; and (d) the amount of funding spent on each park; and provided further, that funds may be expended for the purposes set out in item 2800-9004 of section 2 of chapter 182 of the acts of 2008	\$46,683,361
	General Fund	94.21%
	Commonwealth Transportation Fund	5.79%
2810-2041	For the division of state parks and recreation which may expend not more than \$5,682,326 from revenue collected from fees charged by the division, including revenues collected from campsite reservation transactions from the automated campground reservation and registration program for additional expenses, upkeep and improvements to the parks	

	and recreation system and for the personnel costs of seasonal employees; provided, that no funds from this item shall be expended for the costs of full-time equivalent personnel; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that no expenditures made in advance of the receipts shall be permitted to exceed 75 per cent of the amount of revenues projected by the first quarterly statement required by section 1B; provided further, that the comptroller shall notify the house and senate committees on ways and means at the time subsequent quarterly statements are published of the variance between actual and projected receipts in each such quarter and the implications of that variance for expenditures made; and provided further, that the division may issue grants to public and nonpublic entities from this item	\$5,682,326
2820-0101	For the costs associated with the department's urban park rangers specific to the security of the state house; provided, that funds appropriated in this item shall only be expended for the costs of security and urban park rangers at the state house	\$1,541,621
2820-1000	For the division of urban parks and recreation which may expend not more than \$200,000 from revenue collected pursuant to section 34B of chapter 92 of the General Laws	\$200,000
2820-1001	For the division of urban parks and recreation which may expend not more than \$50,000 from revenue collected for the operation and maintenance of the division's telecommunications system from revenues received from the Massachusetts Water Resources Authority, the Massachusetts Convention Center Authority, the department of highways, the Central Artery/Ted Williams Tunnel Project, the department of state police and quasi-public and private entities through a system of user fees and other charges established by the commissioner of conservation and recreation; provided, that nothing in this item shall impair or diminish the rights of access and utilization of all current users of the system under agreements previously entered into; and provided further, that this item may be reimbursed by political subdivisions of the	

	commonwealth and private entities for direct and indirect costs expended by the division to maintain the telecommunications system	\$50,000
2820-2000	For the operation of street lighting and the expenses of maintaining the parkways of the department of conservation and recreation, including the costs of personnel and snow and ice removal expenses; provided, that the department of conservation and recreation shall take all measures to ensure that the department's snow and ice control efforts are efficient and cost effective; provided further, that the secretary of energy and environmental affairs shall submit to the house and senate committees on post audit and oversight and the house and senate committees on ways and means a report detailing a snow emergency plan for roads, bridges and sidewalks under the care of the department of conservation and recreation by January 14, 2010; provided further, that the secretary of energy and environmental affairs shall submit to the house and senate committees on post audit and oversight, and the house and senate committees on ways and means a report not later than September 1, 2009, which shall include, but not be limited to, the following: (a) a list of amounts paid from state appropriations for snow and ice control efforts for fiscal years 2008 and 2009; and (b) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; provided further, that the department of conservation and recreation shall take all measures to further ensure that said department's street lighting efforts are efficient and cost effective; and provided further, that said department shall implement a plan to achieve efficiencies and reduce lighting costs	\$5,760,021
	Commonwealth Transportation Fund	100%
2820-3001	For the division of urban parks and recreation which may expend not more than \$1,000,000 from revenue collected from skating rink fees and rentals for the operation and maintenance, including personnel costs, of 4 rinks between September 1, 2009, and April 30, 2010, for an expanded and extended rink season; provided, that when assigning time for the use of its rinks, the division shall give priority to those which qualify under applicable state and federal law as nonprofit organizations or as a public school	\$1,000,000

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2820-4420	For the operation and maintenance of the Ponkapoag golf course; provided, that the division of urban parks and recreation may expend not more than \$1,098,236 from revenue collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account shall be positions requiring the services of an incumbent on either a full-time or less than a full-time basis beginning not earlier than April 1 and ending not later than November 30	\$1,098,236
2820-4421	For the operation and maintenance of the Leo J. Martin golf course; provided, that the division of urban parks and recreation may expend not more than \$824,790 from revenue collected from fees generated by the golf course; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, notwithstanding section 1 of chapter 31 of the General Laws, seasonal positions funded by this account shall be positions requiring the services of an incumbent on either a full-time or less than a full-time basis beginning not earlier than April 1 and ending not later than November 30	\$824,790

Department of Energy Resources.

7006-1001	For the residential conservation service program under chapter 465 of the acts of 1980, and the commercial and apartment conservation service program pursuant to section 11A of chapter 25A of the General Laws	\$199,326
7006-1003	For the operation of the department of energy resources; provided, that notwithstanding any general or special law to the contrary, the amount assessed under section 11H of chapter 25A of the General Laws shall be equal to the amount expended from this item	\$2,938,678

Department of Early Education and Care.

- 3000-1000 For the administration of the department of early education and care and the costs of field operations and licensing provided through the department; provided, that the department shall report on the first business day of each month to the joint committee on education, the joint committee on children, families and persons with disabilities, the house and senate committees on ways and means, and the secretary of administration and finance on the unduplicated number of children on waiting lists for state-subsidized early education and care programs and services, including supportive child care services; and provided further, that notwithstanding chapter 66A of the General Laws, the department of early education and care, the lead agencies of community partnership councils, the child care resource and referral agencies, the department of elementary and secondary education, the department of transitional assistance, the department of children and families and the department of public health may share with each other personal data regarding the parents and children who receive services provided under early education and care programs administered by the commonwealth for waitlist management, program implementation and evaluation, reporting, and policy development purposes \$11,944,704
- 3000-2000 For regional administration and coordination of services provided by child care resource and referral agencies; provided, that funding for activities shall include, but not be limited to, administrative costs of these agencies, program coordination and support, voucher management, outreach to hard-to-reach populations, intake and eligibility services for families seeking financial assistance to enroll in early education and care programs, resource and referral for families with disabilities in child care programs, maintenance of the department's centralized waiting list for state-subsidized early education and care, and walk-in services for homeless families \$9,782,724
- 3000-2050 For the administration of the Children's Trust Fund; provided, that the department shall not exercise any supervision or control with respect to the board \$1,154,572
- 3000-3050 For supportive early education and care services; provided, that funds from this item shall only be expended for early education and care costs of children with active cases at the

department of children and families; provided further, that the department of early education and care, in collaboration with the department of children and families, shall maintain a centralized list detailing the number of children eligible for services in this item, the number of supportive slots filled, and the number of supportive slots available; provided further, that no waiting list for the services shall exist; provided further, that all children eligible for services under this item shall receive those services; provided further, that if the department determines that available appropriations for this program will be insufficient to meet projected expenses, the commissioner shall file with the house and senate committees on ways and means and the secretary of administration and finance, a report detailing the amount of appropriation needed to address such deficiency; and provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000, 3000-4050 and 3000-4060, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days before the transfer \$77,836,888

3000-4050 For financial assistance for families currently involved with or transitioning from transitional aid to families with dependent children to enroll in an early education and care program; provided, that early education and care shall be available to former participants who are working for up to 1 year after termination of their benefits; provided further, that post-transitional early education and care benefits shall be provided to participants who are working for up to 1 year after the transitional period; provided further, that the department shall issue monthly reports detailing the number and average cost of voucher and contracted slots funded from this item and item 3000-3050; provided further, that the department may provide early education and care benefits to parents who are under 18 years of age, who are currently enrolled in a job training program, and who would qualify for benefits under chapter 118 of the General Laws but for the deeming of the grandparents' income; provided further, that all teens eligible for year-round, full-time early education and care services shall be participating in school, education, work and training-

related activities or a combination thereof for at least the minimum number of hours required by regulations; provided further, that recipients shall not be charged fees for care provided under this item; provided further, that early education and care slots funded from this item shall be distributed geographically in a manner that provides fair and adequate access to early education and care for all eligible individuals; provided further, that informal early education and care benefits may be funded from this item; provided further, that not more than \$2 per child per hour shall be paid for the services; provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000 and 3000-4060, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 30 days before the transfer; and provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2010 \$116,232,279

3000-4060 For income-eligible early education and care programs; provided further, that teen parents at risk of becoming eligible for transitional aid to families with dependent children may be paid from this item; provided further, that informal early education and care benefits for families meeting income-eligibility criteria may be funded from this item; provided further, that not more than \$2 per child per hour shall be paid for the services; provided further, that early education and care slots funded from this item shall be distributed geographically in a manner that provides fair and adequate access to early education and care for all eligible individuals; provided further, that the department may expend funds from this item on grants to support inclusive learning environments; provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000 and 3000-4050, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 30 days before the transfer; provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2010; provided further, that

said plan shall be forwarded to the house and senate chairs of the joint committee on education, the chairs of the house and senate ways and means committees, and the secretary of administration and finance; and provided further, that any payment made under any such grant with a school district shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without municipal appropriation, notwithstanding any general or special law to the contrary . . \$273,572,478

3000-5000 For grants to head start programs; provided, that funds from this item may be expended on early head start programs \$8,000,000

3000-5075 For the Massachusetts Universal Pre-Kindergarten Program; provided, that funds from this item shall be expended on grants to improve the quality of and expand access to preschool programs and services to children from the age of 2 years and 9 months until they are kindergarten eligible; provided further, that in awarding grant funds under this program, preference shall be given to establishing preschool classrooms in towns and cities with schools and districts at risk of or determined to be under-performing in accordance with sections 1J and 1K of chapter 69 of the General Laws, schools and districts which have been placed in the accountability status of identified for improvement, corrective action, or restructuring pursuant to departmental regulations, or which have been designated commonwealth priority schools or commonwealth pilot schools pursuant to said regulations, schools or districts with a high percentage of students scoring in levels 1 and 2 on the MCAS exams, or programs which serve children not less than 50 per cent of whom are from families earning at or below 85 per cent of the state median income; provided further, that funds may also be used to leverage and enhance community-wide capacity building efforts within statewide parameters established by the board; provided further, that any newly-funded programs designated as Massachusetts Universal Pre-Kindergarten Program participants shall have been accredited by the National Association for the Education of Young Children, the New England Association of Schools and Colleges, the National Association of Family Child Care or a Child Development Associate (CDA) credential or higher; provided further, that programs receiving grant funds may use the funds to enhance

teacher and staff quality and compensation, enhance program ability to interpret and use assessment data effectively, enhance developmentally-appropriate practice, incorporate ancillary services into the program, facilitate or provide access to wrap-around services for working families, or to increase capacity to expand access to age-eligible children on the centralized waitlist maintained by the department; provided further, that preference shall be given in awarding grants to those programs which demonstrate affordability for middle class and working class parents according to standards to be developed by the department; and provided further, that any payment made under any such grant with a school district shall be deposited with the treasurer of such city, town, or regional school district and held as a separate account and shall be expended by the school committee of such city, town, or regional school district without municipal appropriation, notwithstanding any general or special law to the contrary . . . \$8,000,000

3000-6000 For the establishment of a statewide network of supports for early education and care programs to advance the quality of their services to children; provided, that supports funded through this item shall include, but not be limited to, curriculum development, child assessment systems, activities that encourage providers to obtain associate and bachelor degrees, payment of fees and direct assistance to programs seeking accreditation by agencies approved by the board, and professional development courses; provided further, that eligible recipients for such grants shall include, but not be limited to, community partnership councils, municipal school districts, regional school districts, educational collaboratives, head start programs, licensed child care providers, and child care resource and referral centers; provided further, that supports funded through this item shall be in alignment with the quality requirements of the Massachusetts Universal Pre-Kindergarten Program and the development of the quality rating and improvement system; provided further, that the department shall encourage and support early childhood education and care providers to obtain associate and bachelor degrees through professional development programs, including, but not limited to, the building careers program model; and provided further, that where possible, funds from

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	this line item shall be coordinated with funding from item 3000-7050	\$14,080,868
3000-6075	For early childhood mental health consultation services in early education and care programs in the commonwealth; provided, that preference shall be given to those services designed to limit the number of expulsions and suspensions from said programs; and provided further, that eligible recipients for such grants shall include community partnership councils, municipal school districts, regional school districts, educational collaboratives, head start programs, licensed child care providers, child care resource and referral centers and other qualified entities	\$1,000,000
3000-7000	For statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns to be administered by the Children’s Trust Fund; provided, that the department shall collaborate with the Children’s Trust Fund, whenever feasible and appropriate, to coordinate services provided through this item with services provided through item 3000-7050 in order to ensure that parents receiving services through this item are aware of all opportunities available to them and their children through the department; provided further, that such services shall be made available statewide to parents under the age of 21 years; provided further, that notwithstanding any general or special law to the contrary, priority for such services shall be given to low-income parents; and provided further, that the Children’s Trust Fund shall issue a report to the joint committee on education and the house and senate committees on ways and means, not later than February 15, 2010, detailing the expenditure of state funds appropriated herein	\$10,688,407
3000-7050	For grants to programs that improve the parenting skills of participants in early education and care programs in the commonwealth: Mass Family Networks, Parent-Child Home Program, and Reach Out and Read; provided, that the department shall distribute said grants no later than August 31, 2009, in order to allow a full year of service for families involved in these programs; and provided further, that the department shall, to the maximum extent feasible, coordinate services provided through this item with services provided through items 3000-6000 and 3000-7000 in order to ensure that parents receiving services through this item are aware of	

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all opportunities available to them and their children through
the department \$5,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

- 4000-0050 For the operation of the personal care attendant quality workforce council established under section 29 of chapter 118G of the General Laws \$187,751
- 4000-0112 For matching grants to the Massachusetts Alliance of Boys & Girls Clubs, YMCA and YWCA organizations, nonprofit community centers, and youth development programs; provided, that the secretary of the executive office of health and human services shall award the full amount of each grant to each organization upon commitment of matching funds from the organization \$1,500,000
- 4000-0265 For a primary care workforce development and loan forgiveness grant program at community health centers, for the purpose of enhancing recruitment and retention of primary care physicians and other clinicians at community health centers throughout the commonwealth; provided, that the grant program shall be administered by the Massachusetts League of Community Health Centers in consultation with the secretary of the executive office of health and human services and relevant member agencies; provided further, that the funds shall be matched by other public and private funds; and provided further, that the League shall work with said secretary and said agencies to maximize all sources of public and private funds \$850,000
- 4000-0300 For the operation of the executive office, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the executive office and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services, and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies

under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated in this item shall be expended for administrative and contracted services related to the implementation and operation of programs authorized by chapter 118E of the General Laws; provided further, that funds may be expended for the operation of the office of health equity within the executive office of health and human services; provided further, that subject to appropriation, the executive office of health and human services may employ such additional staff or consultants as it may deem necessary; provided further, that the office may prepare an annual health disparities report card with regional disparities data, evaluate effectiveness of interventions, and replicate successful programs across the commonwealth; provided further, that the office shall work with a disparities reduction program with a focus on supporting efforts by community-based health agencies and community health workers to eliminate racial and ethnic health disparities, including efforts addressing social factors integral to such disparities; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed the rates that are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated for programs authorized by chapter 118E of the General Laws shall be accounted for in the Massachusetts management accounting and reporting system not more than 10 days after the expenditures have been made by the Medicaid management

information system; provided further, that no expenditures shall be made that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 1115(a) of said Social Security Act or the community first section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, except as specifically authorized herein, or unless made for cost containment efforts, the purposes and amounts of which have been submitted to the executive office of administration and finance and the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office may continue to recover provider overpayments made in the current and prior fiscal years through the Medicaid management information system, and that these recoveries shall be considered current fiscal year expenditure refunds; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under said chapter 118E for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that the executive office shall develop a process whereby all participating providers who have signed the Virtual Gateway Services Agreement shall have access to the contents of the consolidated summary of any individual's application submitted through the virtual gateway; provided further, that said information access shall comply with all HIPAA requirements and state privacy laws; provided further, that not

	later than September 1, 2009, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing planned fiscal year 2010 expenditures by the executive office as funded by chargebacks to the 17 executive office cluster agencies; provided further, that any projection of deficiency in item 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 or 4000-1405 shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that any unexpended balance in these accounts shall revert to the General Fund on June 30, 2010 . . .	\$95,375,349
4000-0301	For the costs of MassHealth provider and member audit and utilization review activities including, but not limited to, eligibility verification, disability evaluations, provider financial and clinical audits, and other initiatives intended to enhance program integrity	\$1,747,904
4000-0320	The executive office of health and human services may expend for medical care and assistance rendered in the current year an amount not to exceed \$225,000,000 from the monies received from recoveries and collections of any current or prior year expenditures; provided, that notwithstanding any general or special law to the contrary, the balance of any personal needs accounts collected from nursing and other medical institutions upon a medical assistance member's death and held by the executive office for more than 3 years may be credited to this item; and provided further, that no funds from this item shall be used for the purposes of item 4000-0300	\$225,000,000
4000-0355	For the operation of a health care quality and cost council established in section 16K of chapter 6A of the General Laws to promote high-quality, cost-effective, patient-centered care; provided, that the council shall file quarterly reports with the house and senate committees on ways and means delineating the progress made pursuant to the goals stated in said section 16K of said chapter 6A	\$946,256
4000-0360	For the health care quality and cost council established pursuant to section 16K of chapter 6A of the General Laws; provided, that the council may expend an amount not to exceed \$100,000 from the monies received from the sale of data reports	\$100,000

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4000-0430 For the CommonHealth program to provide primary and supplemental medical care and assistance to disabled adults and children under sections 9A, 16 and 16A of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that the executive office shall maximize federal reimbursement for state expenditures made on behalf of such adults and children; provided further, that children shall be determined eligible for the medical care and assistance if they meet the disability standards as defined by the executive office, which standards shall be no more restrictive than the standards in effect on July 1, 1996; and provided further, that the executive office shall process CommonHealth applications within 45 days of receipt of a completed application or within 90 days if a determination of disability is required \$103,393,987

4000-0500 For health care services provided to medical assistance recipients under the executive office's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the executive office and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive, and clause (h) of subsection (2) of section 9A of chapter 118E of the General Laws and section 16C of said chapter 118E; provided, that no funds shall be expended from this item for children and adolescents under clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by the executive office, exceed 150 per cent of the federal poverty level; provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provider further, that funds may be expended from this item to enhance the ability of hospitals, community health centers, and primary care clinicians to serve populations in need more efficiently and effectively; provided further, that the executive office shall maximize federal reimbursements for state expenditures made to these providers; provided further, that in conjunction with the new Medicaid management information system, said ex-

ecutive office shall continue to study the feasibility of modifying its claim payment system, in collaboration with the MassHealth behavioral health contractor, to routinely process for payment valid claims for medically-necessary covered medical services to eligible recipients with psychiatric and substance abuse diagnoses on a timely basis in an effort to avoid delay and expenses incurred by lengthy appeals processes; provided further, that rates of payment from the Commonwealth Care and the Medicaid managed care plans to acute care hospitals shall be subject to negotiation between those health plans and hospitals; provided further, that the Commonwealth Care and the Medicaid managed care plan rates for acute care hospitals shall not be promulgated by regulation nor stipulated in the MassHealth Request For Applications (RFA); provided further, that the executive office of health and human services, in order to promote continuity of patient care and access to cost-effective health care services, may require an acute care hospital, as a condition of participating in the Medicaid program, to accept Medicaid fee-for-service rates of reimbursement for out-of-network care delivered to MassHealth and Commonwealth Care members enrolled in a Medicaid managed care organization that does not have a contract with said hospital; provided further, that the executive office shall incorporate no greater than \$30 million in total savings attributable directly to the implementation of said requirement; and provided further, that notwithstanding any general or special law to the contrary, the secretary of health and human services shall not, without prior written or verbal consent, reassign the behavioral health benefit of any eligible person to a managed care plan under contract with the office of MassHealth if the benefit is already managed by MassHealth's specialty behavioral health managed care contractor \$3,460,433,164

Executive Office of Elder Affairs.

4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years; provided further, that funds shall be expended for

the “community choices” initiative; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2009; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2009; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the “community choices” initiative in fiscal year 2010 delineated by the federal poverty level; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further, care management under section 3 of chapter 211 of the acts of 2006 shall be implemented through Aging & Disability Resource Consortia, which shall include a combination of 1 or more Aging Services Access Points and Independent Living Centers; provided further, that not less than \$2,500,000 shall be expended from this item to implement the provisions of section 2 of chapter 211 of the acts of 2006, the pre-admission counseling and assessment program, which shall be implemented on a statewide basis through aging and disability resource consortia; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or non-acute chronic disease hospital that provides kosher food to its residents, the department, in consultation with the division, in recognition of the unique special innovative program status granted by the executive office, shall continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that notwithstanding any general or special law to the contrary, nursing facility rates effective July 1, 2009 may be developed using the costs of calendar year 2005; provided further, that

funds shall be expended for the purpose of a housing with services demonstration project known as the ‘Caring Homes’ initiative designed to delay or prevent nursing home placement by providing care-giving services to an elder; provided further, that under said demonstration project, eligible MassHealth enrollees shall be able to live in the home of an individual or relative, with the exception of spouses and dependent children, to provide for their long term supports, pursuant to regulations promulgated by said executive office; provided further, that not later than December 1, 2009, the secretary of the executive office of health and human services shall submit a report to the house and senate committees on ways and means on the implementation of the commonwealth’s Olmstead Plan to date; and provided further, that the secretary of elder affairs and the director of the office of Medicaid shall provide a monthly report to the secretary of administration and finance and to the house and senate committees on ways and means showing Medicaid nursing facility utilization in the current fiscal year compared to Medicaid nursing facility utilization in the same period for the prior fiscal year \$2,139,610,628

4000-0640 For nursing facility Medicaid rates; provided, that notwithstanding any general or special law to the contrary, in fiscal year 2010 the division of health care finance and policy shall establish nursing facility Medicaid rates that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002; provided further, that funds shall be expended in an amount not less than that appropriated in fiscal year 2009 for purposes of reimbursing nursing facilities for up to 10 bedhold days for patients of the facility on medical and non-medical leaves of absence; provided further, that an amount for expenses related to the collection and administration of section 25 of chapter 118G of the General Laws shall be transferred to the division of health care finance and policy; and provided further, that the payments made pursuant to this item shall be allocated in an amount sufficient to implement section 622 of chapter 151 of the acts of 1996 \$288,500,000

Executive Office of Health and Human Services.

4000-0700 For health care services provided to medical assistance recipients under the executive office's health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the executive office's managed care or senior care plans, and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive and clause (h) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws; provided, that no payments for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that no funds shall be expended from this item for children and adolescents under clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by the executive office, exceed 150 per cent of the federal poverty level; provided further, that children who have aged out of the custody of the department of children and families shall be eligible for benefits until they reach age 21; provided further, that funds shall be expended from this item for members who qualify for early intervention services; provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years; provided further, that \$25,000,000 shall be expended from this item, or item 4000-0500, if necessary to achieve maximum federal financial participation, to enhance the ability of hospitals, community health centers and primary care clinicians to serve populations in need more efficiently and effectively; provided further, that the executive office shall maximize federal reimbursements for state expenditures made to these providers; provided further, that notwithstanding the foregoing, funds may be expended from this item for the purchase of third party insurance including, but not limited to, Medicare for any medical assistance recipient; provided further, that the executive office may reduce MassHealth premiums or copayments or offer other incentives to encourage enrollees to comply with wellness goals; provided further, that the executive office shall not, in fiscal year 2010, fund programs relating to case management with the intention

of reducing length of stay for neonatal intensive care unit cases; provided further, that the division of health care finance and policy and the executive office of health and human services shall establish a new rate methodology to cover the cost of care provided by any facility licensed by the department of public health as a chronic disease hospital providing services solely to children and adolescents as follows: (1) the rate of reimbursement for any such facility shall be developed collaboratively through an agreement among the office of Medicaid, the division of health care finance and policy and any such facility; (2) the reimbursement rate for any such facility shall incorporate the following components: (a) utilization of the reimbursement methodology used by the division and the executive office of health and human services to determine payments for Medicaid disproportionate share pediatric hospitals in effect in 2007 utilizing the most recently filed 403 cost report with the division and the payments received from Medicaid-eligible patients for the base period; (b) a per-diem rate for inpatient and a payment on account factor for outpatient shall be established which reimburses the full unrecovered cost, including capital; and (c) the rates shall be inflated over the base period by the applicable Medicare market basket inflation factors; and (3) notwithstanding any general or special law to the contrary, in no event shall the rates of payment be lower than the rates in effect for such facility in the prior fiscal year; provided further, that funds may be expended from this item for activities relating to disability determinations or utilization management and review, including patient screenings and evaluations, regardless of whether such activities are performed by a state agency, contractor, agent or provider; and provided further, that the executive office shall submit a report to the executive office of administration and finance and the house and senate committees on ways and means not later than March 1, 2010 detailing the activities described in the preceding proviso to be expended from this item during fiscal year 2010 \$1,630,994,531

4000-0870 For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of subsection (2) of section 9A of chapter 118E of the General

	Laws; provided, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years	\$155,139,729
4000-0875	For the provision of benefits to eligible women who require medical treatment for either breast or cervical cancer in accordance with section 1902(a)(10)(A)(ii)(XVIII) of the Breast and Cervical Cancer Prevention and Treatment Act of 2000, Public Law 106-354, and in accordance with section 10D of chapter 118E of the General Laws; provided, that the executive office shall provide those benefits to women whose income, as determined by the executive office, does not exceed 250 per cent of the federal poverty level, subject to continued federal approval; provided further, that eligibility for the benefits shall be extended solely for the duration of the cancerous condition; provided further, that before the provision of any benefits covered by this item, the executive office shall require screening for either breast or cervical cancer at the comprehensive breast and cervical cancer early detection program operated by the department of public health, in accordance with item 4570-1512 of section 2D; and provided further, that funds may be expended from this item for health care services provided to these recipients in prior fiscal years	\$4,189,558
4000-0880	For MassHealth benefits under clause (c) of subsection (2) of section 9A and section 16C of chapter 118E of the General Laws for children and adolescents whose family incomes as determined by the executive office are above 150 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to the children and adolescents in prior fiscal years	\$205,717,702
4000-0890	For the cost of health insurance subsidies paid to employees and employers of small businesses in the insurance reimbursement program under section 9C of chapter 118E of the General Laws, as amended by chapter 58 of the acts of 2006	\$52,140,011
4000-0895	For the healthy start program to provide medical care and assistance to pregnant women and infants residing in the commonwealth pursuant to section 10E of chapter 118E of the General Laws; provided, that the executive office shall, not later than February 16, 2010, report to the house and senate committees on ways and means on the population served by the program delineated by the federal poverty level;	

	and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years	\$17,200,673
4000-0950	For the purposes of administrative and program expenses associated with the children’s behavioral health initiative, in accordance with the settlement agreement in the case of Rosie D. et al. v. Romney, United States District Court for the District of Massachusetts civil action No. 01-30199-MAP, to provide comprehensive, community-based behavioral health services to children suffering from severe emotional disturbances; provided, that the secretary of health and human services shall report quarterly to the house and senate committees on ways and means relative to implementation of the initiative; and provided further, that such quarterly reports shall include, but not be limited to, details of the implementation plan, results of the scheduled plan to date, including a schedule detailing commencement of services and associated costs by service type, and an analysis of compliance with the terms of the settlement agreement to date	\$68,000,000
4000-0990	For the children’s medical security plan to provide primary and preventive health services for uninsured children from birth through age 18; provided, that the executive office shall prescreen enrollees and applicants for Medicaid eligibility; provided further, that no applicant shall be enrolled in the program until the applicant has been denied eligibility for the MassHealth program; provided further, that the MassHealth benefit request shall be used as a joint application to determine the eligibility for both MassHealth and the children’s medical security plan; provided further, that the executive office shall maximize federal reimbursements for state expenditures made on behalf of the children; provided further, that the executive office shall expend all necessary funds from this item to ensure the provision of the maximum benefit levels for this program, as authorized by section 10F of chapter 118E of the General Laws; provided further, that the maximum benefit levels for this program shall be made available only to those children who have been determined by the executive office to be ineligible for MassHealth benefits; and provided further, that funds may be expended from this item for health care services provided to these persons in prior fiscal years	\$14,186,651

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4000-1400	For the purposes of providing MassHealth benefits to persons with a diagnosis of human immunodeficiency virus with incomes up to 200 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to these persons in prior fiscal years	\$18,078,571
4000-1405	For the operation of a program of preventive and primary care for chronically unemployed persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the executive office of health and human services to be long-term unemployed; provided, that such persons shall meet the eligibility requirements of the MassHealth program established in section 9A of chapter 118E of the General Laws; provided further, that persons eligible under subsection (7) of section 16D of said chapter 118E shall also be eligible to receive benefits under this item; provided further, that the income of such persons shall not exceed 100 per cent of the federal poverty level; provided further, that said eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis; provided further, that the provision of care to such persons under this program may, taking into account capacity, continuity of care, and geographic considerations, be restricted to certain providers; provided further, that the secretary may limit or close enrollment if necessary in order to ensure that expenditures from this item do not exceed the amount appropriated herein; provided further, however, that no such limitation shall be implemented unless the secretary has given 90 days notice to the house and senate committees on ways and means and the joint committee on health care financing; and provided further, that funds may be expended from this item for health care services provided to recipients in prior fiscal years	\$324,450,150
4000-1420	For the purposes of making payment to the federal Centers for Medicare and Medicaid Services in compliance with Title XIX of the Social Security Act	\$268,630,683
4000-1700	For the provision of information technology services within the executive office of health and human services	\$88,823,931

Office for Refugees and Immigrants.

4003-0122 For a citizenship for new Americans program to assist legal permanent residents in the commonwealth in becoming citizens of the United States; provided, that the office for refugees and immigrants shall administer the program; provided further, that the program funded by this item shall provide assistance to persons who are within 3 years of eligibility to become citizens of the United States; provided further, that services shall be designed to include: ESOL/ civics classes, citizenship application assistance, interview preparation and support services including, but not limited to, interpretation and referral services; provided further, that persons who would qualify for benefits under chapter 118A of the General Laws but for their status as legal non-citizens shall be given highest priority for services; and provided further, that persons who currently receive state-funded benefits which could be replaced, in whole or in part, by federally-funded benefits if these persons become citizens, shall be given priority for services \$250,000

Division of Health Care Finance and Policy.

4100-0060 For the operation of the division and the administration of the Health Safety Net Trust Fund established in section 36 of chapter 118G of the General Laws; provided, that notwithstanding any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of said chapter 118G for the estimated expenses of the division shall include in fiscal year 2010 the estimated expenses, including indirect costs, of the division and shall be equal to the amount appropriated in this item less amounts projected to be collected in fiscal year 2010 from: (a) filing fees; (b) fees and charges generated by the division's publication or dissemination of reports and information; and (c) federal financial participation received as reimbursement for the division's administrative costs; provided further, that the assessed amount shall not be less than 65 per cent of the total expenses appropriated for the division and the health safety net office; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the Health Safety Net Trust Fund to report to

the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly reports to the house and senate committees on ways and means compiling said data; provided further, that the division, in consultation with the executive office of health and human services, shall not promulgate any increase in Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that funds may be expended for the purposes of a survey and study of the uninsured and underinsured in the commonwealth, including the health insurance needs of the residents of the commonwealth; provided further, that said study shall examine the overall impact of programs administered by the executive office of health and human services on the uninsured, the underinsured, and the role of employers in assisting their employees in affording health insurance pursuant to section 23 of chapter 118G of the General Laws; provided further, that the division shall publish annual reports on the financial condition of hospitals and other health care providers through the Health Benchmarks project website, in collaboration with the executive office of health and human services, the office of the attorney general, and the University of Massachusetts; provided further, that the division shall submit to the house and senate committees on ways and means and the joint committee on health care financing not later than December 8, 2009 a report detailing utilization of the Health Safety Net Trust Fund; provided further, that the report shall include: (a) the number of persons in the commonwealth whose medical expenses were billed to the Health Safety Net Trust Fund in fiscal year 2009; (b) the total dollar amount billed to the Health Safety Net Trust Fund in fiscal year 2009; (c) the demographics of the population using the

Health Safety Net Trust Fund; and (d) the types of services paid for out of the Health Safety Net Trust Fund in fiscal year 2009; provided further, that the division shall include in the report an analysis on hospitals' responsiveness to enrolling eligible individuals into the MassHealth program upon the date of service rather than charging those individuals to the Health Safety Net Trust Fund; provided further, that the division shall include in the report possible disincentives the state could provide to hospitals to discourage such behavior; provided further, that notwithstanding any general or special law or rule or regulation to the contrary, the division shall not allow any exceptions to the usual and customary charge defining rule as defined in 114.3 CMR 31.02, for the purposes of drug cost reimbursement to eligible pharmacy providers for publicly-aided and industrial accident patients; provided further, that the division is hereby authorized to change the pricing standard used by said division when determining the rate of payment to pharmacy providers for prescribed drugs for publicly-aided or industrial accident patients if such a change would financially benefit the commonwealth; provided further, that within 6 months of the publication date of the federal upper limits for multiple source drugs by the federal Centers for Medicare and Medicaid Services, the division shall submit a report to the secretary of administration and finance and the house and senate committees on ways and means on the savings realized by the MassHealth Pharmacy Program for the first 3 months that the federal upper limits for multiple source drugs are in place; provided further, that using said data, the division shall estimate the program savings for the remainder of fiscal year 2010; provided further, that the division, after consultation with the secretary and the chairs of the senate and house committees on ways and means, may adjust pharmacy dispensing fees for multiple source prescription drugs to compensate for any reduction as a result of the upper limits implemented under the Deficit Reduction Act of 2005; provided further, that the division shall examine the factors that contribute to the cost increases of the health care delivery system and strategies employed by the provider community to reduce cost growth; provided further, that in preparing its report, the division shall conduct a public hearing on the matter; and provided further,

that the division shall submit its findings to the joint committees on health care financing and the house and senate committees on ways and means not later than February 16, 2010 \$17,449,078

OFFICE OF DISABILITIES AND COMMUNITY SERVICES.

Massachusetts Commission for the Blind.

- 4110-0001 For the office of the commissioner; provided, that the commissioner may transfer funds between items 4110-0001, 4110-1000, 4110-1010, 4110-2000, and 4110-3010; provided further, that the amount transferred from any of those items shall not exceed 5 per cent of the total amount appropriated for that item; provided further, that 30 days before any such transfer, the commissioner shall submit an allocation plan detailing the distribution of the funds to be transferred to the house and senate committees on ways and means; and provided further, that amounts appropriated to the commission in fiscal year 2010 that extend or expand services beyond the level of services provided in fiscal year 2009 shall not annualize above those amounts in fiscal year 2011 \$1,014,054
- 4110-1000 For the community services program; provided, that the Massachusetts commission for the blind shall work in collaboration with the Massachusetts commission for the deaf and hard of hearing to provide assistance and services to the deaf-blind community through the deaf-blind community access network \$3,834,864
- 4110-1010 For aid to the adult blind; provided, that funds may be expended from this item for burial expenses incurred in the prior fiscal year and for sheltered workforce employee retirement benefits \$8,351,643
- 4110-2000 For the turning 22 program of the commission; provided, that the commission shall work in conjunction with the department of developmental services to secure the maximum amount of federal reimbursements available for the care of turning 22 clients \$10,663,291
- 4110-3010 For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and

life insurance, or any other such indirect costs of federally reimbursed state employees; and provided further, that the department may expend one-third of the amount appropriated for the purpose of providing comprehensive rehabilitation training in the Commonwealth for vocational development, including computer technology skills and independent living skills for blind adults \$3,045,455

Massachusetts Rehabilitation Commission.

- 4120-1000 For the operation of the commission; provided, that the commissioner may transfer funds between items 4120-1000, 4120-2000, 4120-3000, 4120-4000, 4120-4001, 4120-4010, 4120-5000, and 4120-6000; provided further, that the amount transferred from any of those items shall not exceed 5 per cent of the total amount appropriated for that item; provided further, that 30 days before any such transfer, the commissioner shall submit an allocation plan to the house and senate committees on ways and means detailing the distribution of the funds to be transferred; provided further, that amounts appropriated to the commission in fiscal year 2010 that extend or expand services beyond the level of services provided in fiscal year 2009 shall not annualize above those amounts in fiscal year 2011; provided further, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that the comptroller shall act in accordance with item 1000-0001 if each report, with all of its components, is not filed by the end of the following fiscal quarter; provided further, that upon the written request of the commissioner of revenue, the commission shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; and provided further, that the lists shall include client names and social security numbers and payee names and other identification, if different from a client's \$472,928
- 4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the

federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally-reimbursed state employees; and provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to the residence . . . \$10,599,024

4120-3000 For employment assistance services; provided, that vocational evaluation and employment services for severely disabled adults may be provided	\$4,170,817
4120-4000 For independent living assistance services	\$11,946,137
4120-4001 For the housing registry for the disabled	\$80,000
4120-4010 For the turning 22 program of the commission	\$801,551
4120-5000 For homemaking services	\$5,508,257
4120-6000 For head injured services; provided, that the commission shall work with the executive office of health and human services to maximize federal reimbursement for clients receiving head injured services	\$11,209,371

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0100 For the operation of and services provided by the Massachusetts commission for the deaf and hard of hearing	\$5,334,020
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Soldiers' Home in Massachusetts.

4180-0100 For the maintenance and operation of the Soldiers' Home in Massachusetts located in the city of Chelsea, including a specialized unit for the treatment of Alzheimer's disease patients; provided, that graduates from the LPN school of nursing shall work in state-operated facilities for at least 1 year; provided further, that no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$25,963,213
4180-1100 The Soldiers' Home in Massachusetts may expend not more than \$330,661 in revenues for facility maintenance and pa-	

tient care, including personnel costs; provided, that 60 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall be deposited into and for the purposes of this retained revenue account of the Soldiers' Home; provided further, that the Soldiers' Home may accept gifts, grants, donations and bequests; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$330,661

Soldiers' Home in Holyoke.

- 4190-0100 For the maintenance and operation of the Soldiers' Home in Holyoke, including the adult day care program, the Maguder House and the Chapin Mansion; provided, that no fee, assessment or other charge shall be imposed upon or required of any person for any outpatient treatment, admission or hospitalization which exceeds the amount of fees charged in fiscal year 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services \$19,438,450
- 4190-0101 For the Soldiers' Home in Holyoke which may expend for its operation an amount not to exceed \$5,000 from the licensing of the property for placement of aerial antennas \$5,000
- 4190-0102 The Soldiers' Home in Holyoke may expend for the outpatient pharmacy program an amount not to exceed \$110,000 from co-payments which it may charge to users of the program; provided, that no co-payments shall be imposed or required of any person which exceed the level of co-payments charged in fiscal year 2009 \$110,000

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- 4190-0200 The Soldiers' Home in Holyoke may expend not more than \$25,000 from fees collected from veterans in its care for the purposes of providing television and telephone services to residents; provided, that fees from the use of telephones and televisions shall only be expended for payments to vendors for said services \$25,000
- 4190-1100 For the Soldiers' Home in Holyoke which may expend not more than \$225,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with the license plates, shall be deposited into and for the purposes of this retained revenue account of the Soldiers' Home; provided further, that the Soldiers' Home may accept gifts, grants, donations, and bequests; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the Soldiers' Home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$225,000

Department of Youth Services.

- 4200-0010 For the administration of the department of youth services; provided, that the department shall continue to collaborate with the department of elementary and secondary education in order to align curriculum at the department of youth services with the statewide curriculum frameworks and to ease the reintegration of youth from facilities at the department of youth services into regular public school settings; and provided further, that the department shall continue to execute its education funding initiative \$4,628,100
- 4200-0100 For supervision, counseling and other community-based services provided to committed youths in nonresidential care programs of the department; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated in this item to

	items 4200-0200 and 4200-0300; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and to the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$21,813,030
4200-0200	For pretrial detention programs, including purchase-of-service and state-operated programs; provided, that the commissioner may transfer up to 7 per cent of the amount appropriated herein to items 4200-0100 and 4200-0300; and provided further, that 30 days before any transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$24,368,223
4200-0300	For secure facilities, including purchase-of-service and state operated programs incidental to the operations of the facilities; provided, that funds shall be expended to address the needs of the female population; provided further, that funds shall be expended to address suicide prevention; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; provided further, that no charge or contract shall be made with alternate vendors to provide pharmacy services other than the state office of pharmacy services; provided further, that the commissioner may transfer up to 7 per cent of the amount appropriated in this item to items 4200-0100 and 4200-0200; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$99,826,675
4200-0500	For enhanced salaries for teachers at the department of youth services	\$2,500,000

OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.
Department of Transitional Assistance.

4400-1000 For the central administration of the department of transitional assistance; provided, that all costs associated with verifying

disability for all programs of the department shall be paid from this item; provided further, that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, and public assistance caseloads and benefits; provided further, that the department shall collect all out-of-court settlement restitution payments; provided further, that the restitution payments shall include, but not be limited to, installment and lump sum payments; provided further, that notwithstanding any general or special law to the contrary, unless otherwise expressly provided, federal reimbursements received for the purposes of the department, including reimbursements for administrative, fringe and overhead costs, for the current fiscal year and prior fiscal years, shall be credited to the General Fund; provided further, that an application for assistance under chapter 118 of the General Laws shall be deemed an application for assistance under chapter 118E of the General Laws; provided further, that if assistance under said chapter 118 is denied, the application shall be transmitted by the department to the executive office of health and human services for a determination of eligibility under said chapter 118E; provided further, that the department shall, to the extent feasible within the appropriation provided, provide for extended office hours; provided further, that the department shall accomplish the staffing of these extended office hours to the maximum extent possible through the use of flex-time that will allow workers to modify their working hours to accommodate their specific personal and family needs; provided further, that the department shall, to the extent feasible within the appropriation provided, continue and expand the program of placing workers at community and human service organizations for the purposes of facilitating supplemental nutrition assistance program applications and redeterminations; and provided further, that the department shall report to the house and senate committees on ways and means no later than December 15, 2009 on the extended office hours and placement of workers at community and human service organizations that the department has determined is feasible

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	within the appropriation provided and that the department will provide in the current fiscal year	\$52,727,596
4400-1001	For programs to increase the commonwealth's participation rate in the supplemental nutrition assistance program and other federal nutrition programs; provided, that \$1,500,000 may be expended for a grant with Project Bread-The Walk for Hunger, Inc.; provided further, that the work of department employees paid for from this item shall be restricted to processing supplemental nutrition assistance program applications; provided further, that the department shall not require supplemental nutrition assistance program applicants to provide re-verification of eligibility factors previously verified and not subject to change; provided further, that notwithstanding any general or special law to the contrary, the department shall require only 1 signature from supplemental nutrition assistance program applicants; provided further, that the department shall fund a unit staffed by department employees to respond to supplemental nutrition assistance program inquiries, and arrange for and conduct telephone interviews for initial supplemental nutrition assistance program applications from this item; provided further, that the department shall fund a system to image and catalogue eligibility documents electronically from this item; and provided further, that funds shall be expended for supplemental nutrition assistance program outreach	\$2,355,724
4400-1025	For domestic violence specialists at local area offices	\$726,455
4400-1100	For the payroll of the department's caseworkers; provided, that only employees of bargaining unit eight shall be paid from this item	\$54,607,404
4401-1000	For employment and training services, including support services, for recipients of benefits provided under the transitional aid to families with dependent children program; provided, that funds from this item may be expended on former recipients of the program for up to 1 year after termination of their benefits; provided further, that \$4,700,000 may be expended for the Young Parents Program; and provided further, that certain parents who have not yet reached the age of 18 years, including those who are ineligible for transitional aid to families with dependent children and who would qualify for benefits under chapter 118 of the General Laws but for the	

	deeming of the grandparents' income, shall be eligible to receive services	\$23,042,578
4401-1101	For the department of transitional assistance which may expend not more than \$2,450,000 from federal bonuses and from reimbursements received from the United States Department of Agriculture for supplemental nutrition assistance program outreach and employment and training programs and any enhanced funding or bonuses; provided, that the department may expend such revenue for employment and training services provided to recipients of transitional aid to families with dependent children	\$2,450,000
4403-2000	For a program of transitional aid to families with dependent children; provided, that notwithstanding any general or special law to the contrary, benefits under the program of transitional aid to families with dependent children shall be paid only to citizens of the United States and to non-citizens for whom federal funds may be used to provide benefits; provided further, that notwithstanding any general or special law or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 2009 unless the department determines that a reduction in the monthly payment standard should be implemented before the end of the fiscal year to keep program expenditures within the amounts appropriated in this item; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under subsection (e) of section 110 of chapter 5 of the acts of 1995, or any successor statute, shall be 2.75 per cent below the otherwise applicable payment standard, in fiscal year 2010, pursuant to the state plan required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; provided further, that the department shall notify parents under the age of 20 receiving benefits from the program of the requirements found in clause (2) of subsection (i) of said section 110 of said chapter 5 of the acts of 1995, or any successor statute; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent	

or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September 2009; provided further, that the children's clothing allowance shall be included in the standard of need for the month of September 2009; provided further, that benefits under this program shall not be available to those families in which a child has been removed from the household pursuant to a court order after a care and protection hearing under chapter 119 of the General Laws, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of children and families in accordance with department procedures; provided further, that notwithstanding section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month the payments are to be made or within the 3 month period after the month of payment, and who, if the child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for the loss; provided further, that the department shall review its disability standards to determine the extent to which they reflect the current medical and vocational criteria and report on the proposed revisions by December 1, 2009, to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities on the results of that review before any changes to the standards are proposed; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall

be expended by the department for family reunification benefits or informal child care; provided further, that the department shall provide oral and written notification to all recipients of their child care benefits at the time of application and on a semi-annual basis; provided further, that the notification shall include the full range of child care options available, including center-based child care, family-based child care, and in-home relative child care; provided further, that the notification shall detail available child care benefits for current and former recipients, including employment and training benefits and transitional benefits; provided further, that the notice shall further advise recipients of the availability of supplemental nutrition assistance program benefits; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility for, or levels of benefits under the program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families \$308,076,608

4403-2007 For a nutritional benefit program for low-income workers; provided, that benefits shall be provided only to those for whom receiving these benefits will improve the work participation rate under the federal program of temporary assistance for needy families \$1,200,000

4403-2119 For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995, or any successor statute, for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program \$6,576,576

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients;

provided, that the expenses of special grants recipients residing in rest homes, as provided in section 7A of chapter 118A of the General Laws, may be paid from this item; provided further, that the department, in collaboration with the executive office of health and human services, may fund an optional supplemental living arrangement category under the supplemental security income program that makes payments to persons living in assisted living residences certified under chapter 19D of the General Laws who meet the income and clinical eligibility criteria established by the department and the office; provided further, that the optional category of payments shall only be administered in conjunction with the Medicaid group adult foster care benefit; and provided further, that reimbursements to providers for services rendered in prior fiscal years may be expended from this item \$222,310,783

4408-1000 For a program of cash assistance to certain residents of the commonwealth, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for the aid under chapter 117A of the General Laws and regulations promulgated by the department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the individual shall not be a subject to sponsor income deeming or related restrictions; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically-determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates such individuals' capacity to support themselves and which has been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational re-

habilitation program of the Massachusetts rehabilitation commission and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 without a prior work history or person in a residential treatment facility shall be eligible for benefits under this program unless the person otherwise meets the eligibility criteria described in this item and defined by regulations of the department; provided further, that no person incarcerated in a correctional institution shall be eligible for benefits under the program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall adopt emergency regulations under chapter 30A of the General Laws to implement the changes to this program required by this item promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted in this item at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated in this item; provided further, that the department may promulgate emergency regulations under chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing in this item shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that reimbursements collected from the Social Security Administration on behalf of former clients of the emergency aid to the elderly, disabled and children program or unprocessed payments from the program that are

returned to the department shall be credited to the General Fund; provided further, that notwithstanding any general or special law to the contrary, the funds made available in this item shall be the only funds available for the program, and the department shall not spend funds for the program in excess of the amount made available in this item; and provided further, that, notwithstanding any general or special law to the contrary, 60 days before implementing any eligibility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes \$84,658,966

OFFICE OF HEALTH SERVICES.

Department of Public Health.

- 4510-0040 For the department of public health; provided, that the department may expend for the regulation of all pharmaceutical and medical device companies that market their products in Massachusetts an amount not to exceed \$840,000 from fees assessed under chapter 111N of the General Laws \$840,000
- 4510-0100 For the administration and operation of the department, including the personnel support of programmatic staff within the department \$18,542,090
- 4510-0110 For community health center services \$1,000,000
- 4510-0600 For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter 482 of the acts of 1993, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists and the administration of the bureau of environmental health assessment pursuant to chapter 111F of the General Laws, the ‘Right-to-Know’ law; provided, that the department shall file a report with the house and senate committees on ways and means, the joint committee on public health, and the joint committee on health care financing, on the status of local health inspections of food establishments, consistent with the

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	department of public health food safety regulations and a report on the current waiting list for indoor air inspections by October 1, 2009	\$3,160,567
4510-0615	The department may expend not more than \$75,000 from assessments collected under section 5K of chapter 111 of the General Laws for services provided to monitor, survey and inspect nuclear power reactors; provided, that the department may expend not more than \$1,499,783 from fees collected from licensing and inspecting users of radioactive material within the commonwealth under licenses presently issued by the Nuclear Regulatory Commission; provided further, that the revenues may be used for the costs of both programs, including the compensation of employees; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ...	\$1,574,783
4510-0616	The department may expend not more than \$1,000,000 for a drug registration and monitoring program from revenues collected from fees charged to registered practitioners, including physicians, dentists, veterinarians, podiatrists and optometrists for controlled substance registration; provided, that funds may be expended from this item for the costs of personnel; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$1,000,000
4510-0710	For the operation of the division of health care quality and the office of patient protection; provided, that the division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services; provided fur-	

ther, that investigators shall conduct investigations of abuse, neglect, mistreatment and misappropriation; provided further, that all investigators in the division of health care quality responsible for the investigations shall receive training by the Medicaid fraud control unit in the office of the attorney general; provided further, that the division shall continue a comprehensive training, education and outreach program for nursing home administrators and managers and other supervisory personnel in long-term care to improve the quality of care in long-term care facilities; provided further, that the program shall promote the use of best practices, models of quality care giving and the culture of workforce retention within the facilities and shall focus on systemic ways to reduce deficiencies; provided further, that services funded through this item shall include, but not be limited to: education, training, intervention, support, surveillance and evaluation; and provided further, that the department shall report to the house and senate committees on ways and means on the results of the program not later than April 30, 2010 . . . \$7,286,521

4510-0712 For the department of public health; provided, that the department may expend not more than \$460,137 in revenues collected from the licensure of health facilities for program costs of the division of health care quality; provided further, that the department may expend not more than \$882,132 from revenues collected from individuals applying for emergency medical technician licensure and recertification; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate therefore as reported in the state accounting system . . . \$1,342,269

4510-0715 For the operation of a center for primary care recruitment and placement to improve access to primary care services; provided, that funds may be expended for primary care workforce development and loan forgiveness grant program . . . \$500,000

4510-0716 For the operation of an evidence-based outreach and education program designed to provide information and education on the therapeutic and cost-effective utilization of prescription

	drugs to physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs	\$250,000
4510-0721	For the operation and administration of the board of registration in nursing; provided, that the board shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of these cases, the approximate number of cases assigned to each investigator and any increases or decreases in cases referred to the board in the previous 6 months; and provided further, that the board shall submit the report to the house and senate committees on ways and means, the joint committee on health care financing, the joint committee on public health and the commissioner of public health by January 4, 2010	\$1,230,663
4510-0722	For the operation and administration of the board of registration in pharmacy; provided, that the board shall prepare an annual report detailing the total number of cases referred to and investigated by the board, the resolution of these cases, the approximate number of cases assigned to each investigator and any increases or decreases in cases referred to the board in the previous 6 months; and provided further, that the board shall submit the report to the house and senate committees on ways and means, the joint committee on health care financing, the joint committee on public health and the commissioner of the department of public health by January 4, 2010	\$333,135
4510-0723	For the operation and administration of the board of registration in medicine and the committee on acupuncture; provided, that the board of registration in medicine shall prepare an annual report addressing its activities with respect to licensing, enforcement, law and policy, patient safety and other relevant topics including, but not limited to, the total number of cases referred to and reviewed by the board, the resolution of such cases, the approximate number of cases assigned to each investigator, any increases or decreases in cases referred to the board in the previous 6 months, a compilation of cases from its patient care assessment program describing incidents involving preventable medical error that resulted in harm to patient or health care provider for the purpose of assisting the providers, hospitals and pharmacies to modify their practices and techniques to avoid error and any other relevant topics; provided further, that the board shall submit the report to the	

	general court, house and senate committees on ways and means and the joint committee on health care financing and the joint committee on public health by January 4, 2010, and shall make the compilation widely available, including by electronic means, to the public; and provided further, that the board shall promulgate rules and regulations to coordinate their patient care assessment program with the boards of registration in nursing and pharmacy	\$1,812,024
4510-0725	For the operation and administration of certain health boards of registration, including the boards of registration in dentistry, nursing home administrators, physician assistants, perfusionists, genetic counselors and respiratory care	\$358,904
4510-0726	For the board of registration in medicine, including the physician profiles program; provided, that the board may expend revenues not to exceed \$300,000 from new revenues associated with increased license and renewal fees	\$300,000
4510-0790	For regional emergency medical services; provided, that no funds shall be expended in the AA object class; and provided further, that the regional emergency medical services councils, designated under 105 CMR 170.101 and the C-MED medical emergency communications centers that were in existence on January 1, 1992, shall remain the designated councils and C-MED communications centers	\$955,855
4510-0810	For a statewide sexual assault nurse examiner program and pediatric sexual assault nurse examiner program for the care of victims of sexual assault; provided, that funds shall be expended to support children's advocacy centers; and provided further, that the program shall operate under specific statewide protocols and by an on-call system of nurse examiners	\$3,503,336
4512-0103	For human immunodeficiency virus and acquired immune deficiency syndrome services and programs; provided, that particular attention shall be paid to direct funding proportionately to each of the demographic groups afflicted by HIV/AIDS; and provided further, that no funds from this item shall be expended for disease research in fiscal year 2010 . . .	\$35,335,527
4512-0106	For the department of public health which may expend for the human immunodeficiency virus and acquired immune deficiency syndrome drug assistance program an amount not to exceed \$1,500,000 from revenues received from pharmaceu-	

	tical manufacturers participating in the section 340B rebate program of the Public Health Service Act, administered by the federal Health Resources and Services Administration and Office of Pharmacy Affairs	\$1,500,000
4512-0200	For the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that funds may be expended for programs that received funding in fiscal year 2009	\$75,924,448
4512-0201	For substance abuse step-down recovery services, otherwise known as level B beds and services, and other critical recovery services with severely reduced capacity; provided, that no funds shall be expended in the AA object class; and provided further, that the department shall submit quarterly to the house and senate committees on ways and means a report on the number of individuals served by the step-down recovery services program	\$4,800,000
4512-0202	For 2 pilot jail diversion programs primarily for nonviolent offenders with OxyContin or heroin addiction to be procured by the department of public health; provided, that each program shall have at least 60 beds and shall provide clinical assessment services to the respective courts, inpatient treatment for up to 90 days and ongoing case management services for up to 1 year; provided further, that individuals may be diverted to this or other programs by a district attorney in conjunction with the office of the commissioner of probation if: (a) there is reason to believe that the individual being diverted suffers from an addiction to OxyContin or heroin, or other substance use disorder; and (b) the diversion of an individual is clinically appropriate and consistent with established clinical and public safety criteria; provided further, that both programs shall be established in separate counties and a location deemed suitable by the department of public health; provided further, that the department of public health shall coordinate operations with county sheriffs, the district attorneys, the office of the commissioner of probation and the department of correction; provided further, that not more than \$500,000 shall be used to support the ongoing treatment needs of clients after 90 days for which there is no other payer; and provided further, that not later than August 2,	

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	2010, the department of public health shall provide a report to the joint committee on mental health and substance abuse and the house and senate committees on ways and means as to the outcomes of the program and the cost of operations	\$4,000,000
4512-0203	For family intervention and care management services programs, a pilot young adult treatment program, and early intervention services, for individuals who are dependent on or addicted to alcohol or controlled substances or both alcohol and controlled substances	\$2,000,000
4512-0225	The department of public health may expend not more than \$1,000,000 for a compulsive gamblers' treatment program from unclaimed prize money held in the State Lottery Fund for more than 1 year from the date of the drawing when the unclaimed prize money was won, and from the proceeds of a multi-jurisdictional lottery game under subsection (e) of section 24A of chapter 10 of the General Laws; provided, that the state comptroller shall transfer the amount to the General Fund; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$1,000,000
4512-0500	For dental health services; provided, that funds shall be expended to maintain a program of dental services for the developmentally disabled; provided further, that the department shall submit to the house and senate committees on ways and means a quarterly report on the number of children served by this dental health services program and the number of children waiting to be served by the program; and provided further, that funds may be expended for the Forsyth Institute's Center for Children's Oral Health	\$1,424,477
4513-1000	For the provision of family health services; provided, that funds shall be provided for comprehensive family planning services, including HIV counseling and testing, community-based health education and outreach services provided by agencies certified as comprehensive family planning agencies; and provided further, that funds may be expended for the Massachusetts birth defects monitoring program	\$4,755,623

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- 4513-1002 For women, infants and children's, WIC, nutrition services in addition to funds received under the federal nutrition program; provided, that all new WIC cases, in excess of fiscal year 1991 caseload levels, shall be served in accordance with priority categories 1 through 7, as defined by the state WIC program \$13,565,092
- 4513-1012 The department of public health may expend not more than \$26,875,000 from revenues received from the federal cost-containment initiatives including, but not limited to, infant formula rebates; provided, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most-recent revenue estimate as reported in the state accounting system \$26,875,000
- 4513-1020 For the early intervention program; provided, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for the units of service paid by the department, the executive office of health and human services and third party payers for early intervention services for the following services categories: home visit, center-based individual, child-focused group, parent-focused group, screening and assessment; provided further, that the department shall make all reasonable efforts to secure third party and Medicaid reimbursements for the services funded in this item; provided further, that funds from this item shall be expended to provide respite services to families of children enrolled in early intervention programs who have complex care requirements, multiple disabilities and extensive medical and health needs; provided further, that priority shall be given to low and moderate income families; provided further, that no claim for reimbursement made on behalf of an uninsured person shall be paid from this item until the program receives notice of a denial of eligibility for the MassHealth program from the executive office of health and human services; provided further, that nothing in this item shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the early intervention services funded in this item; provided further, that

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	the department shall provide written notification to the senate and house committees on ways and means 90 days prior to any change to its current eligibility criteria; and provided further, that these funds may be used to pay for current and prior year claims	\$25,554,904
4513-1023	For the universal newborn hearing screening program; provided, that the funds appropriated in this item shall be expended for the notification of and follow through with affected families, primary care providers and early intervention programs upon the department's receipt of data indicative of potential hearing disorders in newborns	\$71,497
4513-1024	For the operation of a comprehensive, state-wide shaken baby syndrome prevention program including community-based, hospital-based and statewide activities; provided, that services funded through this item shall include, but not be limited to: education, training, intervention, support, surveillance and evaluation	\$192,988
4513-1026	For the provision of statewide and community-based suicide prevention, intervention, post-intervention and surveillance activities and the implementation of a statewide suicide prevention plan; provided, that funds may be expended for a program to address elder suicide behavior and attempts with the Geriatric Mental Health Services program within the department of elder affairs; provided further, that funds may be expended for a Veterans in Crisis Hotline; provided further, that the hotline shall be for the use of veterans who seek counseling programs operated by the department of veterans affairs and/or concerned family members of those veterans so that they may be directed towards the programs and services offered by their local or regional VA office; and provided further, that the hotline shall be staffed by counselors or outreach programs contracted by the department and trained in issues of mental health counseling and veterans services	\$3,569,444
4513-1111	For the promotion of health and disease prevention including, but not limited to, the following programs: breast cancer prevention; diabetes screening and outreach; ovarian cancer screening; a statewide STOP stroke program and ongoing stroke prevention and education; hepatitis C prevention and management; multiple sclerosis screening, information, education, treatment programs and the Multiple Sclerosis Home	

	Living Navigating Key Services program administered by the Central New England Chapter of the National Multiple Sclerosis Society; colorectal cancer prevention; prostate cancer screening, education and treatment with a particular focus on African American males; osteoporosis education; a program to combat mental retardation in children suffering from a genetic effect causing phenylketonuria; maintenance of the Amyotrophic Lateral Sclerosis registry created pursuant to section 25A of chapter 111 of the General Laws; maintenance of the statewide lupus database; and the operation of the Betsy Lehman Center for patient safety	\$8,454,998
4513-1130	For domestic violence and sexual assault prevention and victim services, including batterers' intervention and services for immigrants and refugees provided, that funds shall be expended for rape prevention and victim services, including the statewide Spanish language hotline provided further, that funds shall be expended for statewide suicide and violence prevention outreach to gay and lesbian youth, and the public health model of community engagement and intervention services for crisis housing for sexual violence and intimate partner violence in the GLBT community; and provided further, that monies may be expended for the classroom based domestic violence prevention education program administered in item 0340-0900 in fiscal year 2009	\$4,908,264
4516-0263	For the department of public health; provided, that said department may expend not more than \$1,442,468 in revenues from various blood lead testing fees collected from insurers and individuals for the purpose of conducting such tests; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate therefor, as reported in the state accounting system	\$1,442,468
4516-1000	For the administration of the center for laboratory and communicable disease control, including the division of communicable venereal diseases, the division of tuberculosis	

	control and the state laboratory institute; provided, that the department shall give priority to the analysis of samples used in the prosecution of controlled substances offenses; provided further, that funds shall be expended for an eastern encephalitis testing program and for tuberculosis testing and treatment services; provided further, that no funds appropriated in this item shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded in this item; and provided further, that funds from this item may be expended for the purchase of equipment for the drug laboratory at the state laboratory institute	\$13,676,268
4516-1010	For state matching funds required by the Pandemic and All-Hazards Preparedness Act	\$1,133,713
4516-1022	For the department of public health; provided, that the department may expend not more than \$300,000 generated by fees collected from insurers for tuberculosis tests performed at the state laboratory institute; provided further, that revenues collected may be used to supplement the costs of said laboratory; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate, as reported in the state accounting system	\$300,000
4518-0200	The department may expend not more than \$400,000 generated by fees collected from the following services provided at the registry of vital records and statistics: amendments of vital records, requests for vital records not issued in person at the registry and research requests performed by registry staff at the registry; provided, that revenues so collected may be used for all program costs, including the compensation of employees; provided further, that the registrar of vital records and statistics shall exempt from payment of a fee any person requesting a copy of a birth certificate for the purpose of establishing eligibility for Medicaid; and provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller	

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	may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate, as reported in the state accounting system	\$400,000
4530-9000	For teenage pregnancy prevention services; provided, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of the grants may be used for state agency purchases of designated services identified by the community service plans; provided further, that funding shall be expended on those communities with the highest teen birth rates according to an annual statistical estimate conducted by the department; provided further, that funds shall be expended on programming directed at children under the care of the department of children and families who are at high risk for teenage pregnancy; and provided further, that the department shall collaborate with the department of children and families on this programming	\$3,148,327
4570-1502	For the purposes of implementing a proactive statewide infection prevention and control program	\$668,820
4580-1000	For the operation of the universal immunization program, including the purchase and distribution of the rotavirus vaccine; provided, that no funds appropriated in this item shall be expended for administrative or energy expenses of the department not directly related to programs funded in this item; provided further, that notwithstanding any general or special law to the contrary, each health insurance carrier, as defined in chapter 176O of the General Laws, that conducts business in the commonwealth shall contribute to the total amount determined by the department to be sufficient to cover the costs of purchasing and distributing childhood vaccines for children in this item; and provided further, that the division of health care finance and policy, in consultation with the department, shall specify by regulation the method of calculating a proportional contribution and procedures for payment of the contribution to the General Fund	\$52,135,817
4590-0250	For school health services and school-based health centers in public and non-public schools; provided further, that services shall include, but not be limited to: (a) strengthening the infra-	

structure of school health services in the areas of personnel and policy development, programming and interdisciplinary collaboration; (b) developing linkages between school health services programs and community health providers; (c) incorporating health education programs, including tobacco prevention and cessation activities in school curricula and in the provision of school based health services; and (d) incorporating obesity prevention programs, including nutrition and wellness programs, in school curricula to address the nutrition and lifestyle habits needed for healthy development; provided further, that the services shall meet standards and eligibility guidelines established by the department in consultation with the department of education; provided further, that funds may be expended for the support of the commission on gay, lesbian, bisexual and transgender youth, established in section 67 of chapter 3 of the General Laws, and may be used to address the recommendations of said commission for reduction of health disparities for gay, lesbian, bisexual and transgender youth; provided further, that funds shall be expended for school nurses and school based health center programs; and provided further, that funds may be expended for the Massachusetts Model of Community Coalitions \$13,422,121

4590-0300 For smoking prevention and cessation programs \$5,001,077

4590-0912 For the department of public health, which may expend an amount not to exceed \$16,554,915 from reimbursements collected for western Massachusetts hospital services, subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital-related costs, including personnel, capital expenditures, DD object class charge-backs and motor vehicle replacement; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full payment under the medical assistance program administered by the executive office of health and human services pursuant to chapter 118E of the General Laws for all

goods and services provided by the hospital in accordance with all federal requirements; provided further, that notwithstanding any general or special law to the contrary, the western Massachusetts hospital shall reimburse the General Fund for a portion of employee benefit expenses, according to a schedule submitted by the commissioner of public health and approved by the secretary of administration and finance; provided further, that such reimbursement shall not exceed 10 per cent of total personnel costs for the hospital; provided further, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded in this item \$16,554,915

4590-0913 For the department of public health which may expend not more than \$500,000 for payments received for those services provided by the Lemuel Shattuck hospital to inmates of county correctional facilities; provided, that for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system \$500,000

4590-0915 For the maintenance and operation of Tewksbury hospital, Massachusetts hospital school, Lemuel Shattuck hospital and the hospital bureau, including the state office of pharmacy services; provided, that no funds appropriated in this item shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded in this item; provided further, that reimbursements received for medical services provided at the Lemuel Shattuck hospital to inmates of county correctional facilities not managed by private health care vendors shall be credited to item 4590-0903 of section 2B; and provided further, that notwithstanding any general or special law to the

	contrary, the department shall seek to obtain federal financial participation for care provided to inmates of the department of correction and of county correctional facilities who are treated at the public health hospitals	\$138,461,607
4590-0917 For	the department of public health; provided, that the department may expend an amount not to exceed \$4,160,000 from payments received from the vendor managing health services for state correctional facilities for inmate medical services provided by the Lemuel Shattuck hospital; provided further, that the payments may include capitation payments, fee for service payments, advance payments and other compensation arrangements established by contract between the vendor and the hospital; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$4,160,000
4590-1503 For	the pediatric palliative care program established in section 24K of chapter 111 of the General Laws	\$786,444
4590-1506 For	a competitive grant program to be administered by the department of public health to support the establishment of a comprehensive youth violence prevention program; provided, that eligibility shall be determined by the criteria set forth in item 4590-1506 of section 2 of chapter 182 of the acts of 2008; provided further, that no grants shall be awarded to law enforcement agencies; provided further, that funds shall be considered 1-time and grants shall not annualize in fiscal year 2011; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grant funds shall be expended on food or beverages; provided further, that the department of public health shall report to the house and senate committees on ways and means and the executive office of administration and finance not later than November 1, 2009, detailing the grant amount awarded to each recipient and a description of each grant; and provided further, that each grant recipient shall provide the department of public health	

with a comprehensive list of best practices that have been
instituted as a result of these grants \$2,000,000

OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES.
Department of Children and Families.

4800-0015 For central and area office administration; provided, that the associated expenses of employees whose AA and DD object class costs are paid from item 4800-1100 shall be paid from this item; provided further, that no funds shall be expended from this item for the compensation of unit 8 employees; provided further, that the department shall not place a child or adolescent referred by, or discharged from, the care of the department of mental health until the latter department forwards an assessment and recommendation as to whether the child or adolescent may be appropriately placed in foster care or, if due to severe emotional disturbance, is more appropriate for group care; provided further, that if placement of a child with someone other than a parent becomes necessary, the department shall place the highest priority on identifying a family resource within the child's kinship or family circle and shall provide services and support to partner with the family resource in meeting the child's needs; provided further, that the department, in consultation with the department of mental health, shall assist the latter department in making such assessments and recommendations; provided further, that unless otherwise authorized, all funds, including federal reimbursements received by the department, shall be credited to the General Fund; provided further, that the department and the department of early education and care shall provide standards for early education and care placements made through the supportive child care program; provided further, that the department of children and families, in collaboration with the department of early education and care, shall maintain a centralized list detailing the number of children eligible for supportive child care services, the number of supportive slots filled and the number of supportive slots available; provided further, that no waiting list for the services shall exist; provided further, that all children eligible for services under item 3000-3050 shall receive said services; provided further, that notwithstanding

any general or special law to the contrary, the department shall not reduce recoupment amounts recommended by the state auditor; provided further, that the department shall employ not less than 1 full-time board-certified physician; provided further, that the department shall employ four to five full-time board certified or board eligible child psychiatrists to serve the area offices; provided further, that hiring and supervision shall be done in conjunction with the department of mental health; provided further, that such physicians shall collaborate with the department's social workers; provided further, that not later than February 15 of the current fiscal year, the department shall provide to the house and senate committees on ways and means and the joint committee on children and families a report detailing the number of medical and psychiatric personnel currently employed by or under contract with the department; provided further, that the report shall include the number of foster care reviews conducted by the department and the average length of time in which each review is completed; provided further, that the report shall contain the number of the department's contracts reviewed by the state auditor and the number of corrective action plans issued; provided further, that the report shall also include the number of corrective action plans entered into by the department; provided further, that the report shall include the number of social workers and supervisors who have earned a bachelors' or masters' degree in social work; provided further, that the report shall include the total number of social workers and the total number of social workers holding licensure, by level; provided further, that the comptroller shall act in accordance with item 1000-0001 if the report, with all of its components, is not filed within 10 days of the stated due date; provided further, that the department shall file a report on the first business day of each month to the senate and house committees on ways and means and the joint committee on children and families on the caseload of the department; provided further, that caseloads provided in this report shall include: residential placements, group care, foster care, therapeutic foster care, adoption, guardianship, 51A reports, substantiated 51A reports, the number of children who die in the care and custody of the department, the number of children currently eligible for supportive child care and the number

of children presently receiving supportive child care, and the number of medical and psychiatric consultation requests made by the department's social workers; provided further, that the report shall include the number of approved foster care placements; provided further, that the report shall also include the number of children in psychiatric hospitals and community-based acute treatment programs who remain hospitalized beyond their medically-necessary stay while awaiting placement and the number of days each case remains in placement beyond that which is medically-necessary; provided further, that the report shall include the number of children under the department of children and families care and custody who are being served in medical or psychiatric care provided through other publicly-funded sources; provided further, that the report shall also contain the number of children served by supervised visitation centers and the number of those children who are reunified with their families; provided further, that the report shall contain information on the total number of children served, their ages, the number of children served in each service plan, the number of children in out-of-home placements and the number of placements each child has had before receiving an out-of-home placement; provided further, that the report shall also contain, for each area office, the number of kinship guardianship subsidies that it provided for the calendar quarters ending on March 31, 2009 and June 30, 2009, the number of kinship guardianship subsidies provided in the month covered by the report, and the number of kinship guardianship subsidies provided in that month for which federal reimbursement was received; provided further, that the report shall also contain, for each area office, the total spending on services other than case management services provided to families for the purposes of keeping a child with his parents or reunifying the child with his parents, spending by type of the service, and the unduplicated number of families that receive the services; provided further, that the report shall also contain for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where the families are sheltered, the total cost and average cost per family of those shelters, and a description of how the department determines who does or

does not qualify for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities; provided further, that the report shall also contain the number of families receiving multiple 51A reports within a 10-month period, the number of cases reopened within 6 months of being closed and the number of children who return home and then re-enter an out-of-home placement within 6 months; provided further, that not later than November 2, 2009, the department shall submit a report to the house and senate committees on ways and means and the chairs of the joint committee on children and families that includes any rules, regulations, or guidelines established by the department to carry out its duties pursuant to chapter 119, including, but not limited to (a) criteria used to determine whether a child has been abused or neglected; (b) guidelines for removal of a child from the home; and (c) standards to determine what reasonable efforts are made to keep a child in the home; provided further, that the commissioner of the department of children and families may transfer funds between items 4800-0030, 4800-0038, and 4800-0041, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; and provided further, that not more than 5 per cent of any item shall be transferred in fiscal year 2010 \$69,880,096

4800-0016 For the department of children and families which may expend for the operation of the transitional employment program an amount not to exceed \$500,000 from revenues collected from various state, county and municipal government entities, as well as state authorities, for the costs related to the provision of services by the participants and the overhead costs and expenses incurred by the not-for-profit managing agent selected by the commissioner for administering the program; provided, that notwithstanding any general or special law to the contrary, the commissioner of the department of children

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and families may enter into a contract with Roca, Inc., a not-for-profit community-based agency, to manage the transitional employment program and to provide services to participants from the aging out population, parolees, probationers, youth service releases, or other community residents considered to have employment needs \$500,000

4800-0025 For foster care review services \$2,689,807

4800-0030 For local and regional administration and coordination of services provided by lead agencies and regional resource centers; provided, that flex services provided by these agencies shall be funded from this item \$7,000,000

4800-0036 For a sexual abuse intervention network program to be administered in conjunction with the district attorneys \$697,508

4800-0038 For stabilization, unification, reunification, permanency, adoption, guardianship and foster care services provided by the department of children and families; provided, that \$5,600,000 made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, may be spent on adoption and foster care services; provided further, that services funded through this item shall include shelter services, substance abuse treatment, family reunification networks, young parent programs, parent aides, education and counseling services, family preservation services, foster care, adoption and guardianship subsidies, tiered reimbursements used to promote the foster care placement of children with special medical and social needs, assessment of the appropriateness of adoption for children in the care of the department for more than 12 months, protective services provided by partnership agencies, targeted recruitment and retention of foster families, respite care services, post-adoption services, support services for foster, kinship and adoptive families and juvenile firesetter programs; provided further, that the regional offices shall work with the contracted entities for children placed in the intensive foster care system and with the receiving communities of these children to ensure all necessary services are provided; provided further, that funding may be expended on the young parent support program, supervised visitation programs, children’s advocacy centers, services for child victims of sexual abuse and assault, family support and stabilization services, and community-based support and education programs helping low-income,

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	female-headed families break the cycle of poverty; and provided further, that funds may be expended on programs that received funding in fiscal year 2009	\$301,734,364
4800-0041	For group care services; provided, that funds may be expended from this item to provide intensive community-based services to children who would otherwise be placed in residential settings; and provided further, that the department shall form area review teams that shall evaluate the feasibility of maintaining the child in the community in this manner wherever possible before recommending placement in a residential setting	\$223,569,417
4800-0091	For the department of children and families which may expend not more than \$2,672,812 in federal reimbursements received under Title IV-E of the Social Security Act during fiscal year 2010 for the purposes of developing a training institute for professional development at the department of children and families with the University of Massachusetts Medical School and Salem State College; provided, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$2,672,812 shall be credited to the General Fund; and provided further, that no funds shall be expended from this item for lease-purchases or the FamilyNet system	\$2,672,812
4800-0151	For a program to provide alternative overnight non-secure placements for status offenders and nonviolent delinquent youths up to the age of 17 in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended; provided, that the programs which provide the alternative non-secure placements shall collaborate with the appropriate county sheriff's office to provide referrals of those offenders and delinquent youths to any programs within the sheriff's office designed to positively influence youths or reduce, if not altogether eliminate, juvenile crime	\$270,919

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4800-1100	For the AA and DD object class costs of the department's social workers; provided, that funds shall be directed toward mitigating social worker caseloads in those area offices furthest above the statewide weighted caseload standard and toward achieving a social worker caseload ratio of 18 to 1 statewide; and provided further, that only employees of bargaining unit 8 as identified in the Massachusetts personnel administrative reporting and information system shall be paid from this item	\$155,319,220
4800-1400	For shelters and support services for people at risk of domestic violence; provided, that the department shall pursue the establishment of public-private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided further, that services shall include supervised visitation programs, and scattered site transitional housing programs, including programs to assist victims of domestic violence in finding and maintaining permanent housing; provided further, that participants in battered women's programs shall be provided with information regarding local transitional housing resources; provided further, that funding shall be made available to enhance counseling services for children who have witnessed domestic violence; provided further, that funding shall be made available for emergency shelters for substance abusing battered women; provided further, that funding shall be made available for a statewide domestic violence hotline; provided further, that the department shall continue to provide any match funding required by federal program regulations; and provided further, that domestic violence prevention specialists shall be funded from this item	\$21,925,460

OFFICE OF HEALTH SERVICES.
Department of Mental Health.

5011-0100	For the operation of the department	\$29,648,399
5042-5000	For child and adolescent services, including the costs of psychiatric and related services provided to children and adolescents determined to be medically-ready for discharge from acute hospital units or mental health facilities and who are experiencing unnecessary delays in being discharged due	

	to the lack of more appropriate settings; provided, that for the purpose of funding those services, the commissioner of mental health may allocate funds from the amount appropriated in this item to other departments within the executive office of health and human services; provided further, that the department shall not refer or discharge a child or adolescent to the custody or care of the department of children and families until the department of mental health forwards its assessment and recommendation as to whether the child or adolescent is appropriate for foster care or, due to severe emotional disturbance, is more appropriate for group care; and provided further, that funds may be expended for the Child Psychiatry Access Project	\$72,199,953
5046-0000	For adult mental health and support services; provided, that the department shall allocate funds in an amount not to exceed \$5,000,000 from item 5095-0015 to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities; provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planning population and the types of services received in each region for fiscal year 2010, no later than February 1, 2010	\$310,283,591
5046-2000	For homelessness services	\$20,134,424
5046-4000	For the department of mental health; provided, that the department may expend not more than \$125,000 in revenue collected from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program authorized by chapter 167 of the acts of 1987; and provided further, that all fees collected under that program shall be expended for the routine maintenance and repair of facilities in the CHOICE program including the costs of personnel	\$125,000
5047-0001	For emergency service programs and acute inpatient mental health care services; provided, that the department shall continue an interagency service agreement with the executive office of health and human services for the purchase of services and for such other services as the agreement may provide; provided further, that the department shall require a	

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	performance specification to be developed for safe aftercare options for adults upon release from acute inpatient mental health care services; and provided further, that the emergency service programs shall take all reasonable steps to identify and invoice the third party insurer of all persons serviced by the programs	\$34,705,186
5055-0000	For forensic services provided by the department; provided, that funds may be expended for juvenile court clinics	\$8,148,410
5095-0015	For the operation of hospital facilities and community-based mental health services; provided, that in order to comply with the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close psychiatric hospitals managed by the department and shall endeavor within available resources to discharge clients residing in the inpatient facilities to residential services in the community when the following criteria are met: a) the client is deemed clinically suited for a more integrated setting; b) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and c) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in inpatient care; provided further, that any client transferred to another inpatient facility as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed facility; provided further, that the department may allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, under allocation plans submitted to the house and senate committees on ways and means 30 days before any transfer, for residential and day services for clients formerly receiving inpatient care at the centers and facilities; and provided further, that the department of mental health shall notify the joint committee on mental health and substance abuse and the house and senate committees on ways and means 60 days prior to the closure of any inpatient state hospital beds	\$169,933,412

Department of Developmental Services.

5911-1003	For the administration and operations of the department of developmental services; provided, that the department shall	
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not charge user fees for transportation or community day services; provided further, that the department shall not charge fees for eligibility determination for services provided by the department or for applications of requests for transfer of guardianship; provided further, that notwithstanding any general or special law to the contrary, in fiscal year 2010 the comptroller shall transfer from the department of developmental services trust fund established under section 2RRR of chapter 29 of the General Laws an amount sufficient to reflect the costs of the assessment on public facilities collected under section 27 of chapter 118G of the General Laws and an amount sufficient to fund rate increases for services provided to MassHealth members by nonpublic intermediate care facilities and community-based residences; provided further, the comptroller shall transfer the federal financial participation received as a result of expenditures funded by the assessments to an account established for the department of developmental services to administer for the purposes described above; and provided further, that the assessments shall not be collected and the expenditures shall not be authorized until the department of developmental services and the executive office of health and human services certify the receipt of federal approval of any home and community-based waiver amendments and related Title XIX state plan amendments, if required \$67,224,506

5911-2000 For transportation costs associated with the adult services program; provided, that the department shall provide transportation on the basis of priority of need as determined by the department \$13,537,324

5920-2000 For vendor-operated, community-based, residential adult services, including intensive individual supports; provided, that funds shall be expended towards compliance with the terms of the Rolland settlement agreement, dated June 16, 2008, Civil Action No. 98-30208-KPN, filed in the United States District Court of Massachusetts in order to provide services for class members; provided further, that annualized funding shall be expended for turning 22 clients who began receiving the services in fiscal year 2009 pursuant to item 5920-5000 of section 2 of chapter 182 of the acts of 2008; provided further, that funds shall be expended to comply with

	the terms of the Boulet v. Cellucci settlement agreement; provided further, that the commissioner of the department of developmental services shall transfer funds from this item to item 5920-2010, as necessary, pursuant to an allocation plan, which shall detail, by object class, the distribution of said funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means 15 days before any such transfer; and provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2010	\$697,680,652
5920-2010 For	state-operated, community-based, residential services for adults, including community-based health services; provided, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item; and provided further, that funds shall be expended to comply with the terms of the Boulet v. Cellucci settlement agreement	\$144,559,478
5920-2025 For	community-based day and work programs for adults; provided that annualized funding shall be expended for turning 22 clients who began receiving services in fiscal year 2009 pursuant to item 5920-5000 of section 2 of chapter 182 of the acts of 2008	\$119,988,888
5920-3000 For	respite services and intensive family supports; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services	\$46,521,184
5920-3010 For	contracted support services for families with autistic children through the autism division at the department of developmental services; provided, that funds shall be expended for the purposes of providing services under the Children's Autism Spectrum Disorder Waiver; provided further, that the department shall expend not less than the amount authorized in fiscal year 2009 on the Children's Autism Spectrum Disorder Waiver; provided further, that at a minimum, this waiver shall include children with autism spectrum disorder ages 0 to 8, inclusive, including children with autism spectrum disorder ages 0 to 3, inclusive, receiving services through the department of public health's early intervention program; provided further, that the income eligibility for the waiver shall not be any lower than MassHealth standard income eligibility for children; provided	

further, that the department shall take all steps necessary to ensure that eligible children with autism immediately begin to receive services pursuant to such waiver; provided further, that the department shall immediately file any waiver amendments necessary to comply with the requirements of this item with the Centers for Medicare and Medicaid services; provided further, that the department shall report to the house and senate committees on ways and means, the joint committee on education and the joint committee on children, families and persons with disabilities on the number of contracted support services provided for families with autistic children under this item and the costs associated with such services, not later than January 4, 2010; provided further, that such report shall include, but not be limited to, the services provided by the Children’s Autism Spectrum Disorder Waiver, with information regarding the number of children enrolled in the waiver and receiving services, linguistic and cultural diversity, age, gender and geographic representation of the applicants and the children enrolled in the program, and department plans to continue to assess the demand for waiver services, any executive office of health and human services plans to expand the waiver for children on the autism spectrum of all ages in the future and any other information determined relevant by the department; and provided further, that the department shall submit copies of any amended waiver to the house and senate committees on ways and means, the joint committee on education and the joint committee on children, families and persons with disabilities upon submission of the amendment \$4,123,387

5920-5000 For services to clients of the department who turn 22 years of age during state fiscal year 2010; provided, that the department shall report to the house and senate committees on ways and means not later than January 15, 2010, on the use of any funds encumbered or expended from this item including, but not limited to, the number of clients served in each region and the types of services purchased in each region \$5,000,000

5930-1000 For the operation of facilities for the mentally retarded; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the

mentally retarded, in this item called ICF/MRs, managed by the department and shall endeavor, within available resources, to discharge clients residing in the ICF/MRs to residential services in the community if the following criteria are met: a) the client is deemed clinically suited for a more integrated setting; b) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and c) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on children, families and persons with disabilities and the house and senate committees on ways and means on the progress of this initiative by December 1, 2009, including both past actions and proposed future actions; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, under allocation plans submitted to the house and senate committees on ways and means 30 days before any transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item; provided further, that prior to closing the Monson Development Center, the Templeton Development Center, and the Glavin Regional Center as part of the Community Services Expansion and Facilities Restructuring Plan, the executive office for administration and finance shall submit a report to the house and senate committees on ways and means and the joint committee on children, families and persons with disabilities; provided further, that the report shall examine the prospective costs and benefits of maintaining the facilities, the quality of care in the facilities and in alternative community-based settings and alternative methods of providing the services currently provided by the facilities; provided further, that the

report shall include options for the retention of the skilled workforce; provided further, that the secretary of administration and finance shall submit the findings and recommendations of the report to the house and senate committees on ways and means and the joint committee on children, families, and disabilities no later than July 1, 2010; and provided further, that at least 3 months prior to closing each of the aforementioned ICF/MRs, the secretary of housing and economic development or his designee and the commissioner of capital asset management and maintenance or his designee shall meet jointly with local officials and produce a plan for the timely demolition of buildings, remediation of hazardous materials and future use of the property, including disposition by the commonwealth for redevelopment or conservation, if appropriate \$161,581,427

5982-1000 For the department of developmental services; provided, that the department may expend not more than \$150,000 accrued through the sale of milk and other farm-related and forestry products at the Templeton Developmental Center for program costs of the center, including supplies, equipment, and maintenance of the facility; and provided further, that notwithstanding any general or special law to the contrary and for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefore as reported in the state accounting system \$150,000

EXECUTIVE OFFICE OF TRANSPORTATION.
Office of the Secretary.

6000-0100 For the office of the secretary of transportation; provided, that the office shall submit quarterly reports to the joint committee on transportation and the house and senate committees on ways and means detailing projects funded through the statewide transportation improvement program including, but not limited to, the location of the projects, the cost of the projects, the date of advertisement of the projects, the commencement

date of the projects, the projected completion date of the projects and the source of funds for the projects; provided further, that the office shall also provide the committees with quarterly reports detailing construction and reconstruction projects on town and county ways as described in subdivision (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws for which municipalities are projected to seek, have filed claims or have been paid state reimbursement; provided further, that a city or town shall comply with the procedures established by the secretary to obtain the necessary information to produce the reports; provided further, that the reports shall include, but not be limited to, the cost of the projects by city or town, the source of funding of the projects by city or town and the commencement and completion dates of the projects by city or town; provided further, that the secretary of transportation, in collaboration with the commissioner of highways, shall file an annual report with the joint committee on transportation and the house and senate committees on ways and means not later than June 30; provided further, that the report shall include spending through the statewide road and bridge program, the Chapter 90 program, the Small Town Road Assistance Program and all other programs expending funds for road and bridge projects; provided further, that the report shall detail the location of the project by city or town, a brief project description, the project cost, the expected completion date, the source of funding and any other information deemed necessary; provided further, that the office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that the reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that the reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to those funds, including payroll allocations for budgetary employees, fringe recovery and other chargebacks; provided further, that the reports shall

identify the number of full time equivalent personnel classified in each position type; provided further, that the reports shall list all employees who are paid from this item and items 6010-0002 and 6006-0003 who also receive payments from any capital funds; provided further, that the reports shall include for each of those employees how much money the employees receive from the items and how much money each employee receives from any capital funds; provided further, that the reports shall delineate the information for full-time employees, part-time employees and contracted personnel; provided further, that the report shall delineate any possibility of transferring equipment costs from operating expenditures to capital expenditures, and personnel costs from capital expenditures to operating expenditures, in a cost-neutral manner; and provided further, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements		\$2,474,447
Commonwealth Transportation Fund 100%		
6000-0110 For the purpose of property management and maintenance of railroad properties owned by the executive office of transportation on behalf of the commonwealth, including the cost of personnel; provided, that the office may expend an amount not to exceed \$27,344 from the rents and fees received pursuant to section 4 of chapter 161C of the General Laws		\$27,344
Commonwealth Transportation Fund 100%		
6000-1700 For the provision of information technology services within the executive office of transportation		\$6,150,987
Commonwealth Transportation Fund 100%		
6005-0015 For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program and the intercity bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 2009 and ending June 30, 2010, may enter into contracts with the authorities; provided further, that notwithstanding section 152A of chapter 161 of		

the General Laws and section 23 of chapter 161B of the General Laws, the amount shall be at least 50 per cent but not more than 75 per cent of the net cost of service of each authority incurred in fiscal year 2009, shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon the cities and towns shall be at least 25 per cent of the net cost of service; provided further, that in the event that 25 per cent of the net cost of service of each authority exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service for which the cities and towns have not previously been assessed as allowed by chapter 580 of the acts of 1980, the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 2010 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 2009; provided further, that for the purposes of this item, operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with Disabilities Act, or new services implemented after July 1, 1999, in an amount not to exceed a total of \$3,613,905 for the 16 regional transit authorities; provided further, that the new services shall have first received approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of the new services shall be assessed to the cities and towns of the appropriate transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides the new services shall file a report with the house and senate committees on ways and means and the joint committee on transportation, detailing the total costs and revenues associated with the new service; provided further, that the cost of the new services shall not annualize to more than \$3,613,905; provided further, that the executive office of transportation shall work cooperatively with the authorities and other public and private funding sources to maximize new revenue sources to expand transit services; provided further, that the authorities and the

executive office of transportation shall develop processes and procedures for contracts for services with other state agencies; provided further, that the executive office of transportation and the authorities shall work cooperatively to implement multi-year contracting for regional transit authority capital projects, particularly for construction projects and other multi-year commitments of the authorities; provided further, that the regional transit authorities shall implement structural, managerial and administrative reforms in order to achieve cost savings in services provided by the authorities; provided further, that the reforms shall include, but not be limited to, improved financing procedures for capital needs, approved plans for short and long-term service, a coordinated program of mass transportation for the regional transit authorities that provides standards of service for the authorities for types of service, passenger miles, hours of service, cost of service by route and mile and passenger, non-transportation revenue and system revenue-generating options including, but not limited to, fare revenue and advertising revenue, assessments on member cities and towns, net operating investment per passenger-mile ratio and service quality standards; provided further, that the program shall involve an approach to service coordinated with the Massachusetts Bay Transportation Authority and other transit providers in order to achieve maximum efficiency of regional transit authority service routes; provided further, that all regional transit authorities shall achieve the fare or revenue recovery ratio of 40 per cent within 18 months after the effective date of this act; and provided further, that the Massachusetts Association of Regional Transit Authorities shall, on or before November 15, 2009, report to the joint committee on transportation and the house and senate committees on ways and means on the operations of the authorities in the first half of fiscal year 2010 and focus the report on the reforms and improvements . \$44,670,909
Commonwealth Transportation Fund 100%

Massachusetts Aeronautics Commission.

6006-0003 For the administration of the commission, including the expenses of the commissioners \$392,794
Commonwealth Transportation Fund 100%

Department of Highways.

- 6010-0001 For personnel costs of the department of highways, for certain administrative and engineering expenses and equipment of the highways commission, the office of the commissioner of highways, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment and the maintenance and operation of state highways and bridges and for the costs associated with the global positioning system program; provided, that no expenditures shall be made from the AA object code; provided further, that notwithstanding any general or special law to the contrary, the department may expend from capital authorizations amounts necessary to cover operational costs of the department in excess of amounts appropriated in this item to ensure that adequate staffing levels are maintained to support the services and programs offered by the department; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of the department and for all administrative and personnel expenses of the department charged to such bonds; provided further, that the reports shall be filed not later than 30 days after the end of each quarter; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B and 5C and for costs associated with police services and overtime within such areas shall be paid from this item; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials and vehicle repairs \$8,733,602
- Commonwealth Transportation Fund 100%
- 6010-0002 For AA object class payroll costs of item 6010-0001; provided, that the funds appropriated in this item shall be the only source of funding for all overtime expenses associated with

the department's snow and ice control efforts; provided further, that not later than June 30, 2012, the department shall develop a plan that phases into the budgetary appropriation all personnel costs transferred to capital authorizations since June 30, 2002; provided further, the department shall complete an overview of the employment levels paid by capital authorizations since June 30, 2002, and the anticipated number of employees scheduled to be transferred to budgetary appropriations each fiscal year through June 30, 2012; and provided further, such plan shall be submitted to the house and senate committees on ways and means and the clerks of the house and senate not later than December 31, 2009 \$25,753,748

Commonwealth Transportation Fund 100%

6010-0003 For the department of highways; provided, that the department may expend revenues collected up to \$500,000 from revenue generated from promotional programs; provided further, that funds collected shall be used for the management of that program and for highway maintenance costs; provided further, that the department shall prepare a report delineating the proposed allocation of funds to be expended for the management of such program and highway maintenance costs; provided further, that the report shall be filed with the house and senate committees on ways and means not later than 30 days prior to any encumbrance of the funds; and provided further, that the program and any expenditures made under the program shall comply with all statutes, rules and regulations governing billboards, signs and other outdoor advertising devices \$500,000

Commonwealth Transportation Fund 100%

6030-7201 For the costs of hired and leased equipment, vehicle repair, fuel costs and sand, salt and other control chemicals used for snow and ice control \$65,000,000

Commonwealth Transportation Fund 100%

Board of Library Commissioners.

7000-9101 For the operation of the board of library commissioners \$938,042

7000-9401 For state aid to regional public libraries; provided, that the board of library commissioners may provide quarterly advances of funds for purposes authorized by clauses (1) and (2) of section 19C of chapter 78 of the General Laws, as it considers proper, to regional public library systems throughout each fiscal year,

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in compliance with the office of the comptroller’s regulations on state grants, 815 CMR 2.00; and provided further, that notwithstanding any general or special law to the contrary, in calculating the fiscal year 2010 distribution of funds appropriated in this item, the board of library commissioners shall employ population figures used to calculate the fiscal year 2009 distribution \$14,591,160

7000-9402 For the talking book library at the Worcester public library \$421,143

7000-9406 For the Braille and talking book library at Watertown, including the operation of the machine lending agency \$2,241,016

7000-9501 For state aid to public libraries; provided, that notwithstanding any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of the city or town for free public library services is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the 3 years immediately preceding; provided further, that notwithstanding any general or special law to the contrary, the board of library commissioners may grant waivers in excess of the waiver limit set forth in the second paragraph of section 19A of chapter 78 of the General Laws in fiscal year 2010 for a period of not more than 1 year; provided further, that notwithstanding any general or special law to the contrary, of the amount by which this item exceeds the amount appropriated in chapter 194 of the acts of 1998, funds shall be distributed under the guidelines of the municipal equalization grant program, the library incentive grant program and the nonresident circulation offset program; and provided further, that any payment made under this item shall be deposited with the treasurer of the city or town and held in a separate account and shall be expended by the public library of that city or town without appropriation, notwithstanding any general or special law to the contrary \$7,107,657

7000-9506 For the technology and automated resource sharing networks \$1,929,238

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.
Office of the Secretary.

7002-0010 For the operation of the office of the secretary of housing and economic development and the Massachusetts business-to-business program; provided, that agencies within the execu-

	tive office may, with the prior approval of the secretary, streamline and improve administrative operations pursuant to interdepartmental service agreements; and provided further, that a report shall be submitted to the house and senate committees on ways and means not later than February 1, 2010, which shall include, but not be limited to, the following: (1) the number of businesses that have used the Massachusetts business-to-business program in fiscal year 2010, including both businesses located in the commonwealth and those that were attracted to Massachusetts by the program; (2) the number of jobs the commonwealth has retained as a result of the funding of this program; and (3) the amount of private investment that has occurred as a result of the funding of this program	\$506,531
7002-0017	For the provision of information technology services within the executive office of housing and economic development, including the homeless management information system	\$2,897,371
7002-0045	For the operation of the office of the wireless and broadband affairs director	\$194,189

Department of Housing and Community Development.

7004-0001	For the commission on Indian affairs	\$99,698
7004-0099	For the operation of the department of housing and community development; provided, that notwithstanding any general or special law to the contrary, the department may make expenditures for the purposes of the department against federal grants for certain direct and indirect costs under a cost overhead allocation plan approved by the comptroller; provided further, that the comptroller shall maintain an account on the Massachusetts management accounting and reporting system for the purpose of making these expenditures; provided further, that expenditures made against the account shall not be subject to appropriation and may include the cost of personnel; provided further, that notwithstanding any general or special law, rule, or regulation to the contrary, the department may conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9024, 7004-9030, 7004-9033, 7004-9316, and items 7004-9009, 7004-9014, 7004-9019, 7004-9020 of section 2D;	

provided further, that as a condition of eligibility or continued occupancy by an applicant or a tenant, the department may require disclosure of the social security number of an applicant or tenant and members of the applicant's or tenant's household for use in verification of income eligibility; provided further, that the department may deny or terminate participation in subsidy programs for failure by an applicant or a tenant to provide a social security number for use in verification of income eligibility; provided further, that the department may also consult with the department of revenue, the department of transitional assistance or any other state or federal agency which it considers necessary to conduct this income verification; provided further, that notwithstanding any general or special law to the contrary, these state agencies shall consult and cooperate with the department and furnish any information in the possession of the agencies including, but not limited to, tax returns and applications for public assistance or financial aid; provided further, that for the purposes of conducting this income verification, the director of the department may enter into an interdepartmental service agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in federally assisted housing programs and that of members of the participants' households; and provided further, that for the purposes of clarification only, notwithstanding section 12 of chapter 490 of the acts of 1980, the department may authorize neighborhood housing services corporations to retain, re-assign, and reloan funds received in repayment of loans made under the neighborhood housing services rehabilitation program \$6,895,062

7004-0100 For the operations of the homeless shelter and services unit, including the compensation of caseworkers and support personnel \$4,754,159

7004-0101 For certain expenses of the emergency assistance program as follows: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes, Hampden and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers; and (vi) voucher shelters; provided, that eligibility shall be limited to families with income at or below

115 per cent of the federal poverty level; provided further, that families with income greater than 115 per cent but not exceeding 130 per cent of the federal poverty level that received services on or before June 30, 2009 from this item shall remain eligible for services in fiscal year 2010; provided further, however, that any family whose income exceeds 115 per cent of the federal poverty level while the family is receiving assistance funded by this item shall not become ineligible for assistance due to exceeding the income limit for a period of 6 months from the date that the 115 per cent level was exceeded; provided further, that the department shall establish reasonable requirements for such families to escrow a portion of their income; provided further, that any such escrowed funds shall be exempt from otherwise applicable asset limits; provided further, that the family may withdraw the amount placed in escrow upon transition to permanent housing or losing eligibility for shelter services; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that eligible households shall be placed in shelters as close as possible to their home community unless a household requests otherwise; provided further, that if the closest available placement is not within 20 miles of the household's home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date unless the household requests otherwise; provided further, that eligibility for shelter by an otherwise eligible family shall not be impaired by prior receipt of any non-shelter benefit; provided further, that the department shall make every effort to ensure that children receiving services from this item shall continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that

notwithstanding any other general or special law to the contrary, the department shall immediately provide shelter for up to 30 days to families who appear to be eligible for such shelter based on statements provided by the family and any other information in the possession of the department but who need additional time to obtain any third-party verifications reasonably required by the department; provided further, that shelter benefits received under the preceding proviso shall not render a family ineligible under any regulation providing that a family who previously received shelter is ineligible for shelter benefits for a period of 12 months; provided further, that families receiving such shelter benefits who are found not to be eligible for continuing shelter benefits shall be eligible for aid pending a timely appeal pursuant to chapter 23B of the General Laws; provided further, that the department shall not impose unreasonable requirements for third-party verification and shall accept verifications from the family whenever reasonable; provided further, that in promulgating, amending or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated in this item; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of the executive office of housing and economic development that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that all of this item shall be subject to appropriation and, in the event of a deficiency, nothing in this item shall give rise to or shall be construed as giving rise to any enforceable right or entitlement to services in excess of the amounts appropriated by this item; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the emergency assistance family shelter program; and provided further, that the report shall contain the same data required in item 4403-2120 of section 2 of chapter 139 of the acts of 2006 \$91,605,510

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- 7004-0102 For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide shelter, transitional housing, and services that help individuals avoid entry into shelter or successfully exit shelter; provided, that no organization providing services to the homeless shall receive less than an average per bed/per night rate of \$12.92; provided further, that the department may allocate funds to other agencies for the purposes of this program; provided further, that no funds shall be expended for costs associated with the homeless management information system; and provided further, that funds may be expended for a 16-bed year-round nonprofit men's shelter program for the chronically mentally ill homeless that provides individualized case management, including job search assistance \$36,281,684
- 7004-0104 For the home and healthy for good program operated by the Massachusetts housing and shelter alliance for the purpose of reducing the incidence of chronic homelessness in the commonwealth; provided, that the Massachusetts housing and shelter alliance shall be solely responsible for the administration of this program; provided further, that the Massachusetts housing and shelter alliance shall file a report with the clerks of the house and senate, the undersecretary of the department of housing and committee development, and the chairs of the house and senate committees on ways and means no later than March 1, 2010, detailing the implementation of this program; and provided further, that the report shall include information on the number of people served, the average cost per participant, the demographics of those served, whether participants have previously received government services and any projected cost-savings in other state-funded programs \$1,200,000
- 7004-3036 For housing services and counseling; provided, that funds shall be expended as grants to 9 regional housing consumer education centers operated by the regional nonprofit housing authorities; provided further, that the grants shall be through a competitive application process under criteria created by the department; provided further, that the department shall submit annual reports to the secretary of administration and finance, the house and senate committees on ways and means and the

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	joint committee on housing detailing all expenditures of the program, including each regional housing consumer education center, the total number of persons who received information and referral services, the costs for such services rendered per consumer and the identification of consumer issues and trends; provided further, that said department shall report to the house and senate committees on ways and means no later than March 1, 2010 on possible savings and efficiencies that may be realized through the consolidation of said services; and provided further, that no funds shall be expended from this item in the AA object class for the compensation of state employees	\$1,624,317
7004-3045	For a tenancy preservation program for neutral party consultation services in eviction cases before the housing court department of the Massachusetts trial court for individuals with disabilities and for families with members with disabilities if the disability is directly related to the reason for eviction	\$250,000
7004-4314	For the expenses of a service coordinators program established by the department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in that housing	\$350,401
7004-9005	For subsidies to housing authorities and nonprofit organizations including funds for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons under sections 32 and 40 of chapter 121B of the General Laws; provided, that notwithstanding any general or special law to the contrary, all housing authorities operating elderly public housing shall offer first preference for elderly public housing units which are vacant on the effective date of this act, and thereafter, to those persons 60 years of age or older as of June 30, 2009, receiving rental assistance from the Massachusetts rental voucher program; provided further, that the department may expend funds appropriated in this item for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve included in the budgets of housing authorities; provided further, that no funds shall be expended from this item	

in the AA object class for the compensation of state employees; provided further, that the amount appropriated in this item shall be considered to meet any and all obligations under said sections 32 and 40 of said chapter 121B; provided further, that any new reduced rental units developed in fiscal year 2010 eligible for subsidies under this item shall not cause any annualization that results in an amount exceeding the amount appropriated in this item; and provided further, that all funds in excess of normal utilities, operations and maintenance costs may be expended for capital repairs \$65,300,000

7004-9024 For a program of rental assistance for low-income families and elderly persons through mobile and project-based vouchers; provided, that rental assistance shall only be paid under a program to be known as the Massachusetts rental voucher program; provided further, that the income of the households shall not exceed 200 per cent of the federal poverty level; provided further, that the department may award mobile vouchers to eligible households currently occupying project-based units that shall expire due to the nonrenewal of project-based rental assistance contracts; provided further, that the department, as a condition of continued eligibility for vouchers and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices; provided further, that any household in which a participant or member of a participant's household shall fail to provide a social security number for use in verifying the household's income and eligibility shall no longer be eligible for a voucher or to receive benefits from the voucher program; provided further, that the vouchers shall be in varying dollar amounts and shall be set by the department based on considerations, including, but not limited to, family size, composition, income level and geographic location; provided further, that notwithstanding any general or special law to the contrary, the monthly dollar amount of each voucher shall be the department-approved total monthly rent of the unit less the monthly amount paid for rent by the household; provided further, that notwithstanding any general or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of

the mobile vouchers or the project-based units; provided further, that any household which is proven to have caused intentional damage to its rental unit in an amount exceeding 2 month's rent during any 1-year lease period shall be terminated from the program; provided further, that notwithstanding any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall be re-assigned within 90 days; provided further, that the department shall pay agencies \$32.50 per voucher per month for the costs of administering the program; provided further, that subsidies shall not be reduced for the cost of accommodating the cost of the inspections; provided further, that notwithstanding any general or special law to the contrary, each household holding a project-based voucher shall pay at least 30 per cent but not more than 40 per cent of its income as rent and each household holding a mobile voucher shall pay at least 30 per cent but not more than 40 per cent of its income as rent; provided further, that the department shall establish the amounts of the mobile vouchers and the project-based vouchers so that the appropriation in this item is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which shall cause it to exceed the appropriation set forth in this item; provided further, that the households holding mobile vouchers shall have priority for occupancy of the project-based dwelling units in the event of a vacancy; provided further, that the department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12-month contract which shall be executed by the participant and the department; provided further, that such obligations may include, but shall not be limited to, job training, counseling, household budgeting and education, as defined in regulations promulgated by the department and to the extent these programs are available; provided further, that each participant shall be required to undertake and meet these contractually established obligations as a condition for continued eligibility in the program; provided further, that for continued eligibility, each participant shall execute this 12-month contract on or before September 1, 2009, if the participant's annual eligibility recertification date

occurs between June 30, 2009, and September 1, 2009, and otherwise on or before the annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is disabled may be exempted from any obligations unsuitable under particular circumstances; provided further, that no funds shall be expended from this item in the AA object class for the compensation of state employees; provided further, that the department may assist housing authorities, at their written request, in the immediate implementation of a homeless prevention program utilizing alternative housing resources available to them for low-income families and the elderly by designating participants in the Massachusetts rental voucher program as at risk of displacement by public action through no fault of their own; provided further, that participating local housing authorities may take all steps necessary to enable them to transfer mobile voucher program participants from the Massachusetts rental voucher program into another housing subsidy program; and provided further, that the department of housing and community development shall strive to avoid a reduction in the value of the Massachusetts rental voucher from its value as of June 30, 2009 \$29,997,061

7004-9030 For the transitional rental assistance program established under section 16 of chapter 179 of the acts of 1995; provided, that notwithstanding any general or special law to the contrary, the transitional rental assistance shall be in the form of mobile vouchers; provided further, that the vouchers shall be in varying dollar amounts set by the department based on considerations including, but not limited to, household size, composition, household income and geographic location; provided further, that any household which is proven to have caused intentional damages to its rental unit in an amount exceeding 2 months' rent during any 1 year shall be terminated from the program; provided further, that the department shall pay agencies that administer this program an allowance not to exceed \$25 per voucher per month for the costs of administration; provided further, that notwithstanding any general or special law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, but each household shall be required to pay not less than 25 per

cent of its net income, as defined in regulations promulgated by the department, for units if payment of utilities is not provided by the unit owner, or, not less than 30 per cent of its income for units if payment of utilities is provided by the unit owner; provided further, that payments for the transitional rental assistance may be provided in advance; provided further, that the department shall establish the amounts of the mobile vouchers, so that the appropriation in this item is not exceeded by payments for rental assistance and administration; provided further, that the department shall not enter into commitments which will cause it to exceed the appropriation set forth in this item; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent," as used in this item, shall mean payments to the landlord or owner of a dwelling unit under a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that the department shall submit an annual report to the budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; provided further, that consistent with chapter 179 of the acts of 1995, the amount appropriated in this item shall not annualize to more than \$4,000,000 in fiscal year 2011; and provided further, that the program shall provide funding for not more than 800 mobile vouchers \$3,450,000

7004-9033 For rental subsidies to eligible clients of the department of mental health; provided, that the department shall establish the amounts of such subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein \$4,000,000

7004-9315 For the low-income housing tax credit program; provided, that the department may expend not more than \$2,329,213 from revenue collected from fees collected under Executive Order No. 291, pertaining to low-income housing tax credits, for the costs of administering and monitoring the programs, including the costs of personnel, subject to the approval of the

director of the department; and provided further, that notwithstanding any general or special law to the contrary and for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$2,329,213

7004-9316 For a program to provide assistance for homeless families moving into subsidized or private housing and families at risk of becoming homeless due to a significant reduction of income or increase in expenses; provided, that the amount of financial assistance shall not exceed \$2,000 per family; provided further, that funds may be used for security deposits, first and last month's rent, electric, gas, sewer and water utility payments for utility arrearages incurred on or after December 1, 2007; provided further, that assistance shall be administered by the department through contracts with the regional non-profit housing agencies; provided further, that no assistance shall be provided to any family with an income in excess of 50 per cent of the area median income; provided further, that prior to authorizing a residential assistance payment for a family, the non-profit housing agency shall make a finding that the family experienced a significant reduction of income or increase in expenses and has secured new income or a change in circumstances and that the payment will enable the family to retain its current housing, obtain new housing, or otherwise avoid homelessness; provided further, that in making these findings the agency shall, unless the facts of the case warrant otherwise, apply a presumption that the payment will enable a family to retain its housing, obtain new housing, or otherwise avoid homelessness if the family is paying less than or equal to 50 per cent of its income for that housing; provided further, that a family who is paying more than 50 per cent of its income for its housing shall be provided a fair opportunity to establish that a residential assistance payment will enable it to retain its housing, obtain new housing, or otherwise avoid homelessness; provided further, that residential assistance payments may be made through direct vendor payments according to standards to be established by the department; provided fur-

ther, that the agencies shall establish a system for referring families approved for residential assistance payments who the agencies determine would benefit from these services to existing community-based programs that provide additional housing stabilization supports, including assistance in obtaining housing subsidies and locating alternative housing that is safe and affordable for those families; provided further, that the program shall be administered under guidelines established by the department; and provided further, that the department shall provide a status report to the secretary of administration and finance and the house and senate committees on ways and means no later than March 1, 2010, that includes, but is not limited to, all program expenditures, the number of recipients of the funds, the housing status of the recipients before and after receiving assistance, the purposes for which each family used the assistance, the administrative costs and other related costs of the program, including whether such recipient resided or continues to reside in state or federal public housing, and any other information necessary to determine the effectiveness of the program \$5,000,000

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.
Office of the Secretary.

- 7002-0100 For the operation of the executive office of labor and workforce development, including the divisions under the control of the department; provided, that not later than January 4, 2010, the director of workforce development shall submit to the house and senate committees on ways and means a comprehensive report describing in detail the job training services, including labor exchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year, systems for delivery of such services, the costs of such services and the sources of revenue for such services \$1,050,292
- 7002-0170 For the provision of information technology services within the executive office of labor and workforce development \$213,779

Department of Labor.

7002-0200 For the operation of the division of occupational safety; provided,

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	that the division may employ staff not subject to chapter 31 of the General Laws for a program to evaluate asbestos levels in public schools and other public buildings	\$1,770,497
7002-0201	For the division of occupational safety; provided, that the division may expend an amount not to exceed \$252,850 received from fees authorized under section 3A of chapter 23 of the General Laws and civil fines issued under sections 197B of chapter 111 of the General Laws, section 46R of chapter 140 of the General Laws and section 6F1/2 of chapter 149 of the General Laws; and provided further, that the division may retain an additional \$200,000 in revenue collected in excess of \$1,600,000	\$252,850
7002-0500	For the operation and administrative expenses of the division of industrial accidents; provided, that said division shall submit a report not later than February 1, 2010 to the house and senate committees on ways and means detailing the scope, objective and results of grant recipients' safety training program; provided further, that the General Fund shall be reimbursed the amount appropriated in this item and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws; and provided further, that the treasurer may release to the division, subject to adequate and appropriate documentation of the need, to the workers' compensation advisory council and the affirmative vote of at least 7 members of the workers' compensation advisory council, sufficient funds from the special reserve account established in clause (c) of subsection (4) of said section 65 of said chapter 152 to pay for expenses to continue expansion of the conversion of the agency's computer system from unify to oracle	\$20,758,502
7002-0900	For the operation of the division of labor relations	\$1,838,835

Department of Workforce Development.

7002-0012	For a youth-at-risk program targeted at reducing juvenile delinquency in high risk areas; provided, that these funds may be expended for the development and implementation of a year-round employment program for at-risk youth as well as existing year-round employment programs; provided further, that \$500,000 of these funds shall be matched by private organizations; and provided further, that funds shall be avail-	
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	able for expenditure through September 1, 2010	\$4,000,000
7002-0101	For the operation of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter 31 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, the deputy director shall require each apprentice entering into a written agreement to submit an application to the division for an apprentice identification card; provided further, that an apprentice identification card shall contain the photograph of the apprentice, the apprentice registration number or another number that the deputy director requires, the name and business address of the appropriate apprenticeship committee or single employee sponsor, the steps of progression and related dates applicable to the apprentice and the projected date on which the apprentice is to complete the apprenticeship; provided further, that as a condition of his apprenticeship, the apprentice shall keep the apprentice identification card on his person during his hours of employment during the apprenticeship; provided further, that an apprentice performing work on a project subject to this item shall maintain in his possession an apprentice identification card; provided further, that any apprentice who is determined by the deputy director to be not enrolled in related classroom instruction classes shall be paid at the journey level rate for the duration of the public works project; and provided further, that for every week in which an apprentice is employed by a contractor, subcontractor or public body subject to this item, a photocopy of the apprentice's apprentice identification card shall be attached to the records submitted under this item	\$377,696
7003-0605	For the operation and maintenance of the Massachusetts Manufacturing Extension Partnership for the purpose of maintaining and promoting manufacturing as an integral part of the Massachusetts economy and for programs designed to assist small and mid-sized manufacturing companies	\$900,000
7003-0701	For grants and technical assistance administered by the department of workforce development, under section 2RR of chapter 29 of the General Laws and for the cost of collecting the assessment established in section 14L of chapter 151A of the General Laws; provided, that the department of workforce development shall provide a report on the grants and technical	

assistance programs authorized in this item detailing the firms receiving grants, by number of employees, revenues, and industry, to the house and senate committees on ways and means not later than January 15, 2010; provided further, that the report shall include specific measures of how grant recipients were able to increase job growth, retention rates, and productivity as a result of the grants; provided further, that the report shall include measures of whether training participants received promotions and increased incomes as a result of training; provided further, that the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training; and provided further, that grants may be administered by the department of workforce development to recruit and provide career support and workforce development retention of graduate students training for careers in public sector behavioral health service delivery \$10,000,000

Workforce Training Fund 100%

7003-0702 For State Service Corps grants to be administered by the Massachusetts Service Alliance \$750,000

7003-0803 For the one-stop career centers; provided, that one-stop career centers that were in existence on May 1, 1997, located in Boston, Hampden county and metro north service delivery areas shall maintain the same level of service provided in the previous fiscal year and any satellite offices of said centers which opened on or before December 1, 1997 \$5,435,698

Office of Consumer Affairs and Business Regulation.

7006-0000 For the office of the director of consumer affairs and business regulation, including expenses of an administrative services unit \$982,341

7006-0043 The office of consumer affairs may expend for the administration and enforcement of the home improvement contractor program an amount not to exceed \$500,000 from the revenue collected from fees for the registration and renewal of home improvement contractor registrations under section 11 of chapter 142A of the General Laws; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the department

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may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system \$500,000

Division of Banks.

7006-0010 For the operation of the division of banks; provided, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon financial institutions which the division currently regulates pursuant to powers granted to the division by the general or special laws or by regulations; and provided further, that this assessment shall be in addition to any assessments that the division currently assesses upon financial institutions and shall be made at a rate sufficient to produce \$12,931,502 in additional revenue that shall pay for this item \$12,931,502

7006-0011 For the costs incurred by the division of banks associated with licensure of loan originators pursuant to chapter 255F of the General Laws; provided, that the division may expend revenues in an amount not to exceed \$5,000,000 from the revenue received from administrative fees associated with said licensure fees and from civil administrative penalties pursuant to said chapter 255F; provided further, that the division may expend from such revenue an amount to be determined by the commissioner of banks as grants for the operation of a pilot program for best lending practices, first-time homeowner counseling for non-traditional loans and 10 or more foreclosure education centers pursuant to section 16 of chapter 206 of the acts of 2007 and that the grants shall be awarded through a competitive application process under criteria created by the division and that no funds shall be expended from this item in the AA object class for the compensation of state employees for such program; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, the commissioner may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system . . \$5,000,000

Division of Insurance.

- 7006-0020 For the operation of the division of insurance, including the expenses of the board of appeal on motor vehicle liability policies and bonds and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to chapter 31 of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by section 1 of chapter 5 of the General Laws; provided further, that the division shall designate an employee to handle all incoming calls relative to chapter 218 of the acts of 1995 or regulations promulgated under section 51 of chapter 111 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon the institutions which the division currently regulates except for licensed business entity producers under powers granted to the division by general or special law or regulation; and provided further, that such assessment shall be in addition to any assessments that the division currently assesses upon such institutions and shall be made at a rate sufficient to produce \$11,620,632 in additional revenue that will pay for this item \$11,620,632
- 7006-0029 For the operation of the health care access bureau of the division of insurance; provided, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item shall be assessed upon the institutions which the division currently regulates except for licensed business entity producers under powers granted to the division by general or special law or regulation; and provided further, that such assessment shall be in addition to any assessments that the division currently assesses upon such institutions and shall be made at a rate sufficient to produce \$1,100,000 in additional revenue that will pay for this item \$1,100,000

Division of Professional Licensure.

- 7006-0040 For the operation and administration of the division of profes-

sional licensure; provided, that of the funds appropriated in this item, sufficient monies shall be expended for the reduction of case backlog at the boards of registration; provided further, that the division shall at all times employ not less than 2 hearing officers to facilitate the processing of cases pending before the various boards; provided further, that the position of investigator of radio and television technicians shall not be subject to chapter 31 of the General Laws; and provided further, that the division shall maintain and staff an office in the city of Springfield \$2,982,991

Division of Standards.

7006-0060 For the operation of the division of standards \$572,096
7006-0066 For the support of the division of standards' municipal inspection efforts; provided, that up to 15 per cent of the amount appropriated herein may be expended for administrative costs of the division \$283,617
7006-0067 For the division of standards; provided, that the division may expend for enforcement of weights and measures laws an amount not to exceed \$58,751 from revenues received from item pricing violations collected through municipal inspection efforts, and from weights and measures fees and fines collected from cities and towns \$58,751
7006-0068 For the division of standards; provided, that the division may expend an amount not to exceed \$360,000 from revenue received from license fees assessed to owners of motor vehicle repair shops \$360,000

Department of Telecommunications and Cable.

7006-0071 For the operation of the department of telecommunications and cable; provided, that notwithstanding the second sentence of section 7 of chapter 25C of the General Laws, the assessments levied for fiscal year 2010 pursuant to said section 7 of said chapter 25C shall be made at a rate sufficient to produce \$2,685,874 \$2,685,874

State Racing Commission.

7006-0110 For the operation of the state racing commission \$1,604,173
7006-0140 For distribution to each city and town within which racing meet-

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ings are conducted under section 18D of chapter 58 of the
General Laws \$1,179,000

Department of Business Development.

- 7007-0100 For the office of the director of business development \$392,944
- 7007-0150 For a competitive grant program to promote the 8 regional economic development corporations, councils and partnerships across the commonwealth \$800,000
- 7007-0300 For the operation of the Massachusetts office of business development, which shall include the operation and support of capital grants programs, including the Massachusetts Opportunity Relocation and Expansion Jobs Capital Program, established in chapter 123 of the acts of 2006, and for marketing and promoting the commonwealth in order to attract and retain targeted businesses and industries \$2,259,352
- 7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based research and development, and raising the scientific awareness of the communities of the commonwealth \$420,000
- 7007-0800 For a grant for the state match for a small business development center; provided, that no funds shall be expended from this item until such time as the United States Small Business Administration has made a payment or has executed a contract to pay the University of Massachusetts at Amherst for the operation of the center; provided further, that the funds expended from this item shall not exceed 25 per cent of the gross operating cost of said center; provided further, that not more than 25 per cent of the amount appropriated herein shall be expended for the purpose of operating federal procurement technical assistance services within said center; provided further, that the services shall include, but not be limited to, assisting businesses in securing federal contracts, obtaining contract financing, generating responses to requests-for-proposals, interpreting bid documents, providing educational workshops and seminars and for the electronic identification and tracking of federal bid opportunities; provided further, that funds expended for the purpose of operating federal procurement technical assistance services within said center shall be subject to the receipt of matching funds from federal

	or private sources, including the United States Department of Defense; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means	\$1,204,286
7007-0900	For the operation and administration of the office of travel and tourism; provided, that performance-based standards shall be incorporated in all contracts executed by said office for the procurement of tourism marketing and advertising services; provided further, that the organizations shall be required, as a condition of receiving a grant, to submit a total operating budget which identifies each source and use of operating and capital funds; and provided further, that not less than \$1,000,000 shall be expended through a grant application process established by the office of travel and tourism to offset deficits that may occur during fiscal year 2010 for the highway information centers operating year-round on state highways and federally-assisted highways, and the visitor information centers on Boston Common and the Prudential Center, both in the city of Boston, and the Adams Visitor Center in the town of Adams	\$7,483,636
	Massachusetts Tourism Fund	100%
7007-0901	For the operation and administration of the Massachusetts Sports and Entertainment Commission; provided, that the Massachusetts Sports and Entertainment Commission shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth; and provided further, that the Massachusetts Sports and Entertainment Commission shall establish a division within the commission which shall be the official and lead agency to facilitate motion picture production and development within the commonwealth	\$1,250,000
	Massachusetts Tourism Fund	100%
7007-0951	For the operation of the Commonwealth Zoological Corporation pursuant to chapter 92B of the General Laws; provided, that funds appropriated in this item shall be expended for the purposes of promoting private fundraising, achieving self-sufficiency and serving as a catalyst for urban economic development and job opportunities for local residents; provided further, that the corporation shall take all steps necessary to increase the amount of private funding available for the operation of the zoos; provided further, that funding in	

	this item may not be transferred through interdepartmental service agreements; and provided further, that the corporation shall report to the house and senate committees on ways and means not later than February 1, 2010, on the status of, and amounts collected from, the private fundraising and enhanced revenue efforts identified in the draft Massachusetts Zoos Business and Operations Plan, dated December, 1996	\$6,500,000
7007-1000	For assistance to regional tourist councils under section 14 of chapter 23A of the General Laws; provided, that notwithstanding any general or special law or rule or regulation to the contrary, each of the councils may expend an amount not to exceed 20 per cent of the funds appropriated in this item for the cost of administrative services	\$6,000,000
	Massachusetts Tourism Fund	100%
7007-1300	For the operation of the Massachusetts international trade council; provided, that subject to final execution of the terms and conditions of a contract, the council shall act on behalf of the department of business development to perform the functions of the Massachusetts office of international trade and investment under sections 23A through 28, inclusive, of chapter 23A of the General Laws	\$250,000
	Massachusetts Tourism Fund	100%
7007-1500	For the operation and administration of the office of minority and women business assistance; provided, that the office shall administer an electronic business certification application which shall be accessible to business applicants through use of the internet; provided further, that the office shall ensure the integrity and security of personal and financial information transmitted by electronic application; provided further, that the office shall, using all existing available resources, provide certification services within each of the 1-stop regional assistance centers of the Massachusetts office of business development; and provided further, that the office shall develop and implement measures and procedures to continue to improve the efficiency and the timeliness of the certification process	\$754,815

EXECUTIVE OFFICE OF EDUCATION.
Office of the Secretary of Education.

7009-1700 For the operation of information technology services within the

executive office of education; provided, that the secretary shall file a report with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following: (a) financial statements detailing savings realized from said consolidation; (b) the number of personnel assigned to the information technology services within the executive office; and (c) efficiencies that have been achieved from the sharing of resources \$7,778,159

7009-6379 For the operation of the office of the secretary of education; provided, that agencies within the executive office may, with the prior approval of the secretary, streamline and improve administrative operations under interdepartmental service agreements \$762,872

Department of Elementary and Secondary Education.

7010-0005 For the operation of the department of elementary and secondary education; provided, that not later than November 17, 2009, the department shall submit a progress report to the secretary of administration and finance, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on education on efforts by the department to further define and advance the strategic vision of the department, along with a detailed implementation plan for realizing that vision; and provided further, that the department, in collaboration with the commission on gay and lesbian youth established by section 67 of chapter 3 of the General Laws, may allocate funds for programming to ensure public schools' compliance with the board of elementary and secondary education's recommendations, which take into account the commission's recommendations, for the support and safety of gay and lesbian students and the implementation of related suicide and violence prevention efforts and reduction of health disparities for GLBT youth \$13,750,821

7010-0012 For grants to cities, towns and regional school districts for payments of certain costs and related expenses for the program to eliminate racial imbalance established under section 12A of chapter 76 of the General Laws; provided, that funds shall be made available for payment for services rendered by METCO, Inc. and Springfield public schools ... \$18,491,758

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7010-0033	For literacy and early literacy programs including, but not limited to, the Bay State Reading Institute program, the John Silber early literacy program, and the Reading Recovery program; provided, that said programs shall provide ongoing evaluation of the outcomes thereof and shall document said outcomes annually to the department and to the house and senate committees on ways and means; provided further, that the Bay State Reading Institute may be administered under contract to Middlesex Community College in programmatic collaboration with Framingham State College and Fitchburg State College; and provided further, that funds appropriated in this item for said Institute may be expended through June 30, 2011	\$4,175,489
7010-1022	For the development and implementation of certificates of occupational proficiency	\$209,356
7027-0019	For school-to-career connecting activities; provided, that notwithstanding any general or special law to the contrary, the board of elementary and secondary education, in cooperation with the department of workforce development and the state workforce investment board, may establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program; provided further, that such program may include the award of matching grants to workforce investment boards or other local public-private partnerships involving local community job commitments and work site learning opportunities for students; provided further, that the grants shall require at least a 200 per cent match in wages for the students from private sector participants; provided further, that the program shall include, but not be limited to, a provision that business leaders commit resources to pay salaries, to provide mentoring and instruction on the job and to work closely with teachers; provided further, that public funds shall assume the costs of connecting schools and businesses to ensure that students serve productively on the job; and provided further, that no funds shall be expended for personnel costs	\$2,000,000
7027-1004	For English language acquisition professional development to improve the academic performance of English language learners and effectively implement sheltered English immersion as outlined in chapter 386 of the acts of 2002; provided,	

that the department shall only approve professional development courses and offerings with proven, replicable results in improving teacher performance, and which shall have demonstrated the use of best practices, as determined by the department, including data comparing pre-training and post-training knowledge; provided further, that the department shall, not later than February 15, 2010, provide a report on the number of educators who have received such training since passage of said chapter 386, the estimated number who need such additional training, and a review and analysis of the most effective types of professional development and the most common gaps in the knowledge base of educators implementing English immersion and teaching English language acquisition, along with legislative or regulatory recommendations of the department; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; and provided further, that no funds shall be expended for personnel costs \$397,937

7028-0031 For the expenses of school age children in institutional schools under section 12 of chapter 71B of the General Laws; provided, that the department may provide special education services to eligible inmates in county houses of correction; provided further, that the department of youth services shall continue to collaborate with the department of elementary and secondary education in order to align curriculum at the department of youth services with the statewide curriculum frameworks and to ease the reintegration of youth from facilities at the department of youth services into regular public school settings; and provided further, that the department of elementary and secondary education, in conjunction with the commissioner of youth services, shall submit a report on progress made to the house and senate committees on ways and means not later than December 1, 2009 \$7,685,712

7030-1002 For kindergarten development grants to provide ongoing grant awards to continue quality enhancement of existing full-day kindergarten classrooms; provided, that the department shall

administer a grant program to encourage the voluntary expansion of high quality, full-day kindergarten education throughout the commonwealth; provided further, that grants funded through this appropriation shall not annualize to more than \$18,000 per classroom in subsequent fiscal years; provided further, that preference shall be given to grant applicants with high percentages of students scoring in levels 1 or 2 on the Massachusetts comprehensive assessment system exam, as determined by the department based on available data; provided further, that any grant funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding any general or special law to the contrary; provided further, that such program shall supplement and shall not supplant currently funded local, state and federal programs at the school or district; provided further, that not later than January 15, 2010, the department shall report to the house and senate committees on ways and means on the total number of grants requested and awarded; provided further, that the report shall detail common factors associated with both successful and unsuccessful applications and shall include the total number of full-day and half-day kindergarten classrooms projected to be in operation in public schools in fiscal year 2011; provided further, that all kindergarten programs previously funded through community partnership councils at the department of early education and care shall receive grants from this item in amounts equal to the amounts they received in fiscal year 2009, reduced in proportion to the overall reduction of this item from fiscal year 2009 to fiscal year 2010; and provided further, that no funds shall be expended for personnel costs . . . \$26,748,947

7035-0002 For the provision and improvement of adult basic education services, including reading, writing and mathematics; provided, that grants shall be distributed to a diverse network of organizations which have demonstrated commitment and effectiveness in the provision of such services, and that are selected competitively by the department of elementary and secondary education; provided further, that such grants shall

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	support the successful transition of students from other adult basic education programs to community college certificate and degree-granting programs; provided further, that such grants shall be contingent upon satisfactory levels of performance as defined and determined by the department; provided further, that in no case shall grants be considered an entitlement to a grant recipient; provided further, that the department shall consult with the community colleges and other service providers in establishing and implementing content, performance and professional standards for adult basic education programs and services; and provided further, that no funds shall be expended for personnel costs at the department of elementary and secondary education	\$28,085,096
7035-0006	For reimbursements to regional school districts for the transportation of pupils; provided, that notwithstanding any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated in this item	\$40,521,840
7035-0007	For reimbursements to cities, towns, regional vocational or county agricultural school districts, independent vocational schools, or collaboratives for certain expenditures for transportation of nonresident pupils to any approved vocational-technical program of any regional or county agricultural school district, city, town, independent school or collaborative pursuant to section 8A of chapter 74 of the General Laws; provided, that should the amount appropriated herein be insufficient to fully fund said section 8A, initial reimbursements made by the department of elementary and secondary education may be pro-rated by the department to all eligible cities, towns, regional vocational or county agricultural school districts, independent vocational schools, or collaboratives; and provided further, that upon a determination by the department that the funds appropriated in this item are insufficient to meet the commonwealth's full obligation under said section 8A, the department shall, within 10 days, notify the secretary of administration and finance, the house and senate chairs of the joint committee on education, and the chairs of the house and senate ways and means committees of the amount needed to fully fund said obligation	\$646,855
7051-0015	For operating funds to distribute food for the Massachusetts emergency food assistance program	\$1,239,518

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7053-1909	For reimbursements to cities and towns for partial assistance in the furnishing of lunches to school children, including partial assistance in the furnishing of lunches to school children as authorized by chapter 538 of the acts of 1951, and for supplementing funds allocated for the special milk program; provided, that notwithstanding any general or special law to the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act and in the regulations implementing the act	\$5,426,986
7053-1925	For the school breakfast program for public and nonpublic schools and for grants to improve summer food programs during the summer school vacation period; provided, that funds shall be expended for the summer food service outreach program and the school breakfast outreach program; provided further, that within the summer food program, priority shall be given to extending such programs for the full summer vacation period and promoting increased participation in such programs; provided further, that the department of elementary and secondary education shall solicit proposals from returning sponsors and school food authorities in time for implementation of such grant program during the summer of 2010; provided further, that such grants shall only be awarded to sponsors who can demonstrate their intent to offer full summer programs or increase participation; provided further, that the department shall require sufficient reporting from each grantee to measure the success of such grant program; provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2010; provided further, that funds shall be expended for the universal school breakfast program in which all children in schools receiving funds under the program shall be provided free, nutritious breakfasts at no cost to them; provided further, that subject to regulations of the board that specify time and learning standards, breakfasts shall be served during regular school hours; provided further, that participation shall be limited to those elementary schools mandated to serve breakfast under section 1C of said chapter 69 where 60 per cent or more of the students are eligible for free or reduced-	

price meals under the federally-funded school meals program; provided further, that the department shall select school sites for programs authorized by this item not later than November 16, 2009, and shall report to the house and senate committees on ways and means on the preliminary results of these grants not later than January 8, 2010; provided further, that nothing in the universal school breakfast program shall give rise to enforceable legal rights in any party or enforceable entitlement to services; and provided further, that the department shall select grantees for the program authorized by this item not later than March 30, 2010, prior appropriation continued \$4,177,632

7061-0008 For school aid to cities, towns, regional school districts, counties maintaining agricultural schools, independent vocational schools and independent agricultural and technical schools to be distributed under chapters 70 and 76 of the General Laws and section 3; provided, that each school district shall report annually to the department of elementary and secondary education on its professional development expenditures, in a manner and form prescribed by the commissioner and consistent with the accountability requirements of the federal No Child Left Behind Act P.L.107-110; provided further, that the department of elementary and secondary education shall report annually to the house and senate committees on ways and means on school districts' professional development spending; and provided further, that the governor may allocate \$167,649,347 made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$3,869,847,585

7061-0011 For a reserve to: (1) meet extraordinary increases in the minimum required local contribution of a municipality pursuant to the requirements of section 3 of this act; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to section 114 of this act; provided further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of elementary and secondary education regarding the merits of such application; (2) assist regional school districts which, prior to fiscal year 2010, have assessed member towns using

the provisions of their regional agreement, and which, in fiscal year 2010, will assess member towns using the required contributions calculated pursuant to said section 3; (3) assist towns impacted by stresses in the commercial agricultural, fishing or lobster industry whose required local contribution exceeds 75 per cent of their foundation budget; (4) assist towns negatively impacted by shortfalls in federal impact aid for the education of children in families employed by the federal government on military reservations located within the town's limits; provided, that any grants provided under this item shall be expended by a school committee without further appropriation; (5) assist regional school districts in rural areas which meet each of the following: (a) they have fewer than 30 full-time enrollment students per square mile; and (b) they have experienced more than 7 per cent enrollment decline between fiscal year 2004 and fiscal year 2009; provided further, that preference shall be given to those districts that have joined the group insurance commission before July 1, 2009; (6) meet extraordinary increases of greater than 10 per cent in a municipality's total required contribution in municipalities whose target required local contribution exceeds 70 per cent of their foundation budget; provided, that not less than \$500,000 shall be used for this purpose; (7) assist towns in which in excess of one-third of the total land mass of the town is owned and controlled by the commonwealth and which receive payment in lieu of taxes on less than 25 per cent of said land; (8) assist operating districts in which the chapter 70 aid, so-called, distributed in fiscal year 2010 is less than the chapter 70 aid distributed in fiscal year 2002; and (9) assist towns which host a campus of the University of Massachusetts, but which have a target aid percentage of only 17.5 per cent; provided further, that any grants provided to school districts from this item shall be expended by a school committee without further appropriation; provided further, that the department shall make not less than 80 per cent of the awards from this item no later than October 15, 2009; and provided further, that no funds distributed from this item shall be considered prior year chapter 70 aid nor shall they be used in the calculation of the minimum required local contribution for fiscal year 2011 . . . \$3,500,000

7061-0012 For the reimbursement of extraordinary special education costs under section 5A of chapter 71B of the General Laws; provided, that reimbursements shall be prorated so that expenses of this item do not exceed the amount appropriated in this item; provided further, that upon receipt by the department of elementary and secondary education of required special education cost reports from school districts, the department shall reimburse districts based on fiscal year 2009 claims; provided further, that the department may expend funds to continue and expand voluntary residential placement prevention programs between the department of elementary and secondary education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that the department shall make funds available to the department of developmental services for the voluntary residential placement prevention program administered by that department; provided further, that the department shall expend funds to provide books in accessible synthetic audio format made available through the federal NIMAS-NIMAC book repository for the outreach and training of teachers and students for the use of NIMAS-NIMAC and human speech audio digital textbooks; provided further, that the department shall expend funds for the costs of borrowing audio textbooks by special education students; provided further, that funds may be expended for the monitoring and follow-up activities of the department's complaint management system, review and approval of local educational agency applications, and local school districts' compliance with the part B requirements of the federal Special Education Law, known as the Individuals with Disabilities Education Act, in the provision of special education and related services to children with disabilities; provided further, that funds may be expended to administer the reimbursements funded herein; provided further, that funds may be expended to reimburse districts for extraordinary increases in costs incurred during fiscal year 2010 which would be reimbursable under section 5A of chapter 71B; provided further, that reimbursements for current year costs shall be limited to school districts which experience increases of greater than 25 per cent from costs reimbursable

	under said section 5A of said chapter 71B and incurred during fiscal year 2009 to costs reimbursable under said section 5A of said chapter 71B and incurred during fiscal year 2010 or other cases of extraordinary hardship where special education costs increase in relationship to total district costs as the department may define through regulation or guidelines; provided further, that reimbursements for current year costs shall be allocated as one-time grants and shall not decrease reimbursements in the following fiscal year; provided further, that the department shall conduct audits of fiscal year 2009 claims; provided further, that if the claims are found to be inaccurate, the department shall recalculate the fiscal year 2010 reimbursement amount and adjust the third and fourth quarter payments to the districts to reflect the new reimbursement amount; and provided further, that the department shall file a report with the house and senate committees on ways and means not later than February 15, 2010, on the results of the audit	\$141,113,160
7061-0029	For the office of school and district accountability, established in section 55A of chapter 15 of the General Laws, as amended by chapter 311 of the acts of 2008	\$1,373,226
7061-9010	For fiscal year 2010 reimbursements to certain cities, towns and regional school districts of charter school tuition and the per pupil capital needs component included in the charter school tuition amount for commonwealth charter schools, as calculated under subsections (nn) and (oo) of section 89 of chapter 71 of the General Laws; provided, that notwithstanding said subsection (nn) of said section 89 of said chapter 71 or any other general or special law to the contrary, the per pupil capital needs component of the commonwealth charter school tuition rate for fiscal year 2010 shall be \$893; and provided further, that if the amount appropriated is insufficient to fully fund all reimbursements required by said section 89 of said chapter 71, the department shall fully reimburse the cost of such per pupil capital needs component and shall prorate the tuition reimbursements calculated under said subsection (oo) of said section 89 of said chapter 71	\$79,751,579
7061-9200	For the education technology program	\$657,526
7061-9400	For student and school assessment including the administration of the Massachusetts comprehensive assessment system (MCAS) exam established by the board of elementary and	

secondary education pursuant to sections 1D and 1I of chapter 69 of the General Laws and for grants to school districts to develop portfolio assessments for use in individual classrooms as an enhancement to student assessment; provided, that as much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration of work samples and projects and shall facilitate authentic and direct gauges of student performance; provided further, that such portfolio assessments shall not replace the statewide standardized assessment based on the curriculum frameworks; provided further, that all school assessments shall center on the academic standards embodied in the curriculum frameworks and shall involve gauges which shall be relevant and meaningful to students, parents, teachers, administrators and taxpayers pursuant to the first paragraph of section 1L of said chapter 69; and provided further, that notwithstanding any general or special law to the contrary, assessment of proficiency in English shall be administered in English \$25,290,411

7061-9404 For grants to cities, towns and regional school districts to provide targeted remediation programs for students in the classes of 2003 to 2014, inclusive, scoring in level 1 or 2 on the Massachusetts comprehensive assessment system (MCAS) exam established by the board of elementary and secondary education pursuant to the provisions of sections 1D and 1I of said chapter 69 of the General Laws; provided, that the department and districts shall ensure that services are available to students with disabilities; provided further, that in awarding remediation funds, preference may be given to schools and districts at risk of or determined to be under-performing in accordance with said sections 1J and 1K of said chapter 69; provided further, that the purpose of this program shall be to improve students' performance on the MCAS exam through replication of services and educational strategies with proven results as determined by the department of elementary and secondary education; provided further, that such programs shall supplement currently funded local, state, and federal programs at the school or district; provided further, that funds shall be expended for a competitive grant

program to fund academic support and college transition services to be implemented in fiscal year 2010, and operated by public institutions of higher learning or by public-private partnerships in the commonwealth, for students in the graduating classes of 2003 to 2010, inclusive, who have completed high school but have not yet obtained a competency determination as defined in section 1D of chapter 69 as measured by the MCAS assessment instrument authorized by said section 1I of said chapter 69, but who are working to pass the English and math MCAS tests, obtain a competency determination, and earn a high school diploma; provided further, that for the purpose of the programs, appropriated funds may be expended through August 31, 2010, to allow for summer remediation programs; provided further, that funds shall be expended for a competitive grant program to fund Pathways programs targeting eleventh and twelfth graders, instituted by local school districts, public institutions of higher education and qualified public and private educational services organizations and One Stop Career Centers including, but not limited to, school-to-work connecting activities, creating worksite learning experiences for students as an extension of the classroom, outreach programs for students who will need post-twelfth grade remediation to attain the skills necessary to pass MCAS, and counseling programs to educate parents and high school students on post-twelfth grade remediation options; provided further, that funds shall be expended for a competitive grant program, guidelines for which shall be developed by the department of elementary and secondary education, for intensive remediation programs in communities with students in the graduating classes of 2003 to 2014, inclusive, who have not obtained a competency determination or have scored in levels 1 or 2 on either the English or math MCAS exams; provided further, that the department of elementary and secondary education may give preference for such assistance to those districts with a high percentage of high school students scoring in level 1 on the MCAS exam in English and math; provided further, that eligible applicants shall include individual high schools, and those institutions which shall have partnered with a high school or group of high schools; provided further, that no district shall receive a grant from this

appropriation until said district submits to the department of elementary and secondary education a comprehensive district plan pursuant to the provisions of section 11 of chapter 69, to improve performance of all student populations including, but not limited to, students with disabilities; provided further, that any evaluation will examine the likelihood and efficiency of replication of these programs and practices in school districts with a large percentage of English language learners; provided further, that these funds may be expended for professional development related to these programs; provided further, that the department shall issue a report not later than February 2, 2010, and annually thereafter as a condition of continued funding under this account, in collaboration with the department of higher education, describing MCAS support programs for the graduating classes of 2003 to 2014, inclusive, funded by items 7061-9404 and 7027-0019, school to work accounts, institutions of public higher education, and other sources, including federal sources; provided further, that such report shall include, but not be limited to, the number of students eligible to participate in such programs, the number of students participating in such programs, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs but not met local graduation requirements, and the number of students who have passed the MCAS assessment and obtained a competency determination through these programs and met local graduation requirements; provided further, that said report shall be provided to the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that any grant funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary; provided further, that funds may be expended to continue mentoring initiatives that combat the chronic dropout of at-risk youths that were funded in item 7030-1003 of section 2 of chapter 182 of the acts of 2008; and

	provided further, that no costs shall be expended for personnel costs	\$9,294,804
7061-9408	For targeted intervention to schools and districts at risk of or determined to be underperforming under sections 1J and 1K of chapter 69 of the General Laws, schools and districts which have which have been placed in the accountability status of identified for improvement, corrective action, or restructuring pursuant to departmental regulations, or which have been designated Commonwealth priority schools or Commonwealth pilot schools pursuant to said regulations; provided, that no money shall be expended in any school or district that fails to file a comprehensive district plan pursuant to the provisions of section 1I of said chapter 69 of the General Laws; provided further, that the department shall only approve reform plans with proven, replicable results in improving student performance; provided further, that in carrying out the provisions of this item, the department may contract with school support specialists, turnaround partners, and such other external assistance as is needed in the expert opinion of the commissioner, to successfully turn around failing school and district performance; provided further, that no funds shall be expended on targeted intervention unless the department shall have approved, as part of the comprehensive district improvement plan, a professional development plan which addresses the needs of the district as determined by the department; provided further, that eligible professional development activities for purposes of this item shall include, but not be limited to: professional development among teachers of the same grade levels and teachers of the same subject matter across grade levels, professional development focused on improving the teacher's content knowledge in the field or subject area in which the teacher is practicing, professional development which provides teachers with research based strategies for increasing student success, professional development teaching the principles of data driven instruction, and funding which helps provide common planning time for teachers within a school and within the school district; provided further, that preference in the awarding of such funds shall be given to professional development in math and English content skills; provided further, that funds from any targeted intervention grant may	

be used to partially offset the cost of said professional development and common planning time; provided further, that funds may be expended for the purchase of instructional materials pursuant to section 57 of chapter 15 of the General Laws; provided further, that no funds shall be expended on instructional materials except where the purchase of such materials is part of a comprehensive plan to align the school or district curriculum with the Massachusetts curriculum frameworks; provided further, that preference in distributing funds shall be made for proposals which coordinate reform efforts within all schools of a district in order to prevent conflicts between multiple reforms and interventions among the schools; provided further, that funds may be expended for the Commonwealth pilot school initiative established by the board in November 2006; provided further, that the department shall issue a report no later than February 2, 2010, and annually thereafter describing and analyzing all intervention and targeted assistance efforts funded by this item; provided further, that such report shall include but not be limited to: the number of school and school districts eligible to receive such assistance, the number of students attending school in said districts, the nature and type of intervention activities funded through this item, by school and school district, the number of teachers in professional development funded in part through this item, the number of districts with curricula or professional development systems aligned with the Massachusetts curriculum frameworks, and the number that are undertaking that effort with grants funded by this item, the number of outside vendors with whom the department has contracted to provide intervention and turnaround services, the amount each vendor has received, and the results obtained in each instance, the number of students who have passed the MCAS assessment and obtained a competency determination through these programs, before, and during the period of intervention and turnaround, and any other data relative to the successes achieved or challenges faced by the effort to turn around schools, along with any legislative or budgetary recommendations for improving the initiative and increasing the success of all intervention efforts; provided further, that said report shall include an analysis of

the number of districts with curriculum plans not aligned to the Massachusetts curriculum frameworks, along with any legislative and regulatory recommendations to address the issue; provided further, that said report shall indicate the number of schools which have accepted the Commonwealth pilot school model, the reforms which they have undertaken, and the number which have expressed interest in the pilot school option; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that no funds shall be expended on recurring school or school district expenditures unless the department and school district have developed a long term plan to fund such expenditures from the district's operational budget; provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2010, to allow for intervention and school and district improvement planning in the summer months; provided further, that funds may be expended for the continuation of a parent engagement program pursuant to item 7061-9408 of section 2 of chapter 182 of the acts of 2008; and provided further, that any funds distributed from this item to a city, town or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town, or regional school district without further appropriation, notwithstanding any general or special law to the contrary \$6,900,841

7061-9412 For grants to cities, towns, and regional school districts for the purpose of planning for and implementing expanded learning time in the form of longer school days or school years at selected schools; provided, that implementation grants shall only be provided under this item to schools and districts which submitted qualifying applications which were approved by the department in fiscal year 2009 and which include a minimum of an additional 300 hours on a mandatory basis for all children attending that school; provided further, that in approving expanded learning time implementation grant applications, preference shall be given to districts with high

poverty rates or a high percentage of students scoring in levels I or II on the Massachusetts comprehensive assessment system, those districts with proposals that have the greatest potential for district-wide impact, those districts that plan to utilize partnerships with community-based organizations and institutions of higher education, and those districts with proposals that include a comprehensive restructuring of the entire school day and/or year to maximize the use of the additional learning time; provided further, that the department shall approve implementation proposals that include an appropriate mix of additional time spent on core academics, additional time spent on enrichment opportunities such as small group tutoring, homework help, music, arts, sports, physical activity, health and wellness programs, project-based experiential learning and additional time for teacher preparation and/or professional development; provided further, that the department shall only approve implementation proposals that assume not more than \$1,300 per pupil per year in future state appropriations of expanded learning time implementation funds; provided further, that in extraordinary cases the department may exceed the \$1,300 per pupil per year limit; provided further, that the department shall review all qualified proposals and award approved grants not later than August 14, 2009; provided further, that in carrying out the provisions of this item, funds may be expended by the department to evaluate the impact and effectiveness of the program; provided further, that the department shall issue an annual report, not later than February 2, 2010, on the implementation of plans in all participating districts; provided further, that said report shall include, but not be limited to the names of schools and school districts participating, the number of students attending these schools and the nature and type of changes made in participating schools as a result of this program; provided further, that the report shall also include an anticipated budget for this program for the next fiscal year and a breakdown of the distribution of the \$1,300 per student by school; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on education;

provided further, that for this item, appropriated funds may be expended through August 31, 2010, to allow for planning and implementation during the summer months; provided further, that any grant funds distributed from this item to a city, town, or regional school district shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding any general or special law to the contrary; and provided further, that no funds shall be expended for personnel costs at the department of elementary and secondary education

\$15,672,375

7061-9600 For a discretionary grant pilot program with the purpose of providing monies to school districts and state public institutions of higher education partnering together to offer inclusive concurrent enrollment programs for students with disabilities as defined in section 1 of chapter 71B of the General Law ages 18-22; provided, that the grant program will be limited to said students who are considered to have severe disabilities and have been unable to achieve the competency determination necessary to pass the Massachusetts comprehensive assessment system (MCAS) exam; provided further, that said students with disabilities shall be offered enrollment in credit and noncredit courses that include nondisabled students, including enrollment in noncredit courses and credit bearing courses in audit status for students who may not meet course prerequisites and requirements, and that the partnering school districts will provide supports, services and accommodations necessary to facilitate a student's enrollment; provided further, that the department, in consultation with the department of higher education, shall develop guidelines to ensure that the grant program promotes civic engagement and mentoring of faculty in state institutions of higher education, and supports college success, work success, participation in student life of the college community, and provision of a free appropriate public education in the least restrictive environment; provided further, that funds may be distributed to the department of higher education in order to increase the capacity of public institutions of higher education to include students with severe disabilities in the concurrent enrollment pilot program;

provided further, that funds may be allocated to the department of elementary and secondary education to provide training and technical assistance to school districts for program implementation; provided further, that the department of elementary and secondary education, in consultation with the department of higher education, shall report to the house and senate committees on ways and means, the joint committee on education and the joint committee on higher education on said discretionary grant program not later than February 15, 2010; and provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2010 \$721,000

7061-9604	For teacher preparations and certification	\$1,599,351
7061-9611	For grants or subsidies for after-school and out-of-school programs; provided, that preference shall be given to after-school proposals developed collaboratively by public and non-public schools and private community based programs; provided further, that the department shall fund only those applications which contain accountability systems and measurable outcomes, under guidelines to be determined by the department in consultation with the department of early education and care; provided further, that applicants shall detail funds received from all public sources for existing after-school and out-of-school programs and the types of programs and type of students served by said funds; provided further, that funds may be directed to increase comprehensive after-school and out-of-school time programming to school age children and youth during the school year and the summer, including but not limited to 21st century community learning centers programs; provided further, that funds from this item may be used for a variety of activities, including but not limited to: (1) academic tutoring and homework centers where content is linked to and based on the curriculum guidelines promulgated by said department, (2) programs which improve the health of students, including physical activities, athletics, nutrition and health education, and exercise, (3) art, theater, and music programs developed in collaboration with the Massachusetts cultural council, local cultural councils, or cultural organizations in the Commonwealth funded by the Massachusetts cultural council, (4) enrichment activities not otherwise provided during the school day, (5) advanced study	

for the gifted and talented, and (6) community service programs; provided further, that funds shall be expended for services that actively include children with disabilities in after-school programs that also serve non-disabled children and services that include children where English is a second language, including but not limited to: increased per-child reimbursement rates, additional staff, technical assistance, training, and transportation; provided further, that the department of elementary and secondary education shall consult the executive office of health and human services and the department of early education and care to maximize the provision of wrap-around services and to coordinate programs and services for children and youth during after-school and out-of-school time programs; provided further, that the department shall select grant recipients not later than September 30, 2009, and shall report on the preliminary results of said grants not later than February 15, 2010, to the secretary of administration and finance, the house and senate chairs of the joint committee on education, and the chairs of the house and senate committees on ways and means; provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2010, to allow for implementation of said programs during the summer months; and provided further, funds shall be expended to convene regional networks, to work with the department of elementary and secondary education and the department of early education and care to support the implementation of school-community partnerships and to submit a report by October 15, 2009, to the general court and the administration making recommendations on how to enhance school-community partnerships and positive outcomes for children and youth through funding as provided in this item \$2,000,000

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

	of Mathematics and Science shall provide professional development activities at the school located at Worcester Polytechnic Institute, including salary and benefits for master teachers and visiting scholars; provided further, that the academy shall file a report with the joint committee on education and the house and senate committees on ways and means no later than February 1, 2010, detailing the professional development activities; and provided further, that the department of elementary and secondary education shall provide a subsidy to the Worcester Polytechnic Institute to operate a school of excellence in mathematics and science . . .	\$1,300,000
7061-9614	For the alternative education grant program established pursuant to section 1N of chapter 69 of the General Laws; provided, that the commissioner shall allocate funds for both subsections (a) and (b) of said section 1N of said chapter 69; and provided further, that no funds shall be expended for personnel costs	\$200,000
7061-9619	For the purpose of funding the Benjamin Franklin Institute of Technology; provided, that the institute shall have access to the Massachusetts education computer system; and provided further, that the institute may join the state buying consortium	\$1
7061-9626	For grants and contracts with youth-build programs for the purposes of providing comprehensive youth-build services . . .	\$1,500,000
7061-9634	For a transfer of this item to the Massachusetts Service Alliance, which shall be responsible for administering a competitive statewide grant program for public and private agencies to start or expand youth mentoring programs according to current best practices and for purposes including advancing academic performance, self-esteem, social competence and workforce development; provided, that the department of elementary and secondary education shall transfer the amount appropriated in this item to the Massachusetts Service Alliance for the purpose of these grants; provided further, that in order to be eligible to receive funds from this item, each public or private agency shall provide a matching amount equal to \$1 for every \$1 disbursed from this item; and provided further, that the Massachusetts Service Alliance shall submit a report detailing the impact of grants, expenditure of funds and the amount and source of matching funds raised to the department of elementary and secondary education	\$250,000

7061-9804 For teacher content training in math and science; provided, that said training shall include math specialist and Massachusetts test for educator licensure preparation; provided further, that funds from this item shall be expended on content based professional development in math and science, with a focus on increasing the content knowledge of elementary and middle school math and science teachers in districts with a high percentage of students scoring in level 1 or 2 on the math or science Massachusetts comprehensive assessment system exams, or in districts which are at risk of or determined to be underperforming in accordance with sections 1J and 1K of chapter 69 of the General Laws; provided further, that such professional development courses shall demonstrate proven, replicable results in improving teacher and student performance, and shall demonstrate the use of best practices, as determined by the department, including data comparing pre-training and post-training content knowledge; provided further, that the department shall report, not later than February 15, 2010, on the number of educators provided content training under this item, the estimated number of math and science teachers currently teaching without certification, and any legislative or regulatory recommendations necessary to make middle school and elementary math and science education more rigorous and data driven; provided further, that said report shall be provided to the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education; provided further, that no funds shall be expended for personnel costs; and provided further, that for the purpose of this item, appropriated funds may be expended through August 31, 2010 \$386,227

Department of Higher Education.

7066-0000 For the operation of the department of higher education; provided, that the department shall recommend savings proposals that permit institutions of public higher education to achieve administrative and program cost reductions, resource re-allocation and program re-assessment and to utilize resources otherwise available to such institutions; and provided further, that in order to meet the estimated costs of

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employee fringe benefits provided by the commonwealth on account of employees of the Massachusetts State College Building Authority and the University of Massachusetts Building Authority, and in order to meet the estimated cost of heat, light, power and other services, if any, to be furnished by the commonwealth to projects of these authorities, the boards of trustees of the state colleges and the University of Massachusetts shall transfer to the General Fund from the funds received from the operations of the projects such costs, if any, as shall be incurred by the commonwealth for these purposes in the current fiscal year, as determined by the appropriate building authority, verified by the commissioner of higher education and approved by the secretary of administration and finance		\$1,933,249
7066-0005 For the commonwealth's share of the cost of the compact for education		\$91,800
7066-0009 For the New England board of higher education		\$367,500
7066-0015 For the community college workforce training incentive grant program established in section 15F of chapter 15A of the General Laws		\$1,250,000
7066-0016 For a program of financial aid to support the matriculation of certain persons at public and private institutions of higher learning; provided, that only persons in the custody of the department of children and families under a care and protection petition upon reaching the age of 18, or persons in the custody of the department matriculating at such an institution at an earlier age, shall qualify for such aid; provided further, that no such person shall be required to remain in the custody of the department beyond age 18 to qualify for such aid; provided further, that this aid shall not exceed \$6,000 per recipient per year; and provided further, that this aid shall be granted after exhausting all other sources of financial support		\$1,149,561
7066-0019 For the department of higher education to support the dual enrollment program allowing qualified high school students to take college courses; provided, that public higher education institutions may offer courses in high schools in addition to courses offered at the institutions or online if the number of students is sufficient		\$750,000

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7066-0020	For the nursing and allied health workforce development initiative, to develop and support strategies that increase the number of public higher education faculty members and students who participate in programs that support careers in fields related to nursing and allied health; provided, that the amount appropriated in this item shall be transferred to the Massachusetts Nursing and Allied Health Workforce Development Trust Fund established in section 33 of chapter 305 of the acts of 2008; provided further, that funds shall be transferred to the Trust Fund according to an allotment schedule adopted by the executive office for administration and finance; and provided further, that the department of higher education shall provide monthly expenditure reports to the executive office for administration and finance and the house and senate committees on ways and means	\$1,000,000
7066-0021	For reimbursements to public institutions of higher education for foster and adopted child fee waivers under section 19 of chapter 15A of the General Laws; provided, that no funds shall be distributed from this line item prior to certification by the state and community colleges and the University of Massachusetts of the actual amount of tuition and fees waived for foster and adopted children attending public institutions of higher education under said section 19 of said chapter 15A that would otherwise have been retained by the campuses, according to procedures and regulations promulgated by the board of higher education	\$1,000,000
7070-0065	For a scholarship program to provide financial assistance to Massachusetts students enrolled in and pursuing a program of higher education in any approved public or independent college, university, school of nursing, or any other approved institution furnishing a program of higher education; provided, that all scholarship programs receiving funding through this item shall follow the same guidelines as detailed in item 7070-0065 in section 2 of chapter 182 of the acts of 2008; provided further, that funds from this item may be expended on the administration of the scholarship program; and provided further, that the commissioner of higher education, in coordination with the Massachusetts state scholarship office, shall adopt regulations governing the eligibility and the awarding of financial assistance	\$87,875,218

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7077-0023	For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated in this item shall be expended under the resident veterinary tuition remission plan submitted January 8, 1998, for supportive veterinary services provided to the commonwealth; provided further, that prior year costs may be paid from this item; provided further, that funds appropriated in this item shall support bioterrorism prevention research related to diseases that can be transmitted from animals to humans, in consultation with Massachusetts emergency authorities; and provided further, that the school shall work in consultation with the Norfolk County Agricultural School on veterinary programs	\$2,500,000
7520-0424	For a health and welfare reserve for eligible personnel employed at the community and state colleges	\$5,494,616

University of Massachusetts.

7100-0200 For the operation of the University of Massachusetts; provided, that notwithstanding any general or special law to the contrary, the university may establish and organize auxiliary organizations, subject to policies, rules and regulations adopted by the board, to provide essential functions which are integral to the educational mission of the university; provided further, that notwithstanding any general or special law to the contrary, the university may enter into leases of real property without prior approval of the division of capital asset management and maintenance; provided further, that the University of Massachusetts shall expend funds for the operation of the department of higher education's commonwealth college honors program at the University of Massachusetts Amherst, for the operation of the toxics use reduction institute at the University of Massachusetts Lowell, for the operation of the office of dispute resolution at the University of Massachusetts Boston, for capital lease payments from the University of Massachusetts to the Massachusetts Development Finance Agency and for annual operations of the advanced technology and manufacturing center in Fall River, and for the University of Massachusetts Amherst Cranberry Station; provided further, that the University of Massachusetts shall expend \$2,700,000 for facilities costs associated with the college of visual and performing arts at the University of Massachusetts Dartmouth; provided further, that funds may be expended for

the University of Massachusetts Lowell to operate a program in math, science, engineering and technology for academically accelerated students in their final 2 years of high school, for the operation of the University of Massachusetts Boston's Edward J. Collins Center for Public Management, for the University of Massachusetts Medical School to enhance efforts to increase the number of graduating medical students in primary care specialties, and for the operation of an inner-city youth collaborative at the UMass Field Station on Nantucket to learn about nature, ecology, environment, science and history on the island; and provided further, that the governor may allocate \$78,853,735, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$413,398,263

State Colleges.

- 7109-0100 For Bridgewater State College; provided, that the governor may allocate \$6,526,756, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$33,008,533
- 7110-0100 For Fitchburg State College; provided, that the governor may allocate \$4,591,008, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$23,218,646
- 7112-0100 For Framingham State College; provided, that the governor may allocate \$4,102,757, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$20,749,354
- 7113-0100 For the Massachusetts College of Liberal Arts; provided, that the governor may allocate \$2,372,749, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . . \$11,999,981
- 7114-0100 For Salem State College; provided, that the governor may allocate \$6,574,553, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$33,250,262
- 7115-0100 For Westfield State College; provided, that the governor may allocate \$3,833,766, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5,

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	in addition to the amount appropriated herein	\$19,388,959
7116-0100	For Worcester State College; provided, that the governor may allocate \$3,907,318, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$19,760,937
7117-0100	For the Massachusetts College of Art; provided, that the governor may allocate \$2,509,677, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$12,692,483
7118-0100	For the Massachusetts Maritime Academy; provided, that the governor may allocate \$2,324,025, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . .	\$11,753,563

Community Colleges.

7502-0100	For Berkshire Community College; provided, that the governor may allocate \$1,549,162, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$7,834,053
7503-0100	For Bristol Community College; provided, that the governor may allocate \$2,670,710, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$13,505,682
7504-0100	For Cape Cod Community College; provided, that the governor may allocate \$1,910,297, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein; and provided further, that funding may be expended for the operation of the environmental technology, education and job training partnership	\$9,660,300
7505-0100	For Greenfield Community College; provided, that the governor may allocate \$1,522,486, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$7,699,155
7506-0100	For Holyoke Community College; provided, that the governor may allocate \$3,095,823, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$15,655,462
7507-0100	For Massachusetts Bay Community College; provided, that the governor may allocate \$2,318,569, made available through the American Recovery and Reinvestment Act of 2009, Pub.	

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	L. No. 111-5, in addition to the amount appropriated herein . .	\$11,724,917
7508-0100	For Massasoit Community College; provided, that the governor may allocate \$3,359,097, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$16,986,829
7509-0100	For Mount Wachusett Community College; provided, that the governor may allocate \$2,119,040, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . .	\$10,715,906
7510-0100	For Northern Essex Community College; provided, that the governor may allocate \$3,164,037, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . .	\$16,000,413
7511-0100	For North Shore Community College, including the post-secondary programs of the Essex Agricultural and Technical Institute operated by North Shore Community College; provided, that the governor may allocate \$3,401,531, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$17,201,414
7512-0100	For Quinsigamond Community College; provided, that the governor may allocate \$2,515,281, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . .	\$12,719,679
7514-0100	For Springfield Technical Community College; provided, that the governor may allocate \$4,077,389, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . .	\$20,619,201
7515-0100	For Roxbury Community College; provided, that the governor may allocate \$1,877,385, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein	\$9,493,865
7515-0121	For the Reggie Lewis Track and Athletic Center at Roxbury Community College; provided, that the college may expend an amount not to exceed \$529,843 received from fees, rentals, and facility expenses associated with the running and operation of national track meets, high school track meets, high school dual meets, Roxbury Community College athletic events, other special athletic events, conferences, meetings, and programs; and provided further, that only expenses for	

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- contracted services associated with these events and for the capital needs of the facility shall be funded from this item \$529,843
- 7516-0100 For Middlesex Community College; provided, that the governor may allocate \$3,315,025, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein \$16,763,954
- 7518-0100 For Bunker Hill Community College; provided, that the governor may allocate \$3,447,025, made available through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, in addition to the amount appropriated herein . . . \$17,431,475

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY.

Office of the Secretary.

- 8000-0000 For the office of the secretary, including the administration of the committee on criminal justice and the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402 and the costs associated with the implementation of chapter 228 of the acts of 2000 \$1,988,884
- 8000-0038 For the operation of a witness protection program pursuant to chapter 263A of the General Laws \$348,491
- 8000-0040 For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers; provided, however, that regular full-time members of municipal police departments hired on or after July 1, 2009 shall not be eligible to participate in the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department who has not started accumulating points pursuant to said section 108L of said chapter 41 of the General Laws, as of September 1, 2009, shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41 of the General Laws; and provided further, that any current regular full-time member of a municipal police department who has begun to accumulate points pursuant to said section 108L of said chapter 41 of the General Laws as of September 1, 2009 shall be allowed to accumulate the maximum number of points permissible pursuant to said section 108L of said chapter 41 of the General Laws \$10,000,000

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8000-1700 For the provision of information technology services within the executive office of public safety and security \$21,264,358

Office of Chief Medical Examiner.

8000-0105 For the operation of the office of the chief medical examiner established pursuant to chapter 38 of the General Laws; provided, that the agency shall submit a report to the house and senate committees on ways and means not later than January 15, 2010 detailing the caseload of said office; and provided further, that said report shall include, but not be limited to, the number of toxicology tests, the reduction of turnaround time of toxicology tests and the reduction of the case backlog, the number of autopsies performed, the number of cases under the office’s jurisdiction, the number of external exams performed, the number of cases determined to be homicides, and the number of cremations performed under the office’s jurisdiction in 2008 and 2009 \$7,880,997

State Police Crime Laboratory.

8000-0106 For the operation and related costs of the state police crime laboratory; provided, that the analysis of narcotic drug synthetic substitutes, poisons, drugs, medicines, and chemicals shall be funded in this item in order to support the law enforcement efforts of the district attorneys, the state police and municipal police departments; provided further, that the agency shall contract with a public institution to conduct testing for criminal cases; provided further, that the agency shall enter into agreements with the various district attorneys to provide forensic services for criminal cases brought forth by the commonwealth; provided further, that the practices and procedures of the state police crime laboratory shall be informed by the recommendations of the Forensic Sciences Advisory Board; and provided further, that the agency shall report to the house and senate committees on ways and means and the joint committee on public safety and homeland security, not later than December 31, 2009, concerning, but not limited to, the detailing of the number of cases introduced to the CODIS database, the number of confirmations attained from the CODIS database, and the number of cases referred to district attorney delineated by county \$13,809,040

Criminal History Systems Board.

8000-0110 For the operation of the criminal history systems board; including criminal justice information services, criminal offender record information services, firearms support services, and victim services; provided further, that funds may be expended for the purpose of enabling local housing authorities' access to criminal offender record information when qualifying applicants for state-assisted housing \$2,123,066

Chief Medical Examiner

8000-0122 For the office of the chief medical examiner which may expend for its operations an amount not to exceed \$1,700,000 in revenues collected from fees for services provided by the chief medical examiner; provided, that notwithstanding any general or special law to the contrary, for the purposes of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the agency may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$1,700,000

Sex Offender Registry.

8000-0125 For the operation of the sex offender registry program including, but not limited to, the costs of maintaining a computerized registry system and the classification of persons subject to the registry; provided, that the \$75 registration fee paid by convicted sex offenders shall be directed from the General Fund to the Massachusetts office for victim assistance \$3,983,913

8000-0202 For the purchase and distribution of sexual assault evidence collection kits \$102,240

Department of State Police

8100-0000 For the administration and operation of the department of state police; provided, that the department shall expend funds from this item for the purpose of maximizing federal grants for the operation of a counter-terrorism unit and the payment of over-time for state police officers; provided further, that the department shall maintain the division of field services which

shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of energy and environmental affairs at no cost to, or compensation from that office; provided further, that there shall be a study submitted to the house and senate committees on ways and means not later than January 30, 2010, on traffic details worked by the department of state police, including troops A, B, C, D, E, F, and H, over the last 5 years, which shall detail, on a monthly basis: the total number of hours worked on traffic details by state police officers, the total amount paid to state police officers for traffic details, the standard hourly rates for traffic details done by state police officers and the city or town in which traffic details are performed by state police officers; and provided further, that the department may expend funds from this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the municipal police training committee and the criminal history systems board . . \$236,186,152

8100-0006 For private police details; provided, that the department may expend up to \$19,000,000 in revenues collected from fees charged for private police details and for the costs of administering such details; and provided further, that notwithstanding any general or special law to the contrary, the department may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 2010 to be charged

to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system for the purposes stated in this item to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year 2010 . . . \$19,000,000

8100-0011 For the department of state police which may expend an amount not to exceed \$3,000,000 for certain police activities provided pursuant to agreements authorized in this item; provided, that for fiscal year 2010, the colonel of state police may enter into service agreements with the commanding officer or other person in charge of a military reservation of the United States located in the Massachusetts Development Finance Agency, established in chapter 23G of the General Laws; provided further, that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (a) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (b) provisions governing payment to the department for the cost of furnishings and equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that the colonel may enter into service agreements as may be necessary to enhance the protection of persons, as well as assets and infrastructure located within the commonwealth, from possible external threat or activity; provided further, that such agreements shall establish the responsibilities pertaining to the operation and maintenance of police services including, but not limited to: (a) provisions governing payment to the department for the cost of regular salaries, overtime, retirement and other employee benefits; and (b) provisions governing payment to the department for the cost of equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department

	may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; provided further, that the colonel may expend from this item costs associated with joint federal and state law enforcement activities from federal reimbursements received therefor; and provided further, that notwithstanding any general or special law to the contrary, for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate	\$3,000,000
8100-0012	For the department of state police; provided, that the department may expend for the costs of security services provided by state police officers, including overtime and administrative costs, an amount not to exceed \$550,000 from fees charged for these services; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$550,000
8100-0020	For the department of state police which may expend an amount not to exceed \$35,000 in fees charged for the use of the state-wide telecommunications system for the maintenance of the system	\$35,000
8100-0101	For the department of state police which may expend for the Governor's Auto Theft Strike Force an amount not to exceed \$331,200 from fees for services performed through the auto etching program and from assessments upon the insurance industry	\$331,200
8100-0111	For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security, to support regional, multidisciplinary approaches to combat gang violence through coordinated programs for prevention and intervention, coordinated law enforcement, including regional gang task forces and regional crime mapping strategies, focused prosecutions and reintegration strategies for ex-con-	

victs; provided, that the secretary of public safety and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (b) demonstrate a commitment to regional, multijurisdictional strategies to deal with such community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (c) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (d) make a written commitment to match grant funds with a 25 per cent match provided by either municipal or private contributions; and (e) identify a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorney's offices, may apply for such funds; provided further, that such funds shall be considered one-time and grants awarded to public agencies and shall not annualize into fiscal year 2011 or subsequent years; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further, that the executive office of public safety and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 15, 2009; provided further, that awards shall be made to applicants not later than December 15, 2009; and provided further, that the executive office of public safety and security may expend not more that \$100,000 of the sum appropriated in this item for its costs in administering programs \$6,500,000

Municipal Police Training Committee.

8200-0200 For the operation of veteran, reserve and in-service training programs conducted by the municipal police training committee; provided, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; and provided further, that no expenditures shall

be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated in this item . . . \$2,883,088

8200-0222 The committee may collect and expend an amount not to exceed \$900,000 for the purposes of providing training to new recruits; provided, that the committee shall charge \$2,500 per recruit for the training; provided further, that notwithstanding any general or special law to the contrary, the committee shall charge a fee of \$2,500 per person for training programs operated by the committee for all persons who begin training on or after July 1, 2009; provided further, that the fee shall be retained and expended by the committee; provided further, that the trainee, or, if the trainee is a recruit, the municipality in which the recruit shall serve, shall provide the fee in full to the committee no later than the first day of orientation for the program in which such trainee or recruit has enrolled; provided further, that no recruit or person shall begin training unless the municipality or the person has provided the fee in full to the committee; provided further, that for recruits of municipalities, upon the completion of the program, the municipality shall deduct the fee from the recruit's wages in 23 equal monthly installments, unless otherwise negotiated between the recruit and the municipality in which the recruit shall serve; provided further, that if a recruit withdraws from the training program before graduation, the committee shall refund the municipality in which the recruit was to have served a portion of the fee according to the following schedule: if a recruit withdraws from the program before the start of week 2, 75 per cent of the payment shall be refunded; if a recruit withdraws from the program after the start of week 2 but before the start of week 3, 50 per cent of the fee shall be refunded; if a recruit withdraws from the program after the start of week 3 but before the start of week 4, 25 per cent of the fee shall be refunded; if a recruit withdraws after the start of week 4, the fee shall not be refunded; provided further, that a recruit who withdraws from the program shall pay the municipality in which he was to have served the difference between the fee and the amount forfeited by the municipality according to the schedule; provided further, that the schedule shall also apply to trainees other than recruits who enroll in the program; provided further, that no expenditures shall be

charged to this item that are not directly related to new recruit training; provided further, that no expenditures shall be charged to this item that are related to chief, veteran, in-service, or reserve training, or any training not directly related to new recruits; provided further, that the committee shall submit a report on the status of recruit training, including the number of classes, start and end dates of each class, total number of recruits enrolled and graduating in each class, cost per recruit and cost per class for fiscal years 2009 and 2010; provided further, that the report shall be submitted to the house and senate committees on ways and means no later than January 1, 2010; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the committee may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$900,000

Department of Public Safety.

8311-1000 For the administration of the department of public safety, including the board of building regulations and standards and the architectural access board; provided, that the department may charge fees for permitting the operation of amusement devices and to support the department’s participation in the National Council for Amusement and Recreational Equipment Safety; provided further, that the department may charge fees for amusement operator certification; and provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item \$1,913,530

8315-1000 For the administrative costs of the division of inspections; provided, that the expenses of the state boxing commission shall be paid from this item; provided further, that a doctor’s certificate from another state shall be accepted as evidence of an eye examination; provided further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety; provided further, that the department shall employ not less than 42 full-time equivalent elevator inspectors, including an additional engineer inspector; provided further, that such additional engineer

inspector's duties shall include, but not be limited to, administering pipefitter license examinations; provided further, that such an additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA object class of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; provided further, that the division shall develop reasonable rules or promulgate regulations for the granting of hardship fee exemptions to certain owners or persons in control of a building or domicile in which an elevator is operated; provided further, that the division shall report to the house and senate committees on ways and means on the elevator inspection backlog not later than October 1, 2009; provided further, that the division shall develop and maintain an electronic database that shall include, but not be limited to, the location and a categorical classification of buildings in which inspections are conducted; and provided further, that the division shall inspect all elevators in the state house and the McCormack office building \$4,930,555

8315-1020 For the department of public safety which may expend not more than \$1,816,997 in revenues collected from fees for annual elevator and amusement park ride inspections; provided, that funds shall be expended for the operation of the department and for the purposes of addressing the existing elevator inspection backlog; provided further, that the department shall make efforts to employ inspectors that will perform overnight and weekend inspections as their regular work shift; provided further, that the department shall provide a full waiver of the inspection fee for an individual who requires a wheelchair lift as a medical necessity and whose annual income does not exceed the maximum allowable federal SSI benefit, or \$7,236 a year, whichever is greater; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to more than the lesser of this authorization or the most-recent revenue estimate as reported in the state accounting system \$1,816,997

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8315-1025 For the department of public safety which may collect and expend an amount not to exceed \$130,000 for the purposes of providing state building code training and courses for instruction; provided, that the agency may charge fees for the classes and education materials associated with administering training; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$130,000

Department of Fire Services.

8324-0000 For the administration of the department of fire services, including the state fire marshal's office, the hazardous materials emergency response program, the board of fire prevention regulations, under section 4 of chapter 22D of the General Laws, the expenses of the fire safety commission, and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that not less than \$1,200,000 shall be expended for the SAFE program, which shall include information about the fire risks caused by smoking; provided further, that not less than \$1,750,000 shall be provided for the Boston fire department training academy; provided further, that \$100,000 shall be expended to Norfolk county to maintain and improve services of the Norfolk county regional fire & rescue dispatch center; provided further, that \$1,296,000 shall be provided for the commonwealth's hazardous material response teams; provided further, that \$500,000 shall be provided for the Boston, Cambridge and Everett fire department hazardous material response teams; provided further, that not less than \$100,000 shall be expended for critical incident stress intervention for the fire departments of the cities, towns and the fire districts of the commonwealth, including but not limited to consultant services, training, equipment and supplies; provided further,

that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office, the Massachusetts firefighting academy, the Boston fire department training academy, and the Norfolk county regional fire & rescue dispatch center shall be assessed upon insurance companies writing fire, home-owners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; and provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program 16,909,693

8324-0304 For the department of fire services; provided, that the department may expend for the purposes of enforcement and training an amount not to exceed \$25,000 from revenue generated under chapter 148A of the General Laws and sections 8 and 9 of chapter 304 of the acts of 2004 \$25,000

Registry of Motor Vehicles.

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and including all rent and related parking and utility expenses of the registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar and the director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and under schedules by the division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of the

computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, under section 183 of chapter 6 of the General Laws; provided further, that the registrar of motor vehicles shall report to the house and senate committees on ways and means and the joint committee on transportation 60 days prior to the closure of any registry branch; provided further, that said report shall include all cost savings associated with the closure; provided further, that the registry shall establish and maintain a record of all vehicles leased within the commonwealth for a period longer than 30 days; and provided further, that the record shall include, but not be limited to, the names and addresses of the lessor and the lessee \$42,400,708

Commonwealth Transportation Fund 100.0%

8400-0011 For the registry of motor vehicles which may expend for additional expenses associated with the production of drivers' licenses, state identification cards and motor vehicle license plates an amount not to exceed \$6,393,906 from revenue collected from fees charged by the registry; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the registry may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate, as reported in the state accounting system \$6,393,906

Commonwealth Transportation Fund 100%

8400-0016 For the operation of the motorcycle safety program \$189,958

Commonwealth Transportation Fund 100%

8400-0100 For the operation of the motor vehicle insurance merit rating board, including the rent, related parking and utility expenses of the board; provided, that notwithstanding any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter 90C of the General Laws \$7,613,529

Commonwealth Transportation Fund 100.0%

Military Division.

8700-0001	For the operation of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the camp Curtis Guild rifle range and certain national guard aviation facilities; provided, that notwithstanding chapter 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades; provided further, that the division may expend funds appropriated in this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services; and provided further, that the adjutant general shall maintain a roster of Massachusetts veterans as directed by section 15 of chapter 33 of the General Laws	\$9,207,659
8700-1140	The military division may expend for the costs of national guard missions and division operations an amount not to exceed \$1,400,000 from fees charged for the non-military rental or use of armories and from reimbursements generated by national guard missions	\$1,400,000
8700-1150	For reimbursement of the costs of the Massachusetts national guard tuition and fee waivers under section 19 of chapter 15A of the General Laws; provided, that no funds shall be distributed from this item prior to certification by the state and community colleges and the University of Massachusetts of the actual amount of tuition and fees waived for national guard members attending public institutions of higher education under said section 19 of said chapter 15A that would otherwise have been retained by the campuses, according to procedures and regulations promulgated by the military division of the Massachusetts national guard; provided further, that funds from this item may be expended through August 31, 2010 for the reimbursement of the tuition and fees waived for classes taken during the summer months; provided further, that the military division of the Massachusetts national guard and the board of higher education shall issue a joint report not later than February 15, 2010 on the implementation of this waiver; provided further, that the report shall be submitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, the house and senate chairs	

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	of the joint committee on veterans and federal affairs and the house and senate chairs of the joint committee on higher education; and provided further, that the military division may expend funds from this item for administrative services	\$4,031,738
8700-1160	For life insurance premiums under section 88B of chapter 33 of the General Laws	\$1,575,900

Massachusetts Emergency Management Agency.

8800-0001	For the operations of the Massachusetts emergency management agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities	\$1,479,077
8800-0100	For the Pilgrim Nuclear Power Plant Nuclear Safety Preparedness Program of the Massachusetts emergency management agency; provided, that the costs of the program, including fringe benefits and indirect costs, shall be assessed upon Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the commonwealth; provided further, that the department of public utilities shall develop an equitable method of apportioning such assessments among such licensees; and provided further, that such assessments shall be paid during the current fiscal year as provided by the department	\$429,791
8800-0200	For the Seabrook and Vermont Yankee Power Plants Nuclear Safety Preparedness Program; provided, that the cost of the program, including associated fringe benefits and indirect costs, shall be assessed on electric companies in the commonwealth which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950 include communities located within the commonwealth and shall be credited to the General Fund; provided further, that the department of public utilities shall develop an equitable method of apportioning such assessments among the licensees; provided further, that such assessments shall be paid during the current fiscal year as provided by the department; provided further, that not less than \$75,000 shall be expended for regional radiological monitoring within the Emergency Planning Zone communities located within the commonwealth; provided further, that such monitoring shall be conducted by the C-10 Research and	

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Education Foundation; and provided further, that for the purposes of this item, "electric companies" shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution and sale of electricity within the commonwealth, but shall not include municipalities or municipal light plants \$357,839

Department of Correction.

- 8900-0001 For the operation of the commonwealth's department of correction; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved; provided further, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate committees on ways and means and public safety before January 1 of each year the point score compiled by the department of correction's objective classification system for all prisoners confined in each prison operated by the department; provided, that the department shall expend not less than \$1,010,500 for cities and towns hosting facilities; and provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level \$521,112,630
- 8900-0010 For prison industries and farm services \$2,620,247
- 8900-0011 For a prison industries and farm services revenue retention account; provided, that the department may expend an amount not to exceed \$2,600,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system \$2,600,000

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- 8900-0045 For the department of correction which may expend for the operation of the department, including personnel-related expenses, an amount not to exceed \$3,000,000 from revenues received from federal inmate reimbursements; provided, that \$900,000 from these reimbursements shall not be available for expenditure and shall be deposited in the General Fund before the retention by the department of any of these reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$3,000,000
- 8900-1100 For re-entry programs at the department of correction intended to reduce recidivism rates; provided, that said programs shall be in addition to those provided in fiscal year 2006; and provided further, that the department shall report to the house and senate committees on ways and means not later than January 20, 2010 on re-entry programming at the department of correction \$594,745

County Correction.

- 8910-0000 For a reserve to provide funds for certain costs of the Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk sheriffs' departments including, but not limited to, employee health care, retirement, and Plymouth correctional facility debt service; provided, that the county finance review board shall consult the public employee retirement administration commission about sheriff employee retirement costs before distributing funds to county retirement systems; provided further, that the secretary of administration and finance may transfer from the sum appropriated in this item to other items of appropriation; provided further, that the transfers may be expended solely for the purposes authorized by the secretary; and provided further, that the county government finance review board shall approve all transfers from this item \$70,407,014
- 8910-0002 For the administration of a sex offender warrant unit program in the Barnstable county sheriff's office; provided, that the unit shall support the regional Cape Cod sex offender management

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	task force, provide address verification and maintain a regional sex offender database for local law enforcement	\$63,900
8910-0003	For 2 regional behavioral evaluation and stabilization units to provide forensic mental health services within existing physical facilities for incarcerated persons in the care of correctional facilities; and provided further, that the department of mental health shall maintain monitoring and quality review functions of the units	\$2,186,871
8910-0010	For the purpose of funding expenses for services provided to inmates of county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year 2010; provided, that the department shall notify the county government finance review board and the comptroller of all such expenses; provided further, that not more than 30 days after receiving such notification, the board shall certify to the comptroller the amount of these expenses to be charged to this item; provided further, that upon receiving such certification, the comptroller shall effect the transfer of such amount from this item to item 4590-0903 in section 2B; and provided further, that these actual and projected payments shall be considered expenditures within each county spending plan and shall be reflected as such in proposed spending plans required by item 8910-0000	\$2,172,244

Sheriffs.

Hampden Sheriff's Department.

8910-0102	For the operation of the Hampden sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B	\$66,350,440
8910-1000	For the Hampden sheriff's department which may expend for prison industries programs an amount not to exceed \$1,844,458 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities, reimbursement for community service projects and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29	

	of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$1,844,458
8910-2222	For the Hampden sheriff's department which may expend for the operation of the department an amount not to exceed \$320,000 from federal inmate reimbursements; provided, that \$312,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund before the retention by the department of any of these reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$320,000

Worcester Sheriff's Department.

8910-0105	For the operation of the Worcester sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$40,135,460
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Middlesex Sheriff's Department.

8910-0107	For the operation of the Middlesex sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract	
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	shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$60,831,296
8910-0160	For a retained revenue account for the Middlesex sheriff's department for reimbursements from the federal government for costs associated with the incarceration of federal inmates at the Billerica house of correction; provided, that the department may expend for the operation of the department an amount not to exceed \$850,000 from revenues collected from the incarceration of federal inmates; provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$850,000
8910-1100	For a prison industries revenue retention account for the Middlesex sheriff's department; provided, that the department may expend an amount not to exceed \$100,000 from revenues collected from the sale of products, for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded in the Massachusetts management accounting and reporting system	\$100,000

Franklin Sheriff's Department.

8910-0108	For the operation of the Franklin Sheriff's Department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B	\$8,878,719
8910-0188	For the Franklin sheriff's department which may expend for the operation of the department an amount not to exceed \$2,100,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general	

or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system \$2,100,000

8910-0288 For a retained revenue account for the Franklin sheriff's department from monies collected through federal reimbursements for transportation of federal detainees; provided, that the Franklin sheriff's department may expend an amount not to exceed \$500,000 \$500,000

Hampshire Sheriff's Department.

8910-0110 For the operation of the Hampshire sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B \$11,876,291

8910-1112 For the Hampshire sheriff's department which may expend for the operation of the Hampshire county regional lockup at the Hampshire county jail an amount not to exceed \$250,000 in revenue; provided, that that the sheriff shall enter into agreements to provide detention services to various law enforcement agencies and municipalities and shall determine and collect fees for those detentions from the law enforcement agencies and municipalities \$250,000

Berkshire Sheriff's Department.

8910-0145 For the operation of the Berkshire sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other

	than the state office of pharmacy services	\$14,584,616
8910-0445	For the Berkshire sheriff's department which may expend an amount not to exceed \$250,000 from revenues generated from the operation of the Berkshire county communication center's 911 dispatch operations and other law enforcement related activities, including the Berkshire county sheriff prison industries program; provided, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$250,000
8910-0446	For the Berkshire sheriff's department which may expend an amount not to exceed \$1,100,000 from revenues collected from Berkshire county public school systems; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the sheriff's office may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system; and provided further, that expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system	\$1,000,000

Essex Sheriff's Department.

8910-0619	For the operation of the Essex sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B	\$45,140,720
8910-6619	For the Essex sheriff's department which may expend for the operation of the department an amount not to exceed \$2,000,000 from revenues received from federal inmate reimbursements; provided, that \$150,000 from the reimbursements shall not be available for expenditure and shall be deposited quarterly into the General Fund before the retention by the department of any of these revenues as certified by the comptroller; provided further, that the quarterly payments shall total \$600,000 in fiscal year 2010; provided, that said sheriff may expend from	

this item costs associated with joint federal and state law enforcement activities from federal reimbursements received; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system . . . \$2,000,000

Massachusetts Sheriff's Association.

8910-7100 For the Massachusetts Sheriffs Association which may expend for its operation an amount not to exceed \$344,790 in revenue collected from voluntary contributions from all sheriffs; provided, that the sheriffs shall appoint persons to serve as executive director, assistant executive director and research director and other staff positions as necessary for the purpose of coordination and standardization of services and programs, the collection and analysis of data related to incarceration and recidivism and generation of reports, technical assistance and training to ensure standardization in organization, operations, and procedures; provided further, that this staff shall not be subject to section 45 of chapter 30 of the General Laws or chapter 31 of the General Laws and shall serve at the will and pleasure of a majority of sheriffs; provided further, that the executive director of the association shall submit a report that shows the amounts of all grants awarded to each sheriff in fiscal year 2009; and provided further, that the report shall be submitted to the house and senate committees on ways and means not later than February 1, 2010 \$344,790

Barnstable Sheriff's Department.

8910-8200 For the operation of the Barnstable sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning

to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$21,176,700

8910-8210 For the Barnstable sheriff's department which may expend for the operation of the department an amount not to exceed \$250,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$250,000

Bristol Sheriff's Department.

8910-8300 For the operation of the Bristol sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B \$27,256,334

8910-8310 For the Bristol sheriff's department which may expend for the operation of the department an amount not to exceed \$6,500,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$6,500,000

Dukes Sheriff's Department.

8910-8400 For the operation of the Dukes sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services

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shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$2,567,765

Nantucket Sheriff's Department.

8910-8500 For the operation of the Nantucket sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B \$782,593

Norfolk Sheriff's Department.

8910-8600 For the operation of the Norfolk sheriff's department provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$22,871,958

8910-8610 For the Norfolk sheriff's department which may expend for the operation of the department an amount not to exceed \$2,500,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$2,500,000

Plymouth Sheriff's Department.

8910-8700	For the operation of the Plymouth sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B	\$23,943,379
8910-8710	For the Plymouth sheriff's department which may expend for the operation of the department an amount not to exceed \$16,000,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$16,000,000

Suffolk Sheriff's Department.

8910-8800	For the operation of the Suffolk sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than August 1, 2009; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$85,442,734
8910-8810	For the Suffolk sheriff's department which may expend for the operation of the department an amount not to exceed \$8,000,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur	

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expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$8,000,000

Parole Board.

- 8950-0001 For the operation of the parole board \$18,572,321
- 8950-0002 For the victim and witness assistance program of the parole board under chapter 258B of the General Laws \$217,185
- 8950-0008 For the operation of the parole board's sex offender management program and the supervision of high-risk offenders, the parole board may expend an amount not more than \$600,000 from revenues collected from fees charged for parolee supervision; provided, that the parole board shall file a report with the house and senate committees on ways and means not later than February 1, 2010, which shall include, but not be limited to, the number of parolees participating in the program and the re-incarceration rate of participating parolees \$600,000

Department of Elder Affairs.

- 9110-0100 For the operation of the executive office and regulation of assisted living facilities; provided, that the secretary shall continue to support community care ombudsman services; and provided further, that the executive office of elder affairs shall report annually to the house and senate committees on ways and means the number of assisted living units certified and the total revenues generated from application and certification fees for such units \$2,120,392
- 9110-1455 For the costs of the drug insurance program authorized by section 39 of chapter 19A of the General Laws; provided, that amounts received by the executive office of elder affairs' vendor as premium revenue for this program may be retained and expended by the vendor for the purposes of the program; provided further, that funds shall be expended for the operation of the pharmacy outreach program established in section 4C of chapter 19A of the General Laws; provided further, that notwithstanding any general or special law to the contrary, unless otherwise prohibited by state or federal law, prescription drug coverage or benefits payable by the executive office of elder affairs, and the entities with which

it has contracted for administration of the subsidized catastrophic drug insurance program pursuant to said section 39 of said chapter 19A, shall be the payer of last resort for this program for eligible persons with regard to any other third-party prescription coverage or benefits available to such eligible persons; provided further, that the executive office shall notify the house and senate committees on ways and means not less than 90 days in advance of any action to limit or cap the number of enrollees in the program; provided further, that this program shall be subject to appropriation and, in fiscal year 2010, expenditures shall not be more than the amount authorized in this item; provided further, that no action shall be taken to expand the benefits of the program, extend benefits to additional populations or reduce cost sharing in the program without approval of the general court; provided further, that the department shall submit drafts of legislation required to implement such actions for review and analysis by the general court; provided further, that the executive office shall take steps for the coordination of benefits with the Medicare prescription drug benefit created pursuant to the federal Medicare Prescription Drug Improvement and Modernization Act of 2003 to ensure that Massachusetts residents take advantage of said benefit; provided further, that the department shall provide assistance for prescription drug costs to enrollees who qualify for Medicare Part D as well as assistance for premiums, deductibles, payments, and co-payments required by the Part D or Medicare Advantage plans, or by other plans which provide creditable prescription drug coverage as defined by section 104 of said Medicare Modernization Act, and which provide coverage of the cost of prescription drugs actuarially equal to or better than that provided by Medicare Part D; provided further, that a person shall also be eligible to enroll in the program at any time within a year after reaching age 65; and provided further, that the department shall allow those who meet the program eligibility criteria to enroll in the program at any time during the year \$40,000,000

9110-1500 For the provision of enhanced home care services, including case management to elders who meet the eligibility requirements of the home care program and who need services above the level customarily provided under the program to remain safe-

ly at home, including elders previously enrolled in the managed care in housing, enhanced community options, and chronic care enhanced services programs; provided, that the secretary shall actively seek to obtain federal financial participation for all services provided to seniors who qualify for Medicaid benefits under the section 1915C waiver; provided further, that the executive office shall collect income data on persons receiving services provided in this item; provided further, that the executive office shall submit a report to the house and senate committees on ways and means detailing the population served by this item delineated by both 2009 federal poverty income levels and 2009 social security income standards; provided further, that the report shall be submitted not later than February 1, 2010; and provided further, that the executive office shall submit a report not later than October 15, 2009, to the house and senate committees on ways and means which shall include the number of individuals on a waiting list for these services on October 1, 2009, compared to the number of individuals on a waiting list on July 1, 2009 \$45,789,340

9110-1604 For the operation of the supportive senior housing program at state or federally-assisted housing sites; provided, that the funds shall be expended to fully fund existing sites \$4,014,802

9110-1630 For the operation of the elder home care program, including contracts with aging service access points or other qualified entities for the home care program, home care, health aides, home health and respite services, geriatric mental health services, and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of sliding fees in cases of extreme financial hardship; provided further, that not more than \$11,500,000 in revenues accrued from sliding fees shall be retained by the individual home care corporations without re-allocation by the executive office of elder affairs, and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by the executive office; provided further, that the executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from the sliding fees; provided fur-

ther, that the executive office shall report quarterly to the house and senate committees on ways and means and the executive office for administration and finance on the amount expended from this item for purchase of service expenditures by category of service as set forth in 651 C.M.R. 3.01 and 651 C.M.R. 3.06; provided further, that no rate increase shall be awarded in fiscal year 2010 which would cause a reduction in client services or the number of clients served; provided further, that no funds shall be expended from this item to pay for salary increases for direct service workers who provide state-funded homemaker and home health aid services which would cause a reduction in client services; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated in this item to item 9110-1633 for case management services and the administration of the home care program \$100,307,274

9110-1633 For the operation of the elder home care case management program, including contracts with aging service access points, or other qualified entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1500; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and other costs deemed appropriate by the executive office of elder affairs; provided further, that no funds appropriated in this item shall be expended for the enhancement of management information systems; and provided further, that the secretary of elder affairs may transfer an amount not to exceed 3 per cent of the funds appropriated herein to item 9110-1630 \$37,568,041

9110-1636 For the elder protective services program, including protective services case management, guardianship services, the statewide elder abuse hotline, money management services, and the elder-at-risk program \$16,252,499

9110-1660 For congregate and shared housing services for the elderly; provided, that funds may be expended for naturally occurring retirement communities \$1,503,617

9110-1700 For residential assessment and placement programs for homeless elders \$136,000

9110-1900 For the elder nutrition program \$6,279,770

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9110-9002 For grants to the councils on aging and for grants to or contracts with non-public entities which are consortia or associations of councils on aging; provided, that notwithstanding the foregoing, all monies appropriated in this item shall be expended in accordance with the distribution schedules for formula and incentive grants established by the secretary; provided further, that funding shall be expended for provider training and outreach for LGBT elders and caregivers; and provided further, that such distribution schedules shall be submitted to the house and senate committees on ways and means \$8,615,068

LEGISLATURE.

Senate.

9500-0000 For the operation of the senate \$17,636,527

House of Representatives.

9600-0000 For the operation of the house of representatives \$31,302,640

Joint Legislative Expenses.

9700-0000 For the joint operations of the legislature \$6,492,232

Commission on the Status of Women.

0950-0000 For the commission on the status of women \$70,000

Section 2B The amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with section 6B of chapter 29 of the General Laws. The amount of any unexpended balance of federal grant funds received prior to June 30, 2009, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 2010, in addition to any amount appropriated in this section.

OFFICE OF THE SECRETARY OF STATE.

0511-0003 For the costs of providing electronic and other publications purchased from the state bookstore, for commission fees, notary fees and for direct access to the secretary's computer library \$16,000

0511-0235 For the costs of obsolete records destruction incurred by the office of the secretary of state; provided, that state agencies,

including the judicial branch, may be charged for the destruction of their obsolete records by the records center where appropriate; provided further, that the secretary of state may expend revenues not to exceed \$100,000 of the funds received for the costs of the obsolete record destruction; and provided further, that the fees shall be charged on an equitable basis \$100,000

OFFICE OF THE STATE COMPTROLLER.

- 1000-0005 For the cost of the single state audit for the fiscal year ending June 30, 2010; provided, that the comptroller may charge other appropriations and federal grants for the cost of the audit \$675,000
- 1000-0008 For the costs of operating and managing the MMARS and New MMARS accounting system for fiscal year 2010 \$2,628,018

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

Office of the Secretary.

- 1100-1701 For the cost of information technology services provided to agencies of the executive office of administration and finance \$20,771,507

DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE.

- 1102-3224 For the costs for the Leverett Saltonstall building lease and occupancy payments; provided, that the division of capital asset management and maintenance shall submit to the house and senate committees on ways and means on or before the first of each month beginning July 1, 2009 a monthly report on the agencies that currently, or will during fiscal year 2010 occupy space in the Saltonstall building, their rental costs, utility costs, parking space allocation, floor space, lease dates, all services included in the lease and all services that the agencies are obligated to fund beyond the lease payments; and provided further, that the report shall include both estimated payments and prior expenditures \$11,217,734

Bureau of State Office Buildings.

- 1102-3333 For the operation and maintenance of state buildings, including reimbursement for overtime expenses, materials and contract

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	services purchased in performing renovations and related services for agencies occupying state buildings or for services rendered to approved entities using state facilities	\$135,000
1102-3336	For the operation and maintenance of the space in the Hurley state office building occupied by the division of unemployment assistance	\$2,333,900

Reserves.

1599-2040	For the payment of prior year deficiencies based upon schedules provided to the house and senate committees on ways and means; provided, that the comptroller may charge departments' current fiscal year appropriations and transfer to such item amounts equivalent to the amounts to any prior year deficiency, subject to the conditions stated in this item; provided further, that the comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains or, if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains; provided further, that no chargeback shall be made which would cause a deficiency in any current fiscal year item; provided further, that the comptroller shall report with such schedule a detailed reason for the prior year deficiency on all chargebacks assessed that exceed \$1,000 including the amount of the chargeback, the item and object class charged; and provided further, that the comptroller shall report on a quarterly basis on all chargebacks assessed, including the amount of the chargeback, the item, object class charged and the reason for the prior year deficiency	\$10,000,000
1599-3100	For the cost of the commonwealth's employer contributions to the Unemployment Compensation Fund and the Medical Security Trust Fund; provided, that the secretary for administration and finance shall authorize the collection, accounting and payment of such contributions; and provided further, that in executing these responsibilities the comptroller may charge in addition to individual appropriation accounts certain non-appropriated funds in amounts that are computed on the same	

basis as the commonwealth’s contributions are determined,
including expenses, interest expense or related charges \$26,000,000

Division of Human Resources.

- 1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the division shall charge to other items for the cost of participants enrolled in programs sponsored by the division or to state agencies employing such participants; provided further, that the division may collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth’s performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs; and provided further, that the division may charge and collect from participating state agencies a fee sufficient to cover administrative costs and expend such fees for goods and services rendered in the administration of information technology services related to the human resources compensation management system program \$400,000
- 1750-0105 For the cost of workers’ compensation paid to public employees; provided, that the secretary of administration and finance shall charge other items or state agencies for costs incurred on behalf of these state agencies; provided further, that the secretary may transfer workers’ compensation-related fringe benefit assessments from federal grants and trust accounts to this item; provided further, that no funds shall be expended from this item that would cause the item to be deficient; provided further, that the secretary shall provide projected costs of workers’ compensation costs incurred by agencies in fiscal year 2010 to the house and senate committees on ways and means no later than March 2, 2010; provided further, that in accordance with chapter 177 of the acts of 2001, the secretary of administration and finance shall charge state agencies in fiscal year 2010 as provided in this item for workers’ compensation costs, including related administrative expenses incurred on behalf of the employees of the agencies; provided further, that administrative expenses shall be allocated; provided further, that the personnel administrator shall administer the charges on behalf of the secretary, and may establish such rules and procedures as deemed necessary

to implement this item; provided further, that the personnel administrator shall: (1) notify agencies regarding the chargeback methodology to be used in fiscal year 2010; (2) notify agencies of the amount of their estimated workers compensation charges for the fiscal year; and (3) require agencies to encumber funds in an amount sufficient to meet the estimated charges; provided further, that the estimated charges for each agency in the fiscal year shall be not less than the amount of the actual workers' compensation costs, including related administrative expenses, incurred by each such agency in fiscal year 2009, and may include such additional amounts as the human resources division finds necessary under regulations adopted under this item; provided further, that the division may adopt a program of incentives for agencies to reduce agencies' claims; provided further, that for any agency that fails within 30 days of the effective date of this act to encumber funds sufficient to meet the estimated charges, the comptroller shall so encumber funds on behalf of that agency; provided further, that the personnel administrator shall: (1) determine the amount of the actual workers' compensation costs incurred by each agency in the preceding month, including related administrative expenses; (2) notify each agency of the amounts; and (3) charge the amounts to each agency's accounts as estimates of the costs to be incurred in the current month; provided further, that notwithstanding any general or special law to the contrary, any balance remaining in the Intergovernmental Service Fund, at the close of fiscal year 2009 shall be transferred to the General Fund; provided further, that any unspent balance at the close of fiscal year 2009 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Intergovernmental Service Fund and is hereby re-authorized for expenditures for such item in fiscal year 2010; provided further, that the personnel administrator may expend in fiscal year 2010 for hospital, physician, benefit, and other costs related to workers' compensation for employees of state agencies, including administrative expenses; and provided further, that such expenditures may include payments for medical services provided to claimants in prior fiscal years, as well as compensation benefits and associated costs for prior fiscal years \$56,401,355

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1750-0106 For the workers' compensation litigation unit, including the costs of personnel \$639,023

Operational Services Division.

1775-0800 For the purchase, operation and repair of certain vehicles and for the cost of operating and maintaining all vehicles that are leased by other agencies, including the costs of personnel \$7,600,000

1775-1000 For printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the secretary for administration and finance shall charge to other items of appropriation within the agencies of the executive branch for such services, including the costs of personnel \$1,000,000

Information Technology Division.

1790-0200 For the cost of computer resources and services provided by the information technology division in accordance with the policies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that the secretary shall charge other items of appropriation for the cost of the resources and services; provided further, that notwithstanding any general or special law to the contrary, charges for the cost of computer resources and services provided by the bureau of computer services for the design, development, and production of reports and information related to the analysis, development and production of appropriations bills and other legislation shall not be charged to any item of appropriation of the executive office for administration and finance, the house of representatives, the senate or any joint legislative account in fiscal year 2010; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing the total charges, payments and services provided for the preceding quarter from each department charged to this item; provided further, that the reports shall include, but not be limited to, a delineation of the rates charged to each department as approved by the secretary for administration and finance for each service performed by the

	division; provided further, that the secretary for administration and finance shall establish regulations, procedures and a schedule of fees including, but not limited to, the development and distribution of forms and instructions, including the costs of personnel; and provided further, that any unspent balance at the close of fiscal year 2010 in an amount not to exceed 5 per cent of the amount authorized shall remain in the Intergovernmental Service Fund and may be expended for the item in fiscal year 2011	\$62,121,176
1790-0400	For the purchase, delivery, handling of and contracting for supplies, postage and related equipment and other incidental expenses provided pursuant to section 51 of chapter 30 of the General Laws	\$2,329,665

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.

2000-1701	For the cost of information technology services provided to agencies of the executive office of energy and environment . . .	\$4,841,523
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EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-0102	For the cost of transportation services for health and human services clients and the operation of the health and human services transportation office	\$7,272,275
4000-0103	For the costs of core administrative functions performed within the executive office of health and human services; provided, that the secretary of the executive office of health and human services may, notwithstanding any general or special law to the contrary, identify administrative activities and functions common to the separate agencies, departments, offices, divisions, and commissions within the executive office and may designate such functions "core administrative functions" in order to improve administrative efficiency and preserve fiscal resources; provided further, that common functions that may be designated core administrative functions include human resources, financial management, and leasing and facility management; provided further, that all employees performing functions so designated may be employed by the executive office, and the executive office shall charge the agencies, departments, offices, divisions, and commissions for such services; provided further, that upon the designation	

of a function as a core administrative function, the employees of each agency, department, office, or commission who perform such core administrative functions may be transferred to the executive office of health and human services; provided further, that the reorganization shall not impair the civil service status of any such transferred employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws; and provided further, that nothing in this item shall impair or change an employee's status, rights, or benefits under chapter 150E of the General Laws \$19,824,955

4000-1701 For the cost of information technology services provided to agencies of the executive office of health and human services . . . \$33,501,589

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0122 For the costs of interpreter services provided by commission staff; provided, that the costs of personnel may be charged to this item; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$250,000

Department of Public Health.

4510-0108 For the costs of pharmaceutical drugs and services provided by the state office for pharmacy services, in this section called SOPS; provided, that SOPS shall notify in writing all agencies listed below of their obligations under this item by July 15, 2009; provided further, that SOPS shall continue to be the sole provider of pharmacy services for the following agencies currently under SOPS: the department of public health, the department of mental health, the department of developmental services, the department of correction, the department of youth services, the sheriff's departments of Bristol, Essex, Franklin, Hampden, Hampshire, and Plymouth, and the Soldiers' Homes in Holyoke and Chelsea; provided further, that SOPS shall become the sole provider of

pharmacy services to the following agencies currently not being serviced by SOPS: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall be the sole provider of pharmacy services for all said agencies and all costs for pharmacy services shall be charged by this item; provided further, that said agencies shall not charge or contract with any other alternative vendor for pharmacy services other than SOPS; provided further, that SOPS shall develop an implementation plan to transition the following agencies within the current fiscal year: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall validate previously-submitted pharmacy expenditures including HIV Drug Assistance Program drug reimbursements during fiscal year 2010; provided further, that SOPS shall continue to work to reduce medication costs, provide standardized policies and procedures in a clinically responsible manner, provide comprehensive data analysis and improve the quality of clinical services; provided further, that SOPS shall report to the house and senate committees on ways and means no later than April 15, 2010 detailing the projected savings realized by each transitioning agency in comparison to their pharmacy costs in fiscal year 2009 and their projected savings for fiscal year 2011; and provided further, that the report shall also provide recommendations for the inclusion of other entities that may realize cost savings by joining SOPS \$47,865,393

4590-0901 For the costs of medical services provided at public health hospitals pursuant to a schedule of services and fees approved by the commissioner of public health, which may be expended for the purposes of hospital related costs, including, but not limited to, capital repair and the maintenance and motor vehicle replacement; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate thereof as reported in the state accounting system \$150,000

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4590-0903 For the costs of medical services provided at the department of public health Lemuel Shattuck hospital to inmates of the county correctional facilities; provided, that the costs shall be charged to items 8910-0000, 8910-0010, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, 8910-0619, 8910-8200, 8910-8300, 8910-8400, 8910-8500, 8910-8600, and 8910-8800 of section 2 pursuant to the provisions thereof; provided further, that expenditures from this item shall be for hospital-related costs including, but not limited to, capital repair and the maintenance and motor vehicle replacement; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate thereof as reported in the state accounting system \$3,800,000

Department of Developmental Services.

5948-0012 For a program providing alternatives to residential placements for children with mental retardation, including the costs of intensive home-based supports, provided in item 7061-0012 of section 2 \$6,500,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-1701 For the cost of information technology services provided to agencies of the executive office of transportation and public works \$10,362,132

6030-7501 For the cost of the purchase of bulk fuel for certain vehicles under the authority of the operational services division and the cost of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel \$2,000,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.

Office of the Secretary.

7002-0018 For the cost of information technology services provided to agen-

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cies of the executive office of housing and economic
development\$3,924,404

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.

Office of the Secretary.

7002-0171 For the cost of information technology services provided to
agencies of the executive office of labor and workforce
development \$19,041,403

EXECUTIVE OFFICE OF EDUCATION.

Office of the Secretary.

7009-1701 For the cost of information technology services provided to
agencies of the executive office of education \$1,975,782

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY.

8000-1701 For the cost of information technology services provided to agen-
cies of the executive office of public safety and security \$12,316,836

State Police.

8100-0002 For the costs of overtime associated with requested police details;
provided, that for the purpose of accommodating discrep-
ancies between the receipt of revenues and related
expenditures, the department may incur expenses and the
comptroller may certify for payment amounts not to exceed
the lower of this authorization or the most recent revenue
estimate thereof as reported in the state accounting system . . . \$6,481,785

8100-0003 For the costs associated with the use of the statewide telecom-
munications system for the maintenance of the system \$156,375

Military Division.

8700-1145 For the costs of utilities and maintenance and for the
implementation of energy conservation measures with regard
to the state armories \$300,000

Department of Correction.

8900-0021 For the cost of products produced by the prison industries and
farm program and for the cost of services provided by
inmates, including the costs of moving, auto repair, culinary
and renovation and construction services; provided, that the

costs for renovation and construction services shall not exceed the amount established by the operational services division; and provided further, that such revenues may also be expended for materials, supplies, equipment, maintenance of facilities and compensation of employees and for the inmate employment and training program \$6,050,000

Section 2D The amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with section 6B of chapter 29 of the General Laws. The amount of any unexpended balance of federal grant funds received prior to June 30, 2009, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 2010, in addition to any amount appropriated in this section.

JUDICIARY

0320-1700 For the purposes of a federally funded grant entitled, State Court Improvement Program Basic Grant \$240,211
0320-1701 For the purpose of a federally funded grant entitled, CIP Data Sharing Grant \$205,000
0320-1703 For the purpose of a federally funded grant entitled, CIP Training Grant \$195,121

DISTRICT ATTORNEYS.

Plymouth District Attorney.

0340-0806 For the purposes of a federally funded grant entitled, Weed and Seed Campello \$175,000
0340-0816 For the purposes of a federally funded grant entitled, Drug Free Communities \$100,000
0340-0821 For the purposes of a federally funded grant entitled, Brockton's Promise- Youth Mentoring \$116,218

Bristol District Attorney.

0340-0906 For the purposes of a federally funded grant entitled, Weed and Seed \$149,843

Cape and Islands District Attorney.

0340-1013 For the purposes of a federally funded grant entitled, Federal Forfeiture Trust Account \$60,000

SECRETARY OF STATE.

0521-0800	For the purpose of a federally funded grant entitled, Election Assistance for Disabled Individuals	\$700,041
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning	\$825,000

TREASURER AND RECEIVER GENERAL.

Massachusetts Cultural Council.

0640-9716	For the purposes of a federally funded grant entitled, Folk and Traditional Arts Initiative	\$20,000
0640-9717	For the purposes of a federally funded grant entitled, Basic State Plan	\$633,300
0640-9718	For the purposes of a federally funded grant entitled, Arts Education	\$62,200
0640-9724	For the purposes of a federally funded grant entitled, Arts in Underserved Communities	\$151,000
0640-9729	For the purposes of a federally funded grant entitled, Challenge America	\$158,500

Department of Veterans' Services.

1410-0254	For the purposes of a federally funded grant entitled, Non-Urban Homeless Veterans Reintegration	\$300,000
1410-0255	For the purposes of a federally funded grant entitled, Urban Homeless Veterans Reintegration	\$300,000
1410-0256	For the purposes of a federally funded grant entitled, Veterans' Workforce Investment Program	\$300,000

ATTORNEY GENERAL.

0810-0026	For the purposes of a federally funded grant entitled, Crime Victim Compensation	\$285,250
0810-6664	For the purposes of a federally funded grant entitled, Cyber Crime Information Sharing	\$98,865

Victim and Witness Assistance Board.

0840-0110	For the purposes of a federally funded grant entitled, Victims of Crime Assistance Programs	\$7,446,427
0840-4611	For the purposes of a federally funded grant entitled, Byrne Federal Grant	\$195,000

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0840-4620 For the purposes of a federally funded grant entitled, VAWA
Federal Grant \$265,880

*Executive Office of Administration and Finance.
Massachusetts Developmental Disabilities Council.*

1100-1703 For the purposes of a federally funded grant entitled, Imple-
mentation of the Federal Developmental Disabilities Act;
provided, that in order to qualify for this grant, this item shall
be exempt from the first \$350,000 of fringe benefit and
indirect cost charges pursuant to section 6B of chapter 29 of
the General Laws \$2,128,816

Disabled Persons Protection Commission.

1107-2450 For the purposes of a federally funded grant entitled, Client
Assistance Program \$239,839

1107-2509 For the purposes of a federally funded grant entitled, Disabled
Persons Protection Commission, Multi-Disciplinary Re-
sponses to Crime \$475,000

Department of Revenue.

1201-0104 For the purposes of a federally funded grant entitled, Joint
Federal-State Motor Fuel Tax Compliance Project \$10,000

1201-0109 For the purposes of a federally funded grant entitled, Access and
Visitation - Parent Education Program \$222,169

1201-0412 For the purposes of federally funded grants entitled, Child
Support Enforcement Grants, Child Support IVD Companion
account to CSE Demonstration Grants \$113,667

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-0141 For the purposes of a federally funded grant entitled, Coastal
Zone Management and Development \$3,600,000

2000-0177 For the purposes of a federally funded grant entitled, Wetlands
Development \$33,312

2000-0179 For the purposes of a federally funded, grant entitled Eel River
Restoration \$961,500

2000-0186 For the purposes of a federally funded grant entitled, Aquatic
Nuisance Species Management Plan \$73,798

2000-0248 For the purposes of a federally funded grant entitled, National
Estuary Program — Operation \$640,334

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2000-9600	For the purposes of a federally funded grant entitled, Narragansett Bay	\$73,370
2000-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects - Political Subdivisions	\$2,317,517
2000-9735	For the purposes of a federally funded grant entitled, Buzzards Bay Estuary Program	\$593,203
2000-9760	For the purposes of a federally funded grant entitled, Inventory of Navy Shipwreck	\$4,490
2030-0013	For the purposes of a federally funded grant entitled, Fisheries Enforcement	\$769,808
2030-9701	For the purposes of a federally funded grant entitled, Safe Boating Program	\$1,396,630

Department of Public Utilities.

7006-9000	For the purposes of a federally funded grant entitled, Motor Carrier Safety Assistance	\$102,000
7006-9002	For the purposes of a federally funded grant entitled, Pipeline Security	\$953,682

Department of Environmental Protection.

2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning	\$534,866
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tanks	\$1,000,000
2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration Program for Department of Defense ...	\$1,422,301
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Grant	\$975,728
2200-9728	For the purposes of a federally funded grant entitled, Brownfields Assessment Program - Multi-Site Cooperative Agreement	\$231,390
2200-9729	For the purposes of a federally funded grant entitled, Brownfield Pilots Cooperative Agreements	\$22,314
2200-9731	For the purposes of a federally funded grant entitled, Brownfield Response	\$1,570,062
2230-9702	For the purposes of a federally funded grant entitled, Air, Water and Hazardous Waste Management Regulatory Programs ...	\$17,611,753
2230-9709	For the purposes of a federally funded grant entitled, Environmental Information Exchange	\$195,494
2230-9710	For the purposes of a federally funded grant entitled, FY07 Network	\$186,004

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2230-9711 For the purposes of a federally funded grant entitled, Environmental Information Exchange Network	\$260,000
2240-9762 For the purposes of a federally funded grant entitled, Reimbursement to Operators to Small Water Systems for Training and Certification	\$304,404
2240-9764 For the purposes of a federally funded grant entitled, Special Appropriation Set-Aside Administration	\$55,819
2240-9769 For the purposes of a federally funded grant entitled, Estuaries Watershed Permitting	\$18,915
2240-9773 For the purposes of a federally funded grant entitled, Technical Assistance and Training for Drinking Water	\$58,500
2240-9774 For the purposes of a federally funded grant entitled, Regional Dedicated Water Quality	\$15,000
2250-9712 For the purposes of a federally funded grant entitled, Clean Air Act-Fine Particulate Matter Air Monitoring	\$446,479
2250-9716 For the purposes of a federally funded grant entitled, Ambient Air Toxics Pilot Project	\$133,645
2250-9724 For the purposes of a federally funded grant entitled, Mass Food Waste RCC Program	\$31,649
2250-9725 For the purposes of a federally funded grant entitled, Innovation Environment Compliance Strategies	\$55,470
2250-9726 For the purposes of a federally funded grant entitled, Homeland Security Co-op Agreement	\$863,645
2250-9727 For the purposes of a federally funded grant entitled, School Bus Retrofit	\$20,000
2250-9728 For the purposes of a federally funded grant entitled, Off Road Construction (ORCVRP)	\$5,000
2250-9729 For the purposes of a federally funded grant entitled, Composting Recycling	\$5,000
2250-9730 For the purposes of a federally funded grant entitled, Air Toxic-Spatial Trends	\$82,335

Department of Fish and Game.

2300-0112 For the purposes of a federally funded grant entitled, River Restoration Program	\$27,133
2300-0114 For the purposes of a federally funded grant entitled, USFWS Partnership Program	\$48,534
2300-0115 For the purposes of a federally funded grant entitled, US Fish and Wildlife Service Eastern Brook Trout Joint Venture	\$100,000
2300-0116 For the purposes of a federally funded grant entitled, Riverways-	

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	Natural Resource Conservation Services Wildlife Habitat Incentive Program	\$299,664
2310-0115	For the purposes of a federally funded grant entitled, Land Owner Incentive Program – Tier I	\$80,000
2310-0116	For the purposes of a federally funded grant entitled, Land Owner Incentive Program – Tier II	\$1,000,000
2310-0117	For the purposes of a federally funded grant entitled, Chronic Wasting Disease	\$90,000
2310-0118	For the purposes of a federally funded grant entitled, Junior Duck Stamp	\$1,300
2310-0119	For the purposes of a federally funded grant entitled, Avian Influenza Surveillance Program	\$20,000
2330-9222	For the purposes of a federally funded grant entitled, Clean Vessel	\$850,000
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics	\$200,206
2330-9713	For the purposes of a federally funded grant entitled, Right Whale Conservation	\$320,000
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fisheries Management	\$37,500
2330-9725	For the purposes of a federally funded grant entitled, Boating Infrastructure	\$100,000
2330-9726	For the purposes of a federally funded grant entitled, Lobster Trap Escape Vent Selectivity Study	\$40,000
2330-9730	For the purposes of a federally funded grant entitled, Interstate Fisheries Management Support	\$233,000
2330-9732	For the purposes of a federally funded grant entitled, ACCSP Implementation Strategic Plan	\$125,000
2330-9736	For the purposes of a federally funded grant entitled, Marine Fisheries Institute	\$600,000
2330-9739	For the purposes of a federally funded grant entitled, Turtle Disengagement	\$51,000
2330-9740	For the purposes of a federally funded grant entitled, Lobster Gear Removal/Rope Work	\$40,000
2330-9741	For the purposes of a federally funded grant entitled, Groundfish Disaster Relief	\$13,400,000

Department of Agricultural Resources.

2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement	\$320,324
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2511-0320	For the purposes of a federally funded grant entitled, Certification of Pesticide Applicators	\$123,000
2511-0336	For the purposes of a federally funded grant entitled, Special Pesticide Disposal Initiative	\$7,240
2511-0400	For the purposes of a federally funded grant entitled, Cooperative Pest Survey Program	\$150,000
2511-0401	For the purposes of a federally funded grant entitled, Cooperative Pesticide Recordkeeping Program	\$17,500
2511-0972	For the purposes of a federally funded grant entitled, Farmland Protection	\$4,500,000
2511-1025	For the purposes of a federally funded grant entitled, Country of Origin Labeling	\$50,000
2515-1002	For the purposes of a federally funded grant entitled, Animal Disease Surveillance Homeland Security	\$125,030
2515-1003	For the purposes of a federally funded grant entitled, Voluntary Johne's Disease Control	\$44,300
2515-1004	For the purposes of a federally funded grant entitled, Scrapie Disease Surveillance and Flock Certification	\$8,300
2515-1005	For the purposes of a federally funded grant entitled, Low Pathogenic Avian Influenza Prevention	\$29,350
2515-1006	For the purposes of a federally funded grant entitled, National Animal Identification System	\$246,500
2515-1008	For the purposes of a federally funded grant entitled, Highly Pathogenic Avian Influenza	\$126,000
2516-9002	For the purposes of a federally funded grant entitled, Development of Institutional Marketing	\$163,726
2516-9003	For the purposes of a federally funded grant entitled, Farmer's Market Coupon Program	\$450,000
2516-9004	For the purposes of a federally funded grant entitled, Senior Farmers Market Nutrition Program	\$556,000
2516-9007	For the purposes of a federally funded grant entitled, Organic Certification Cost-Share Program	\$77,500

Department of Conservation and Recreation.

2800-9707	For the purposes of a federally funded grant entitled, National Flood Insurance Program	\$190,000
2800-9709	For the purposes of a federally funded grant entitled, Map Modernization	\$109,404
2800-9721	For the purposes of a federally funded grant entitled, Schooner Ernestina Historical Documentation	\$20,000

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2800-9726	For the purposes of a federally funded grant entitled, FEMA National Dam Safety Program	\$67,907
2800-9727	For the purposes of a federally funded grant entitled, Boston Harbor Islands Projects-National Park Service	\$250,000
2800-9750	For the purposes of a federally funded grant entitled, Ipswich River Watershed EPA Grant	\$70,200
2820-9702	For the purposes of a federally funded grant entitled, Rural Community Fire Protection	\$74,207
2820-9704	For the purposes of a federally funded grant entitled, NRCS Wildlife Habitat Incentives Program	\$63,805
2820-9705	For the purposes of a federally funded grant entitled, Animal and Plant Health Inspections	\$25,010,000
2821-9705	For the purposes of a federally funded grant entitled, Urban and Community Forestry Program	\$417,588
2821-9709	For the purposes of a federally funded grant entitled, Forestry Stewardship, Forest Legacy and Conservation Education	\$3,098,041
2821-9711	For the purposes of a federally funded grant entitled, Rural Fire Prevention and Control	\$228,492
2821-9713	For the purposes of a federally funded grant entitled, Wildland Urban Interface Fuels Management	\$293,608
2821-9714	For the purposes of a federally funded grant entitled, Rural Development through Forestry	\$26,005
2821-9719	For the purposes of a federally funded grant entitled, Watershed Forest Management – Guidebook	\$2,714
2821-9726	For the purposes of a federally funded grant entitled, Forest Health Management - US Forest Service	\$103,251
2830-9705	For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir	\$7,014
2840-9709	For the purposes of a federally funded grant entitled, Waquoit Bay National Estuarine Research Reserve Consolidated Funding	\$624,789
2840-9710	For the purposes of a federally funded grant entitled, NOAA - S. Cape Beach Salt Marsh Restoration	\$100,461
2840-9714	For the purposes of a federally funded grant entitled, Waquoit Bay Land Acquisition	\$83,837
2840-9715	For the purposes of a federally funded grant entitled, NOAA CECLP Grant	\$2,250,000
2850-9701	For the purposes of a federally funded grant entitled, Recreational Trails Program	\$563,400

Department of Energy Resources.

7006-9237	For the purposes of a federally funded grant entitled, Rebuild Mass – Energy Smart Communities	\$48,041
7006-9238	For the purposes of a federally funded grant entitled, SEP – 4 Natural Gas Buses	\$196,843
7006-9239	For the purposes of a federally funded grant entitled, SEP – A Module-Integrated	\$190,164
7006-9240	For the purposes of a federally funded grant entitled, Tall Tower Wind	\$88,562
7006-9243	For the purposes of a federally funded grant entitled, BIOMASS – Sustainable Forest	\$444,127
7006-9244	For the purposes of a federally funded grant entitled, Evaluation of Switchgrass for Biofuel in Massachusetts	\$10,000
7006-9301	For the purposes of a federally funded grant entitled, How Cost-Effective energy Efficiency	\$164,210
7006-9302	For the purposes of a federally funded grant entitled, State Industrial Assessment Projects	\$50,000
7006-9303	For the purposes of a federally funded grant entitled, SEP Advance Energy Codes	\$400,000
7006-9720	For the purposes of a federally funded grant entitled, State Heating Oil	\$22,288
7006-9730	For the purposes of a federally funded grant entitled, SEP II	\$753,000
7006-9757	For the purposes of a federally funded grant entitled, BIOMASS	\$9,376

DEPARTMENT OF EARLY EDUCATION AND CARE.

Department of Early Education and Care.

3000-0708	For the purposes of a federally funded grant entitled, Head Start Collaboration	\$175,000
3000-9002	For the purposes of a federally funded grant entitled, Child Abuse Prevention and Treatment Activities	\$585,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-7560	For the purposes of a federally funded grant entitled, Emergency Room Diversion	\$143,034
4000-7570	For the purposes of a federally funded grant entitled, Medicaid Transformation	\$189,417

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4000-9401 For the purposes of a federally funded grant entitled, Community
Mental Health Services \$8,058,984

Office for Refugees and Immigrants.

4003-0801 For the purposes of a federally funded grant entitled, Achieving
Self-Sufficiency in a Short Time \$335,000

4003-0803 For the purposes of a federally funded grant entitled, Refugee
School Impact \$287,500

4003-0804 For the purposes of a federally funded grant entitled, refugee
Targeted Assistance Grant \$1,156,746

4003-0805 For the purposes of a federally funded grant entitled, refugee
Resettlement Program \$1,613,552

4003-0806 For the purposes of a federally funded grant entitled, Refugee
Cash, Medical, and Administration \$7,772,792

4003-0810 For the purposes of a federally funded grant entitled, Refugee
Agriculture Partnership Program (RAPP) \$93,518

Massachusetts Commission for the Blind.

4110-3020 For the purposes of a federally funded grant entitled, Vocational
Rehabilitation; provided, that no funds shall be deducted for
pensions, group health and life insurance or any other such
indirect cost of federally reimbursed state employees \$194,885

4110-3021 For the purposes of a federally funded grant entitled, Basic
Support Grant \$7,023,706

4110-3023 For the purposes of a federally funded grant entitled, Independent
Living — Adaptive Housing \$65,550

4110-3026 For the purposes of a federally funded grant entitled, Independent
Living — Services to Older Blind Americans \$774,609

4110-3027 For the purposes of a federally funded grant entitled,
Rehabilitation Training \$29,280

4110-3028 For the purposes of a federally funded grant entitled, Supported
Employment \$75,000

Massachusetts Rehabilitation Commission.

4120-0020 For the purposes of a federally funded grant entitled, Vocational
Rehabilitation; provided, that no funds shall be deducted for
pensions, group health and life insurance or any other such
indirect cost of federally reimbursed state employees \$40,119,565

4120-0040 For the purposes of a federally funded grant entitled, Vocational
Rehabilitation and Comprehensive Systems of personnel
development Training \$110,200

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4120-0187	For the purposes of a federally funded grant entitled, Supported Employment Program	\$516,463
4120-0191	For the purposes of a federally funded grant entitled, Informed Members Planning and Assessing Choices Together (IMPACT)	\$165,637
4120-0511	For the purposes of a federally funded grant entitled, Vocational Rehabilitation - Determination of Disability	\$40,032,148
4120-0603	For the purposes of a federally funded grant entitled, Innovation Strategies for Transition Youth with Disabilities	\$350,000
4120-0608	For the purposes of a federally funded grant entitled, TBI Implementation Grant	\$120,000
4120-0760	For the purposes of a federally funded grant entitled, Independent Living	\$1,750,000
4120-0768	For the purposes of a federally funded grant entitled, Assistive Technology Act	\$500,938

Department of Transitional Assistance.

4400-3066	For the purposes of a federally funded grant entitled, Training for Food Stamp ABAWDs	\$1,600,000
4400-3067	For the purposes of a federally funded grant entitled, Food Stamp Employment and Training	\$2,100,000
4400-3069	For the purposes of a federally funded grant entitled, Full Employment Food Stamp Cash-Out	\$25,000

Department of Public Health.

4500-1000	For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant	\$3,205,114
4500-1050	For the purposes of a federally funded grant entitled, Rape Prevention and Education	\$879,343
4500-1060	For the purposes of a federally funded grant entitled, the Rape Prevention Program Planning and Evaluation Capacity Building	\$80,500
4500-1065	For the purposes of a federally funded grant entitled, State Partnership to Improve Minority Health	\$113,523
4500-2000	For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant	\$11,863,729
4502-1012	For the purposes of a federally funded grant entitled, Cooperative Health Statistics System	\$426,970
4510-0109	For the purposes of a federally funded grant entitled, State Loan Repayment Project	\$250,000

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4510-0113	For the purposes of a federally funded grant entitled, Office of Rural Health	\$147,480
4510-0118	For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement	\$108,983
4510-0119	For the purposes of a federally funded grant entitled, Rural Hospital Flexibility Program	\$297,900
4510-0219	For the purposes of a federally funded grant entitled, Small Rural Hospital Improvement Program	\$89,340
4510-0221	For the purposes of a federally funded grant entitled, Targeted Oral Health Services	\$160,000
4510-0400	For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification	\$7,703,529
4510-0404	For the purposes of a federally funded grant entitled, Bioterrorism Hospital Preparedness	\$9,454,744
4510-0500	For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement	\$291,613
4510-0609	For the purposes of a federally funded grant entitled, NRC Security Inspections	\$5,000
4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments	\$317,508
4510-0626	For the purposes of a federally funded grant entitled, Statewide Surveillance of Health Concerns & Toxic Algae Blooms	\$149,339
4510-0627	For the purposes of a federally funded grant entitled, Enhancement of Infrastructure Reporting and Interstate Exchange	\$46,332
4510-0628	For the purposes of a federally funded grant entitled, Enhancement of Infrastructure Collaborative Data Sharing	\$66,667
4510-0630	For the purposes of a federally funded grant entitled, Enabling Electronic Prescribing and Enhancement	\$467,981
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention	\$1,149,690
4510-0638	For the purposes of a federally funded grant entitled, Edward Byrne Memorial State and Local Law Enforcement Assistance	\$200,000
4510-0639	For the purposes of a federally funded grant entitled, Food Protection Rapid Response Team	\$497,519
4510-0640	For the purposes of a federally funded grant entitled, Mass Food Protection Task Force Conference	\$5,000
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections	\$163,405
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program	\$1,070,134

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4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Health Impact Assessments	\$412,000
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program	\$159,243
4510-9053	For the purposes of a federally funded grant entitled, Beaches Environmental Assessment	\$314,988
4510-9056	For the purposes of a federally funded grant entitled, National Environmental Public Health Tracking	\$901,502
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control	\$1,534,840
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$5,928,069
4512-0180	For the purposes of a federally funded grant entitled, Epidemiology and Lab Surveillance	\$978,028
4512-9064	For the purposes of a federally funded grant entitled, Adolescent Treatment	\$50,950
4512-9065	For the purposes of a federally funded grant entitled, State Outcomes Measurement and Management System	\$150,000
4512-9067	For the purposes of a federally funded grant entitled, Screening and Brief Intervention	\$2,800,000
4512-9068	For the purposes of a federally funded grant entitled, Collaborative for Action, Leadership, and Learning	\$2,093,000
4512-9069	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant	\$37,576,554
4512-9070	For the purposes of a federally funded grant entitled, Promoting Safe and Stable Families	\$500,000
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection	\$82,226
4513-0111	For the purposes of a federally funded grant entitled, Housing Opportunities-People with AIDS	\$246,507
4513-1123	For the purposes of a federally funded grant entitled, Adult Viral Hepatitis Prevention Coordinator	\$107,351
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants, and Children (WIC)	\$91,536,061
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education - Risk Reduction	\$11,092,885
4513-9020	For the purposes of a federally funded grant entitled, Expanded and Integrated HIV Testing	\$677,946

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4513-9021	For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps	\$7,346,249
4513-9022	For the purposes of a federally funded grant entitled, Prevention Disability State Based Project	\$275,000
4513-9023	For the purposes of a federally funded grant entitled, Mass HIV/AIDS National Behavioral Surveillance	\$402,797
4513-9027	For the purposes of a federally funded grant entitled, MassCare - Community AIDS Resource Enhancement	\$879,806
4513-9030	For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Mass Children and Youth	\$99,750
4513-9035	For the purposes of a federally funded grant entitled, AIDS Surveillance and Seroprevalence Project	\$976,614
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources	\$24,458,758
4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester	\$312,684
4513-9046	For the purposes of a federally funded grant entitled, Congenital Anomalies Center of Excellence	\$1,004,400
4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project	\$449,779
4513-9060	For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention — Mass Injury Intervention and Surveillance	\$145,000
4513-9066	For the purposes of a federally funded grant entitled, Universal Newborn Hearing Screening-Enhancement Project	\$175,000
4513-9071	For the purposes of a federally funded grant entitled, Early Hearing Detection and Intervention (EHDI) Tracking and Research	\$194,579
4513-9077	For the purposes of a federally funded grant entitled, Emergency Medical Services for Children Partnership II	\$115,000
4513-9078	For the purposes of a federally funded grant entitled, Asthma Planning Collaborative	\$335,000
4513-9082	For the purpose of a federally funded grant entitled, CAPTA Requirement to Identify and Serve Substance Exposed Newborns	\$250,000
4513-9083	For the purposes of a federally funded grant entitled, Massachusetts Youth Suicide Prevention Program	\$254,039
4513-9085	For the purposes of a federally funded grant entitled, Massachusetts Pregnancy Risk	\$175,864

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4513-9086	For the purposes of a federally funded grant entitled, Oral Health Workforce Activities Support Grant	\$97,098
4513-9087	For the purposes of a federally funded grant entitled, Grants to support Oral Health Workforce Activities	\$144,331
4513-9088	For the purposes of a federally funded grant entitled, Helping Hands for Infants and their families	\$475,000
4513-9089	For the purposes of a federally funded grant entitled, First Time Motherhood- New Parents Initiative	\$335,000
4514-1006	For the purposes of a federally funded grant entitled, Getting to the Heart of the Matter	\$87,103
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project	\$1,572,316
4515-0121	For the purposes of a federally funded grant entitled, Tuberculosis Epidemiological Studies and Consortium	\$308,061
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers	\$433,774
4515-0204	For the purposes of a federally funded grant entitled, Strengthening Surveillance for Infectious Disease	\$175,000
4515-0205	For the purposes of a federally funded grant entitled, HIV Training through Prevention Training Centers	\$99,999
4516-1021	For the purposes of a federally funded grant entitled, Public Health Preparedness and Response for Bioterrorism	\$15,109,316
4516-1025	For the purposes of a federally funded grant entitled, Morbidity and Risk Behavior Surveillance	\$255,363
4516-1027	For the purposes of a federally funded grant entitled, Massachusetts Electronic Lab Data Exchange Project Supports	\$561,254
4518-0505	For the purposes of a federally funded grant entitled, Tech Data & Mass Birth/Infant Death File Linkage/Analysis Assistive Reproductive	\$82,721
4518-0514	For the purposes of a federally funded grant entitled, National Violent Death Reporting System	\$257,839
4518-0534	For the purposes of a federally funded grant entitled, Public Health Injury Surveillance and Prevention	\$752,732
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index	\$20,327
4518-1002	For the purposes of a federally funded grant entitled, Massachusetts Death File - Social Security Administration	\$33,000
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records — Social Security Administration	\$168,000
4518-1004	For the purposes of a federally funded grant entitled, Promoting Integration of State Health Information Systems	\$41,555

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4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries	\$44,200
4518-9030	For the purpose of a federally funded grant entitled, Public Health Injury Surveillance and Prevention Program	\$116,760
4570-1509	For the purposes of a federally funded grant entitled, Massachusetts Cardiovascular Disease Prevention	\$1,144,034
4570-1512	For the purposes of a federally funded grant entitled, National Cancer Prevention Control	\$3,440,786
4570-1514	For the purposes of a federally funded grant entitled, Wise Woman	\$900,000
4570-1515	For the purposes of a federally funded grant entitled, Chronic Diseases Prevention and Health Promotion	\$2,357,900
4570-1516	For the purposes of a federally funded grant entitled, Paul Coverdell Acute Stroke Registry	\$600,000
4570-1517	For the purposes of a federally funded grant entitled, Nutrition Obesity	\$1,075,152
4570-1520	For the purposes of a federally funded grant entitled, Mass Integrated Chronic Disease	\$2,035,805

Department of Children and Families.

4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act	\$339,302
4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention and Support Services Act	\$1,748,029
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living	\$2,984,866
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support Services	\$4,739,535
4800-0085	For the purposes of a federally funded grant entitled, Educational & Training Voucher Program	\$1,005,443
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services	\$4,221,839
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment	\$508,911

Department of Mental Health.

5012-9121	For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness	\$1,851,990
5012-9159	For the purposes of a federally funded grant entitled, State Mental Health Data Infrastructure	\$106,650

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5012-9160	For the purposes of a federally funded grant entitled, Jail Diversion and Trauma Recovery	\$410,665
5046-9102	For the purposes of a federally funded grant entitled, Shelter Plus Care Program	\$201,120
5047-9102	For the purposes of a federally funded grant entitled, Comprehensive Mental Health Services for Children and their Families	\$2,277,824

Department of Developmental Services.

5947-0010	For the purposes of a federally funded grant entitled, Family Support 360-Project of National Significance	\$55,000
5947-0011	For the purposes of a federally funded grant entitled, Real Choice Systems Change Grant	\$206,100

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT.

7002-1625	For the purposes of a federally funded grant entitled, Veterans Workforce Investment Program FY10	\$757,412
7002-4203	For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration Statistical Survey	\$112,300
7002-4204	For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance	\$20,486
7002-4212	For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring	\$108,000
7002-4213	For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring	\$275,000
7002-4215	For the purposes of a federally funded grant entitled, Occupational Illness and Injury	\$86,848
7002-4216	For the purposes of a federally funded grant entitled, Lead Enforcement Cooperative Agreement	\$75,000
7002-6624	For the purposes of a federally funded grant entitled, Unemployment Insurance Administration	\$71,920,638
7002-6626	For the purposes of a federally funded grant entitled, Employment Service Programs Administration	\$22,522,897
7002-6627	For the purposes of a federally funded grant entitled, Occupational Substance and Health Administration On-site Consultation Program	\$1,358,000
7002-6628	For the purposes of a federally funded grant entitled, Disabled Veterans Outreach	\$1,427,581
7002-6629	For the purposes of a federally funded grant entitled, Local Veterans Employment Representative	\$1,534,205

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7002-6646	For the purposes of a federally funded grant entitled, WIA Recovery Act Employer Services	\$8,063,456
7002-9701	For the purposes of a federally funded grant entitled, Federal Bureau of Labor Statistics Grant	\$2,451,894
7003-1010	For the purposes of a federally funded grant entitled, Trade Expansion Act Program	\$9,764,737
7003-1630	For the purposes of a federally funded grant entitled, Adult Activities – Workforce Investment Act Title I - Adult Activities	\$21,968,500
7003-1631	For the purposes of a federally funded grant entitled, Youth Formula Grants – Workforce Investment Act Title I - Youth Formula Grants	\$24,436,362
7003-1632	For the purposes of a federally funded grant entitled, Dislocated Workers – Workforce Investment Act Title I –Dislocated Workers	\$40,024,132
7003-1633	For the purposes of a federally funded grant entitled, Work Incentive Grant Access to Employment for All	\$1,868,802
7003-1635	For the purposes of a federally funded grant entitled, Partnership for Youth in Employment	\$45,000
7003-1640	For the purposes of a federally funded grant entitled, WIA Recovery Act Adult Workers	\$10,073,668
7003-1642	For the purposes of a federally funded grant entitled, WIA Recovery Act Dislocated Workers	\$21,223,446
7003-1651	For the purposes of a federally funded grant entitled, WIA Recovery Act Youth Workers	\$24,838,038
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training	\$63,395

Department of Elementary and Secondary Education.

7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project	\$191,631
7032-0217	For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program — Distribution	\$784,500
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy — Distribution	\$1,062,754
7035-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Program	\$201,446

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT.

Department of Housing and Community Development.

7004-0304	For the purposes of a federally funded grant entitled, Lead-Based Paint Control Program	\$53,656
7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$10,132,330
7004-2033	For the purposes of a federally funded grant entitled, Low Income Home Energy Assistance Program; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development shall provide monthly payments in advance to participating agencies	\$214,196,440
7004-2034	For the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$16,207,825
7004-2036	For the purposes of a federally funded grant entitled, Community Development Block Grant/Neighborhood Stabilization Program	\$20,000,000
7004-2361	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Administrative Fee	\$341,136
7004-2363	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee Housing Voucher	\$1,725,856
7004-2364	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee Moderate Rehabilitation	\$266,770
7004-2365	For the purposes of a federally funded grant entitled, Section 8 Administrative Fee New Construction	\$515,507
7004-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$53,241,984
7004-9009	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the department of housing and community development may pro-	

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	vide monthly payments in advance to participating agencies . .	\$9,213,000
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$221,450,000
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$8,500,000
7004-9020	For the purposes of a federally funded grant entitled, Section 8 New Construction Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$6,730,014
7004-9028	For the purposes of a federally funded grant entitled, Home Investment Partnerships; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$14,988,064
7004-9051	For the purposes of a federally funded grant entitled, Shelter Plus Care-Lowell; provided, that, consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$25,000
4400-0705	For the purposes of a federally funded grant entitled, Emergency Shelter Grants	\$2,900,000
4400-0707	For the purposes of a federally funded grant entitled, Continuum of Care	\$6,000,000
4400-9404	For the purposes of a federally funded grant entitled, McKinney Shelter Plus Care	\$3,400,000

EXECUTIVE OFFICE OF EDUCATION.

Department of Elementary and Secondary Education.

7038-0107	For the purposes of a federally funded grant entitled, Adult Basic Education – Distribution	\$9,620,845
7038-9004	For the purposes of a federally funded grant entitled, School Based Programs Distribution	\$350,527
7043-1001	For the purposes of a federally funded grant entitled, Title I Grants to Local Educational Agencies	\$233,353,571

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7043-1002	For the purposes of a federally funded grant entitled, Title I Reading First State Grants	\$1,482,454
7043-1004	For the purposes of a federally funded grant entitled, Migrant Education	\$1,594,566
7043-1005	For the purposes of a federally funded grant entitled, Title I Neglected and Delinquent Children	\$1,896,925
7043-1006	For the purposes of a federally funded grant entitled, School Improvement Grant	\$8,286,895
7043-2001	For the purposes of a federally funded grant entitled, Teacher and Principal Training and Recruiting	\$50,637,588
7043-2002	For the purposes of a federally funded grant entitled, Enhancing Education through Technology	\$4,219,983
7043-2003	For the purposes of a federally funded grant entitled, Title I Math and Science Partnerships	\$2,475,335
7043-3001	For the purposes of a federally funded grant entitled, English Language Acquisition	\$11,835,260
7043-4001	For the purposes of a federally funded grant entitled, Safe and Drug Free Schools and Communities	\$4,328,084
7043-4002	For the purposes of a federally funded grant entitled, After School Learning Centers	\$17,004,984
7043-6001	For the purposes of a federally funded grant entitled, Grants for State Assessments and Related Activities	\$7,737,805
7043-6002	For the purposes of a federally funded grant entitled, Rural And Low-Income Schools	\$48,500
7043-6501	For the purposes of a federally funded grant entitled, Education for Homeless Children/Youth	\$1,062,175
7043-7001	For the purposes of a federally funded grant entitled, Special Education Grants	\$282,156,276
7043-7002	For the purposes of a federally funded grant entitled, Preschool Grants	\$10,263,466
7043-8001	For the purposes of a federally funded grant entitled, Vocational Education Basic Grants	\$18,589,408
7043-8002	For the purposes of a federally funded grant entitled, Technical Preparation Education	\$1,575,242
7043-9002	For the purpose of a federally funded grant entitled, Transition to Teaching	\$172,817
7044-0020	For the purposes of a federally funded grant entitled, Project Focus Academy	\$542,538
7044-0210	For the purposes of a federally funded grant entitled, Advanced Placement Fee Program	\$250,000

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7047-9008	For the purposes of a federally funded grant entitled, Learn and Serve America Competitive	\$469,839
7048-0228	For the purposes of a federally funded grant entitled, IMP Health and Education Outcomes- Young People	\$344,093
7048-9123	For the purposes of a federally funded grant entitled, Education Research, Development and Dissemination	\$500,000
7048-9200	For the purposes of a federally funded grant entitled, Statewide Longitudinal Data Systems Grant	\$2,269,286
7053-2008	For the purposes of a federally funded grant entitled, Fresh Fruit & Veggie	\$1,400,000
7053-2112	For the purposes of a federally funded grant entitled, Special Assistance Funds	\$169,322,798
7053-2117	For the purposes of a federally funded grant entitled, Child Care Program	\$52,916,697
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance	\$1,309,867
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children	\$6,683,712
7062-0008	For the purposes of a federally funded grant entitled, Office of School Lunch Programs — Child Care Program Administration	\$3,272,713
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools Assistance Distribution	\$3,150,000
7062-0019	For the purposes of a federally funded grant entitled, Career Resource Network State Grant	\$70,000

Department of Higher Education.

7066-1574	For the purposes of a federally funded grant entitled, Improving Teacher Quality Grants	\$1,600,000
7066-6033	For the purposes of a federally funded grant entitled, Gaining Early Awareness and Readiness for Undergraduate Programs	\$3,500,000
7070-0017	For the purposes of a federally funded grant entitled, Leveraging Educational Assistance Program— Department of Higher Education	\$966,753
7110-6019	For the purposes of a federally funded grant entitled, Upward Bound Payroll and Benefits— Fitchburg State College	\$242,000
7110-6030	For the purposes of a federally funded grant entitled, Expanding Horizons Student Support Services — Fitchburg State College	\$220,000

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7110-6048	For the purposes of a federally funded grant entitled, Special Education Personnel Preparation— Fitchburg State College	\$78,000
7410-3093	For the purposes of a federally funded grant entitled, Polymer Building Construction — University of Massachusetts Amherst	\$2,711,376
7503-6557	For the purposes of a federally funded grant entitled, Trio Talent Search – Bristol Community College	\$165,124
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — Bristol Community College	\$340,641
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program — Bristol Community College	\$124,315
7509-1490	For the purposes of a federally funded grant entitled, Educational Opportunities Centers Payroll—Mount Wachusett Community College	\$222,000
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — Mount Wachusett Community College	\$235,000
7509-9717	For the purposes of a federally funded grant entitled, Upward Bound Math and Science Program – Mount Wachusett Community College	\$98,000
7509-9718	For the purposes of a federally funded grant entitled, Talent Search — Mount Wachusett Community College	\$240,000
7509-9720	For the purposes of a federally funded grant entitled, Gaining Early Awareness and Readiness for Undergraduate Programs 2011— Mount Wachusett Community College	\$520,000
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students — North Shore Community College	\$450,000
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound — North Shore Community College	\$350,000
7511-9750	For the purposes of a federally funded grant entitled, Talent Search— North Shore Community College	\$225,000
7518-6127	For the purposes of a federally funded grant entitled, College Work Study Program— Bunker Hill Community College	\$295,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.

Office of the Secretary.

8000-4602	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act — Planning	\$150,000
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8000-4603	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act	\$1,200,000
8000-4608	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986	\$1,200,000
8000-4609	For the purposes of a federally funded grant entitled, Narcotics Control Assistance	\$866,000
8000-4610	For the purposes of a federally funded grant entitled, Statistical Analysis Center	\$60,000
8000-4611	For the purposes of a federally funded grant entitled, Byrne Justice Assistance	\$4,000,000
8000-4613	For the purposes of a federally funded grant entitled, Project Safe Neighborhood Anti-Gang Initiative	\$500,000
8000-4614	For the purposes of a federally funded grant entitled, Encourage Arrests Violence to Women	\$1,000,000
8000-4619	For the purposes of a federally funded grant entitled, Title V	\$75,000
8000-4620	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program	\$2,000,000
8000-4623	For the purposes of a federally funded grant entitled, Criminal History Improvement	\$50,000
8000-4624	For the purposes of a federally funded grant entitled, Prisoner Substance Abuse Treatment	\$100,000
8000-4692	For the purposes of a federally funded grant entitled, State Homeland Security Program	\$45,000,000
8000-4693	For the purposes of a federally funded grant entitled, Project Safe Neighborhood	\$700,000
8000-4695	For the purposes of a federally funded grant entitled, Homeland Security Buffer Zone Protection	\$2,000,000
8000-4696	For the purposes of a federally funded grant entitled, Transportation Security Grant	\$12,000,000
8000-4697	For the purposes of a federally funded grant entitled, Homeland Security Interoperable Communication	\$8,000,000
8000-4698	For the purposes of a federally funded grant entitled, Highway Safety Initiatives	\$3,000,000
8000-4804	For the purposes of a federally funded grant entitled, State Agency Programs	\$12,000,000
8000-4839	For the purposes of a federally funded grant entitled, Enforcing Underage Drinking Law IV	\$125,000
8000-4840	For the purposes of a federally funded grant entitled, 2006 Enforcing Underage Drinking Laws	\$350,000
8000-4841	For the purposes of a federally funded grant entitled, Fatality Analysis Reporting	\$150,000

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8000-6612 For the purposes of a federally funded grant entitled, Special Event Trust	\$150,000
8000-6613 For the purposes of a federally funded grant entitled, Juvenile Accountability II	\$600,000
8000-6615 For the purposes of a federally funded grant entitled, Community Security Expendable Trust	\$150,000

Department of State Police.

8100-0200 For the purposes of a federally funded grant entitled, Motor Vehicle Data Quality	\$405,196
8100-0209 For the purposes of a federally funded grant entitled, Region 1 Training Academy Motor Carrier Safety Assistance	\$150,500
8100-0210 For the purposes of a federally funded grant entitled, MCSAP-CVE New Entrant Audit	\$630,213
8100-0217 For the purposes of a federally funded grant entitled, Federal Motor Carrier Safety Assistance	\$2,466,476
8100-0218 For the purposes of a federally funded grant entitled, Federal Motor Carrier Safety FY09	\$1,758,595
8100-2058 For the purposes of a federally funded grant entitled, New England State Police Administrator's Conference — Regional Investigation	\$703,335
8100-2638 For the purposes of a federally funded grant entitled, Internet Crimes Against Children	\$250,000
8100-9706 For the purposes of a federally funded grant entitled, Cannabis Eradication Controlled Substance Prosecution DEA Cooperative Agreement	\$39,680
8100-9730 For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog FFY05	\$127,332
8100-9733 For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog	\$267,342
8100-9735 For the purposes of a federally funded grant entitled, Paul Coverdell National Forensic Science Improvement Act FY09	\$55,200
8100-9736 For the purposes of a federally funded grant entitled, Forensic Casework DNA Backlog	\$140,000
8100-9738 For the purposes of a federally funded grant entitled, Operation Clean Sweep Byrne FY09	\$440,481
8100-9739 For the purposes of a federally funded grant entitled, Statewide Firearms Intelligence Byrne	\$220,630

Department of Fire Services.

8324-1505 For the purposes of a federally funded grant entitled, USFA/NFA	
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State Fire Training Program	\$28,000
8324-9707 For the purposes of a federally funded grant entitled, Under- ground Storage Tank Registry Program	\$236,329

Military Division.

8700-0006 For the purposes of a federally funded grant entitled, Military Construction Costs in Methuen	\$21,301,000
8700-0143 For the purposes of an expendable trust entitled, Friends of Massachusetts National Guard and Reserve Families	\$585,586
8700-0302 For the purposes of a federally funded grant entitled, Military Construction Costs in Reading	\$831,499

Massachusetts Emergency Management Agency.

8800-0042 For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act	\$214,283
8800-0048 For the purposes of a federally funded grant entitled, Flood Mitigation Assistance Program	\$987,679
8800-0064 For the purposes of a federally funded grant entitled, Hazard Mitigation 1364	\$470,105
8800-0080 For the purposes of a federally funded grant entitled, Local Emergency Plan Assistance	\$22,656
8800-0086 For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation/Disaster Resistant University	\$220,375
8800-0087 For the purposes of a federally funded grant entitled, Pre-Disaster Mitigation Competitive Grant	\$4,386,097
8800-1512 For the purposes of a federally funded grant entitled, Hazard Mitigation Program, HMPG for FEMA-DR1512	\$180,667

Department of Correction.

8903-9709 For the purposes of a federally funded grant entitled, Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders	\$128,799
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EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-1074 For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII	\$9,467,410
9110-1077 For the purposes of a federally funded grant entitled, Older Americans Act, Title III-E, National Family Caregiver Support Program	\$3,544,442

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9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance	\$710,010
9110-1150	For the purposes of a federally funded grant entitled, Empowering Older People	\$70,743
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act, Title III Nutritional Program	\$14,289,338
9110-1174	For the purposes of a federally funded grant entitled, Nutrition Services Incentive Program	\$3,155,164
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program	\$1,931,361
9110-1179	For the purposes of a federally funded grant entitled, Performance Outcome Measures Project	\$28,100
9110-2760	For the purposes of a federally funded grant entitled, New England Massachusetts Aging and Disability Resource Center	\$187,782
9110-3000	For the purposes of a federally funded grant entitled, Senior Medicare Patrol Integration	\$100,898
9110-3100	For the purposes of a federally funded grant entitled, Nursing Home Diversion	\$885,165
9110-3200	For the purposes of a federally funded grant entitled, Alzheimer's Disease	\$234,627
9110-3300	For the purposes of a federally funded grant entitled, Performance Outcome Measure Project	\$59,975

EXECUTIVE OFFICE OF TRANSPORTATION.

Office of the Secretary.

6000-0018	For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance	\$4,399,436
6000-0020	For the purposes of a federally funded grant entitled, Jobs Access Reverse Commute	\$3,187,885
6000-0023	For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant	\$3,935,000
6000-0049	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant	\$5,459,022

Board of Library Commissioners.

7000-9700	For the purposes of a federally funded grant entitled, Federal Reserve - Title I	\$169,280
7000-9702	For the purposes of a federally funded grant entitled, Library Service Technology Act	\$3,446,669

SECTION 3. Notwithstanding any general or special law to the contrary, for the fiscal year ending June 30, 2010 the distribution to cities and towns of the balance of the State Lottery Fund, as paid from the General Fund in accordance with clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, and additional funds from the General Fund shall be \$936,376,140 and shall be apportioned to the cities and towns in accordance with this section.

Notwithstanding section 2 of chapter 70 of the General Laws or any other general or special law to the contrary, except for section 12B of chapter 76 and section 89 of chapter 71 of the General Laws, for fiscal year 2010 the total amounts to be distributed and paid to each city and town from item 7061-0008 of section 2 shall be as set forth in the following lists. The specified amounts to be distributed from said item 7061-0008 of said section 2 shall be in full satisfaction of the amounts due under chapter 70 of the General Laws.

Notwithstanding any general or special law to the contrary, the governor may allocate, at his full discretion, funds from the State Fiscal Stabilization Fund established by Title XIV of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (ARRA); provided further, that said potential allocation is reflected in the following chart in the column entitled "Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund"; provided further, that the funds set forth in said column are an estimated apportionment and shall not appear on the cherry sheet produced by the department of revenue.

For fiscal year 2010, when calculating the foundation budget for each district, the fiscal year 2009 Chapter 70 aid shall be valued at 98% of fiscal year 2009 aid as outlined in section 3 of chapter 182 of the acts of 2008. The foundation budget categories for each district shall be calculated in the same manner as in fiscal year 2009. For fiscal year 2010, the foundation inflation index shall equal the prior year's foundation inflation index multiplied by the ratio of the value of the implicit price deflator for state and local government purchases in the second quarter of the prior fiscal year to its value in the second quarter of the year 2 years before. The target local share shall be calculated using the same methodology used in fiscal year 2009. Preliminary local contribution shall be the municipality's fiscal year 2009 minimum required local contribution, increased or decreased by the municipal revenue growth factor. The minimum required local contribution for fiscal year 2010 shall be, for any municipality with a fiscal year 2010 preliminary contribution less than its fiscal year 2010 target contribution, the greater of: (a) the fiscal year 2009 minimum required contribution increased by municipal revenue growth factors; but if a municipality's preliminary contribution as a percentage of its foundation budget is more than 5 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 1 percentage point; and if a municipality's preliminary contribution as a percentage of its foundation budget is more than 10 percentage points lower than the target local share, the preliminary contribution shall be recalculated using the municipality's revenue growth factor plus 2 percentage points; or (b) the lesser of

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95 per cent of the municipality's fiscal year 2008 actual contribution or the municipality's fiscal year 2010 target contribution. Minimum required local contribution for fiscal year 2010 shall be, for any municipality with a fiscal year 2010 preliminary contribution greater than its fiscal year 2010 target contribution, the preliminary local contribution reduced by 15 per cent of the gap between the preliminary local contribution and the target local contribution. Required local contribution shall be allocated among the districts to which a municipality belongs in direct proportion to the foundation budgets for the municipality's pupils at each of those districts.

Chapter 70 aid for fiscal year 2010 shall be as distributed in fiscal year 2009. If there is a conflict between the language of this section and the distribution listed below, the distribution below shall control.

The department of elementary and secondary education shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994.

No payments to cities, towns or counties maintaining an agricultural school pursuant to this section shall be made after November 30 of the fiscal year until the commissioner of revenue certifies acceptance of the prior fiscal year's annual financial reports submitted pursuant to section 43 of chapter 44 of the General Laws. Advance payments shall be made for some or all of periodic local reimbursement or assistance programs to any city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of the executive office for administration and finance, pursuant to guidelines established by the secretary.

Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
			State Fiscal Stabilization Fund	
ABINGTON	7,652,405	1,733,200	0	9,385,605
ACTON	5,123,578	1,232,453	357,131	6,713,162
ACUSHNET	6,380,293	1,335,880	0	7,716,173
ADAMS	8,958	2,062,686	39	2,071,683
AGAWAM	16,156,816	3,245,836	1,382,649	20,785,301
ALFORD	0	12,364	0	12,364
AMESBURY	8,897,607	1,714,037	0	10,611,644
AMHERST	6,141,373	7,417,544	0	13,558,917
ANDOVER	7,318,616	1,574,331	0	8,892,947
AQUINNAH	0	2,058	0	2,058
ARLINGTON	6,104,708	6,684,280	938,832	13,727,820

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
ASHBURNHAM	0	700,522	0	700,522
ASHBY	0	385,788	0	385,788
ASHFIELD	97,305	163,569	0	260,874
ASHLAND	4,502,102	1,191,467	279,333	5,972,902
ATHOL	0	2,332,579	0	2,332,579
ATTLEBORO	29,646,276	5,026,357	739,405	35,412,038
AUBURN	5,691,647	1,508,896	560,100	7,760,643
AVON	862,748	610,660	0	1,473,408
AYER	4,168,122	666,985	0	4,835,107
BARNSTABLE	7,589,756	1,853,262	0	9,443,018
BARRE	17,501	792,398	21,991	831,890
BECKET	79,753	80,012	0	159,765
BEDFORD	2,964,642	1,011,392	0	3,976,034
BELCHERTOWN	12,900,818	1,499,115	886,159	15,286,092
BELLINGHAM	8,389,773	1,495,008	91,110	9,975,891
BELMONT	4,511,739	1,989,365	1,373,659	7,874,763
BERKLEY	5,426,422	536,079	0	5,962,501
BERLIN	528,296	177,633	0	705,929
BERNARDSTON	0	256,255	11,779	268,034
BEVERLY	7,109,675	5,145,188	0	12,254,863
BILLERICA	17,116,639	5,130,485	1,238,459	23,485,583
BLACKSTONE	124,797	1,205,953	0	1,330,750
BLANDFORD	44,506	111,873	0	156,379
BOLTON	5,654	173,954	0	179,608
BOSTON	216,994,382	166,924,272	0	383,918,654
BOURNE	4,948,115	1,291,562	0	6,239,677
BOXBOROUGH	1,366,966	222,247	0	1,589,213
BOXFORD	1,620,806	428,303	0	2,049,109
BOYLSTON	451,690	301,792	3,125	756,607
BRAINTREE	9,326,942	5,041,694	2,851,092	17,219,728
BREWSTER	937,937	347,881	0	1,285,818
BRIDGEWATER	84,053	3,208,997	0	3,293,050
BRIMFIELD	1,167,152	343,508	0	1,510,660
BROCKTON	126,330,840	18,447,819	6,594,518	151,373,177
BROOKFIELD	1,342,588	435,019	0	1,777,607
BROOKLINE	7,323,679	5,593,780	0	12,917,459
BUCKLAND	0	269,777	6,094	275,871

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
BURLINGTON	5,413,900	2,307,358	0	7,721,258
CAMBRIDGE	9,130,367	18,927,802	0	28,058,169
CANTON	3,685,031	1,889,388	64,101	5,638,520
CARLISLE	834,776	193,277	0	1,028,053
CARVER	10,112,726	1,287,097	0	11,399,823
CHARLEMONT	140,550	154,007	0	294,557
CHARLTON	0	1,276,459	7,572	1,284,031
CHATHAM	685,125	132,598	0	817,723
CHELMSFORD	9,243,365	4,471,873	1,194,506	14,909,744
CHELSEA	49,781,388	7,236,122	1,771,356	58,788,866
CHESHIRE	310,513	541,244	0	851,757
CHESTER	130,782	158,623	0	289,405
CHESTERFIELD	126,627	121,644	0	248,271
CHICOPEE	47,119,437	10,145,648	2,868,082	60,133,167
CHILMARK	0	3,304	0	3,304
CLARKSBURG	1,688,903	320,512	159,576	2,168,991
CLINTON	10,988,464	2,074,041	65,712	13,128,217
COHASSET	1,753,039	453,294	0	2,206,333
COLRAIN	0	254,283	0	254,283
CONCORD	2,111,688	1,022,124	0	3,133,812
CONWAY	625,958	157,462	0	783,420
CUMMINGTON	69,156	73,500	0	142,656
DALTON	214,226	1,002,426	0	1,216,652
DANVERS	4,509,672	2,509,394	0	7,019,066
DARTMOUTH	9,490,011	2,221,020	0	11,711,031
DEDHAM	3,857,099	2,881,188	0	6,738,287
DEERFIELD	1,084,466	423,174	0	1,507,640
DENNIS	0	479,831	0	479,831
DEVENS	321,440	0	0	321,440
DIGHTON	0	681,269	0	681,269
DOUGLAS	7,904,901	642,969	800,217	9,348,087
DOVER	635,447	169,484	0	804,931
DRACUT	17,062,255	3,086,981	1,650,418	21,799,654
DUDLEY	0	1,574,194	0	1,574,194
DUNSTABLE	0	216,702	4,183	220,885
DUXBURY	4,254,657	780,978	380,594	5,416,229
EAST BRIDGEWATER	10,678,301	1,318,811	0	11,997,112

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
			State Fiscal Stabilization Fund	
EAST BROOKFIELD	93,637	255,524	0	349,161
EAST LONGMEADOW	8,157,639	1,275,317	873,519	10,306,475
EASTHAM	333,725	131,264	0	464,989
EASTHAMPTON	7,995,345	2,476,469	0	10,471,814
EASTON	9,598,361	1,929,409	112,390	11,640,160
EDGARTOWN	446,517	58,689	0	505,206
EGREMONT	0	55,591	0	55,591
ERVING	404,830	59,218	26,852	490,900
ESSEX	0	215,716	0	215,716
EVERETT	33,241,384	6,086,937	3,720,012	43,048,333
FAIRHAVEN	7,504,255	1,986,773	0	9,491,028
FALL RIVER	91,768,280	20,996,063	327,857	113,092,200
FALMOUTH	5,119,922	1,221,483	0	6,341,405
FITCHBURG	40,327,289	7,518,871	951,974	48,798,134
FLORIDA	506,498	43,854	48,881	599,233
FOXBOROUGH	8,293,540	1,312,346	525,816	10,131,702
FRAMINGHAM	16,793,161	8,765,666	2,509,034	28,067,861
FRANKLIN	28,152,172	2,177,055	219,523	30,548,750
FREETOWN	1,515,957	836,625	0	2,352,582
GARDNER	18,753,226	3,733,532	127,603	22,614,361
GEORGETOWN	4,356,024	631,160	1,026,220	6,013,404
GILL	0	214,306	0	214,306
GLOUCESTER	6,080,047	3,518,850	0	9,598,897
GOSHEN	100,116	70,485	0	170,601
GOSNOLD	17,098	1,848	0	18,946
GRAFTON	8,017,198	1,377,602	1,024,982	10,419,782
GRANBY	4,637,824	777,937	68,922	5,484,683
GRANVILLE	1,317,791	141,258	0	1,459,049
GREAT BARRINGTON	0	668,654	0	668,654
GREENFIELD	9,540,033	2,797,191	302,506	12,639,730
GROTON	0	682,494	0	682,494
GROVELAND	0	641,340	0	641,340
HADLEY	774,541	399,872	0	1,174,413
HALIFAX	2,590,266	799,790	203,886	3,593,942
HAMILTON	0	591,950	0	591,950
HAMPDEN	0	606,171	0	606,171
HANCOCK	201,197	49,744	0	250,941

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Municipality	7061-0008 Chapter 70	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund			Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
		Unrestricted General Government Aid			
HANOVER	5,884,555	1,866,403	419,371		8,170,329
HANSON	11,705	1,128,264	12,914		1,152,883
HARDWICK	0	410,173	0		410,173
HARVARD	1,752,199	1,304,791	63,312		3,120,302
HARWICH	1,833,840	379,514	0		2,213,354
HATFIELD	795,778	274,914	0		1,070,692
HAVERHILL	35,356,458	8,659,369	1,050,318		45,066,145
HAWLEY	11,435	38,130	8,613		58,178
HEATH	0	73,717	0		73,717
HINGHAM	4,753,585	1,390,494	965,488		7,109,567
HINSDALE	109,045	196,174	0		305,219
HOLBROOK	4,856,980	1,300,008	0		6,156,988
HOLDEN	0	1,684,514	0		1,684,514
HOLLAND	871,689	177,832	68,635		1,118,156
HOLLISTON	6,742,333	1,364,400	173,420		8,280,153
HOLYOKE	66,423,722	8,948,084	1,936,968		77,308,774
HOPEDALE	6,143,124	574,519	0		6,717,643
HOPKINTON	5,672,879	692,119	107,634		6,472,632
HUBBARDSTON	8,415	396,881	0		405,296
HUDSON	8,247,011	1,756,926	1,119,328		11,123,265
HULL	3,814,006	1,867,191	0		5,681,197
HUNTINGTON	214,502	303,650	0		518,152
IPSWICH	2,499,977	1,414,298	203,812		4,118,087
KINGSTON	3,812,342	845,678	187,157		4,845,177
LAKEVILLE	2,389,045	720,901	0		3,109,946
LANCASTER	0	842,194	0		842,194
LANESBOROUGH	844,664	303,923	0		1,148,587
LAWRENCE	133,334,130	17,299,359	7,646,376		158,279,865
LEE	2,026,303	548,705	0		2,575,008
LEICESTER	9,713,210	1,529,786	0		11,242,996
LENOX	1,194,985	469,623	0		1,664,608
LEOMINSTER	39,667,839	5,042,529	2,198,081		46,908,449
LEVERETT	282,057	157,266	0		439,323
LEXINGTON	7,449,035	1,350,288	0		8,799,323
LEYDEN	0	72,543	0		72,543
LINCOLN	759,016	599,811	0		1,358,827
LITTLETON	2,957,052	626,288	744,086		4,327,426

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA		Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
			State Fiscal Stabilization Fund		
LONGMEADOW	4,340,920	1,230,949	0		5,571,869
LOWELL	117,484,100	22,192,157	3,695,048		143,371,305
LUDLOW	12,434,935	2,691,527	1,088,629		16,215,091
LUNENBURG	4,528,374	931,718	249,123		5,709,215
LYNN	115,255,564	19,726,507	1,906,731		136,888,802
LYNNFIELD	4,013,888	916,325	0		4,930,213
MALDEN	40,412,820	11,053,793	1,502,272		52,968,885
MANCHESTER	0	195,936	0		195,936
MANSFIELD	16,918,143	1,965,294	1,855,841		20,739,278
MARBLEHEAD	4,805,402	1,003,303	0		5,808,705
MARION	456,004	198,801	0		654,805
MARLBOROUGH	11,393,518	4,796,158	1,661,188		17,850,864
MARSHFIELD	14,331,875	1,908,668	0		16,240,543
MASHPEE	4,437,308	324,158	0		4,761,466
MATTAPOISETT	556,663	357,094	0		913,757
MAYNARD	3,197,900	1,384,183	463,067		5,045,150
MEDFIELD	5,937,045	1,277,175	0		7,214,220
MEDFORD	11,447,701	10,687,177	0		22,134,878
MEDWAY	9,045,828	1,074,910	1,410,689		11,531,427
MELROSE	7,390,904	4,518,499	40,626		11,950,029
MENDON	27,110	360,053	110		387,273
MERRIMAC	0	741,313	0		741,313
METHUEN	36,622,588	4,790,482	4,389,868		45,802,938
MIDDLEBOROUGH	16,841,680	2,172,248	599,477		19,613,405
MIDDLEFIELD	17,297	46,839	0		64,136
MIDDLETON	1,566,978	482,077	0		2,049,055
MILFORD	13,960,569	2,691,116	1,918,362		18,570,047
MILLBURY	6,817,527	1,560,179	119,625		8,497,331
MILLIS	3,493,858	922,449	718,540		5,134,847
MILLVILLE	42,330	358,883	0		401,213
MILTON	4,691,135	2,831,002	1,123,447		8,645,584
MONROE	87,773	16,200	0		103,973
MONSON	7,554,467	1,150,120	114,647		8,819,234
MONTAGUE	6,377	1,262,696	0		1,269,073
MONTEREY	0	40,736	0		40,736
MONTGOMERY	19,057	76,463	2,862		98,382
MOUNT WASHINGTON	34,142	26,411	0		60,553

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Municipality	7061-0008 Chapter 70	Potential Allocation of Federal Funds from the ARRA		Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
		Unrestricted General Government Aid	State Fiscal Stabilization Fund	
NAHANT	465,587	332,902	0	798,489
NANTUCKET	1,409,385	69,809	0	1,479,194
NATICK	5,727,110	3,357,406	1,733,013	10,817,529
NEEDHAM	5,996,469	1,538,073	1,003,421	8,537,963
NEW ASHFORD	162,695	17,896	0	180,591
NEW BEDFORD	108,736,420	20,267,970	3,971,612	132,976,002
NEW BRAINTREE	0	116,309	0	116,309
NEW MARLBOROUGH	0	51,599	0	51,599
NEW SALEM	0	91,415	0	91,415
NEWBURY	0	456,295	0	456,295
NEWBURYPORT	3,320,352	2,247,087	0	5,567,439
NEWTON	14,171,395	5,177,738	0	19,349,133
NORFOLK	3,417,236	844,929	0	4,262,165
NORTH ADAMS	14,175,431	3,908,849	0	18,084,280
NORTH ANDOVER	5,440,937	1,805,628	1,029,075	8,275,640
NORTH ATTLEBOROUGH	20,629,686	2,534,823	0	23,164,509
NORTH BROOKFIELD	4,362,572	702,057	0	5,064,629
NORTH READING	6,047,449	1,564,395	775,942	8,387,786
NORTHAMPTON	7,228,831	3,872,525	0	11,101,356
NORTHBOROUGH	3,280,525	982,781	217,312	4,480,618
NORTHBRIDGE	13,971,740	1,859,798	299,359	16,130,897
NORTHFIELD	0	278,906	0	278,906
NORTON	12,832,725	1,831,209	0	14,663,934
NORWELL	2,723,254	944,497	454,740	4,122,491
NORWOOD	5,079,889	4,098,202	0	9,178,091
OAK BLUFFS	648,233	64,077	0	712,310
OAKHAM	78,807	169,039	38,652	286,498
ORANGE	5,406,413	1,423,887	0	6,830,300
ORLEANS	251,039	151,342	0	402,381
OTIS	0	32,047	0	32,047
OXFORD	9,228,194	1,811,699	390,414	11,430,307
PALMER	11,001,315	1,766,962	110,932	12,879,209
PAXTON	0	476,772	0	476,772
PEABODY	19,715,730	6,360,014	0	26,075,744
PELHAM	228,505	140,247	0	368,752
PEMBROKE	12,200,192	1,481,057	1,316,097	14,997,346

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA	Potential Total
			State Fiscal Stabilization Fund	Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
PEPPERELL	8,699	1,315,005	0	1,323,704
PERU	89,697	100,623	0	190,320
PETERSHAM	442,349	101,008	0	543,357
PHILLIPSTON	0	162,522	0	162,522
PITTSFIELD	35,041,213	7,607,092	2,314,160	44,962,465
PLAINFIELD	53,150	44,202	0	97,352
PLAINVILLE	2,633,937	668,424	27,252	3,329,613
PLYMOUTH	20,948,547	3,452,391	1,910,642	26,311,580
PLYMPTON	582,449	209,025	0	791,474
PRINCETON	0	260,866	2,302	263,168
PROVINCETOWN	272,588	121,870	0	394,458
QUINCY	15,804,134	16,823,747	4,321,003	36,948,884
RANDOLPH	11,941,876	4,579,658	0	16,521,534
RAYNHAM	0	1,001,882	0	1,001,882
READING	9,078,931	2,856,335	944,132	12,879,398
REHOBOTH	0	918,432	0	918,432
REVERE	32,918,917	9,063,334	5,518,835	47,501,086
RICHMOND	349,151	95,322	0	444,473
ROCHESTER	1,601,504	374,209	200,465	2,176,178
ROCKLAND	10,152,293	2,329,177	389,085	12,870,555
ROCKPORT	1,343,494	385,530	0	1,729,024
ROWE	71,465	3,471	0	74,936
ROWLEY	0	475,805	0	475,805
ROYALSTON	0	158,399	0	158,399
RUSSELL	175,484	217,604	0	393,088
RUTLAND	9,993	815,043	0	825,036
SALEM	14,083,762	6,077,873	3,024,804	23,186,439
SALISBURY	0	556,700	0	556,700
SANDISFIELD	0	30,531	0	30,531
SANDWICH	6,735,852	993,063	0	7,728,915
SAUGUS	4,107,595	3,232,413	0	7,340,008
SAVOY	516,731	102,086	10,440	629,257
SCITUATE	5,104,541	1,772,437	0	6,876,978
SEEKONK	4,512,952	1,084,202	0	5,597,154
SHARON	6,824,996	1,233,375	6,809	8,065,180
SHEFFIELD	14,465	214,648	0	229,113
SHELBURNE	0	230,412	0	230,412

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
SHERBORN	528,026	190,846	0	718,872
SHIRLEY	4,394,883	1,155,974	0	5,550,857
SHREWSBURY	18,489,475	2,454,350	1,065,713	22,009,538
SHUTESBURY	604,124	149,413	0	753,537
SOMERSET	5,264,877	1,351,356	7,737	6,623,970
SOMERVILLE	20,185,320	22,199,513	0	42,384,833
SOUTH HADLEY	7,511,991	2,301,106	460,058	10,273,155
SOUTHAMPTON	2,561,807	561,406	0	3,123,213
SOUTHBOROUGH	2,804,288	385,362	0	3,189,650
SOUTHBRIDGE	15,956,972	3,099,657	0	19,056,629
SOUTHWICK	0	1,111,391	0	1,111,391
SPENCER	0	1,992,823	0	1,992,823
SPRINGFIELD	257,480,215	33,354,581	14,916,250	305,751,046
STERLING	0	610,830	0	610,830
STOCKBRIDGE	0	87,826	0	87,826
STONEHAM	3,461,523	3,274,505	53,970	6,789,998
STOUGHTON	12,504,587	2,821,431	418,552	15,744,570
STOW	0	370,906	0	370,906
STURBRIDGE	2,020,381	682,609	342,781	3,045,771
SUDBURY	4,280,621	1,233,349	163,484	5,677,454
SUNDERLAND	873,519	445,329	0	1,318,848
SUTTON	5,386,366	687,780	3,754	6,077,900
SWAMPSCOTT	2,647,887	1,140,460	61,143	3,849,490
SWANSEA	4,640,675	1,654,825	341,173	6,636,673
TAUNTON	44,243,664	7,410,543	2,320,896	53,975,103
TEMPLETON	0	1,228,627	0	1,228,627
TEWKSBURY	12,877,110	2,452,240	134,769	15,464,119
TISBURY	402,050	86,395	0	488,445
TOLLAND	0	16,284	0	16,284
TOPSFIELD	1,083,775	540,420	0	1,624,195
TOWNSEND	8,530	1,157,942	0	1,166,472
TRURO	259,303	26,506	0	285,809
TYNGSBOROUGH	7,352,623	851,475	0	8,204,098
TYRINGHAM	37,209	11,186	0	48,395
UPTON	24,044	469,089	0	493,133
UXBRIDGE	9,453,474	1,212,326	0	10,665,800
WAKEFIELD	4,770,785	2,968,230	294,405	8,033,420

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Municipality	7061-0008 Chapter 70	Unrestricted General Government Aid	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
WALES	684,608	208,107	0	892,715
WALPOLE	7,354,336	2,245,510	153,158	9,753,004
WALTHAM	7,466,622	8,460,794	0	15,927,416
WARE	8,003,012	1,521,125	0	9,524,137
WAREHAM	12,242,029	1,743,225	672,299	14,657,553
WARREN	70,228	797,143	0	867,371
WARWICK	0	112,054	0	112,054
WASHINGTON	11,705	83,219	0	94,924
WATERTOWN	3,416,570	5,876,962	0	9,293,532
WAYLAND	3,322,155	796,429	0	4,118,584
WEBSTER	9,015,364	2,181,494	1,031,001	12,227,859
WELLESLEY	6,387,858	1,141,372	1,220,173	8,749,403
WELLFLEET	154,572	51,499	0	206,071
WENDELL	0	153,551	0	153,551
WENHAM	0	377,404	0	377,404
WEST BOYLSTON	2,962,652	702,001	0	3,664,653
WEST BRIDGEWATER	2,181,778	576,156	177,741	2,935,675
WEST BROOKFIELD	209,737	418,419	0	628,156
WEST NEWBURY	0	261,065	0	261,065
WEST SPRINGFIELD	17,369,506	3,157,733	1,570,702	22,097,941
WEST STOCKBRIDGE	0	85,667	0	85,667
WEST TISBURY	0	161,061	0	161,061
WESTBOROUGH	4,344,030	1,021,005	99,127	5,464,162
WESTFIELD	33,362,165	5,546,600	1,019,283	39,928,048
WESTFORD	15,317,915	1,872,441	1,437,648	18,628,004
WESTHAMPTON	412,014	127,674	55,347	595,035
WESTMINSTER	0	567,847	0	567,847
WESTON	2,556,275	329,574	0	2,885,849
WESTPORT	4,388,806	1,071,932	0	5,460,738
WESTWOOD	3,476,983	642,792	513,030	4,632,805
WEYMOUTH	23,839,936	7,682,608	0	31,522,544
WHATELY	241,457	118,242	8,606	368,305
WHITMAN	117,046	2,133,498	0	2,250,544
WILBRAHAM	0	1,289,488	0	1,289,488
WILLIAMSBURG	423,768	266,748	6,836	697,352
WILLIAMSTOWN	945,841	841,200	0	1,787,041
WILMINGTON	9,758,342	2,190,871	512,889	12,462,102

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Municipality	7061-0008 Chapter 70	Potential Allocation of Federal Funds from the ARRA		Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
		Unrestricted General Government Aid	State Fiscal Stabilization Fund	
WINCHENDON	10,643,896	1,482,275	1,097,986	13,224,157
WINCHESTER	5,105,397	1,303,615	821,710	7,230,722
WINDSOR	49,334	91,497	0	140,831
WINTHROP	5,080,860	3,714,357	0	8,795,217
WOBURN	6,573,988	5,274,775	0	11,848,763
WORCESTER	176,884,068	36,614,610	15,900,327	229,399,005
WORTHINGTON	71,276	110,672	0	181,948
WRENTHAM	3,738,425	821,444	0	4,559,869
YARMOUTH	2,555	1,112,429	2,210	1,117,194
Municipal Totals	3,242,320,608	936,376,140	155,032,690	4,333,729,438

Regional School District	7061-0008 Chapter 70	Potential Allocation of Federal Funds from the ARRA		Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
		State Fiscal Stabilization Fund		
ACTON BOXBOROUGH	6,715,773	646,234		7,362,007
ADAMS CHESHIRE	10,254,928	0		10,254,928
AMHERST PELHAM	9,685,959	0		9,685,959
ASHBURNHAM WESTMINSTER	10,126,994	368,821		10,495,815
ASSABET VALLEY	2,934,442	0		2,934,442
ATHOL ROYALSTON	17,928,042	0		17,928,042
BERKSHIRE HILLS	2,807,290	0		2,807,290
BERLIN BOYLSTON	921,023	0		921,023
BLACKSTONE MILLVILLE	11,104,016	0		11,104,016
BLACKSTONE VALLEY	7,077,833	549,278		7,627,111
BLUE HILLS	4,035,092	0		4,035,092
BRIDGEWATER RAYNHAM	21,180,680	0		21,180,680
BRISTOL COUNTY	3,016,539	71,415		3,087,954
BRISTOL PLYMOUTH	9,139,878	794,959		9,934,837
CAPE COD	2,134,684	0		2,134,684
CENTRAL BERKSHIRE	8,751,713	21,742		8,773,455
CHESTERFIELD GOSHEN	757,346	0		757,346
CONCORD CARLISLE	1,886,888	0		1,886,888
DENNIS YARMOUTH	6,764,640	0		6,764,640
DIGHTON REHOBOTH	12,880,094	0		12,880,094
DOVER SHERBORN	1,436,198	0		1,436,198

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		Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
Regional School District	7061-0008 Chapter 70		
DUDLEY CHARLTON	23,924,337	886,768	24,811,105
ESSEX COUNTY	4,228,553	0	4,228,553
FARMINGTON RIVER	405,970	0	405,970
FRANKLIN COUNTY	3,453,126	0	3,453,126
FREETOWN LAKEVILLE	7,413,773	0	7,413,773
FRONTIER	2,857,269	0	2,857,269
GATEWAY	5,866,604	0	5,866,604
GILL MONTAGUE	6,304,363	0	6,304,363
GREATER FALL RIVER	14,264,378	0	14,264,378
GREATER LAWRENCE	20,988,571	0	20,988,571
GREATER LOWELL	20,611,676	552,397	21,164,073
GREATER NEW BEDFORD	21,747,161	920,866	22,668,027
GROTON DUNSTABLE	10,858,434	0	10,858,434
HAMILTON WENHAM	3,436,056	0	3,436,056
HAMPDEN WILBRAHAM	11,514,847	217,025	11,731,872
HAMPSHIRE	3,004,851	251,894	3,256,745
HAWLEMONT	637,772	0	637,772
KING PHILIP	7,421,505	0	7,421,505
LINCOLN SUDBURY	2,471,805	183,765	2,655,570
MANCHESTER ESSEX	1,684,043	0	1,684,043
MARTHAS VINEYARD	2,843,504	0	2,843,504
MASCONOMET	4,951,222	0	4,951,222
MENDON UPTON	12,295,995	229,442	12,525,437
MINUTEMAN	2,249,201	0	2,249,201
MOHAWK TRAIL	6,136,890	0	6,136,890
MONTACHUSETT	12,054,378	697,829	12,752,207
MOUNT GREYLOCK	1,741,351	0	1,741,351
NARRAGANSETT	10,148,997	0	10,148,997
NASHOBA	6,473,631	0	6,473,631
NASHOBA VALLEY	2,844,999	423,773	3,268,772
NAUSET	3,384,747	0	3,384,747
NEW SALEM WENDELL	656,374	0	656,374
NORFOLK COUNTY	1,003,912	25,132	1,029,044
NORTH MIDDLESEX	20,604,743	0	20,604,743
NORTH SHORE	1,616,769	0	1,616,769
NORTHAMPTON SMITH	935,567	0	935,567
NORTHBORO SOUTHBORO	2,862,169	12,445	2,874,614
NORTHEAST METROPOLITAN	7,611,122	653,275	8,264,397
NORTHERN BERKSHIRE	4,305,980	126,307	4,432,287

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	Potential Allocation of Federal Funds from the ARRA State Fiscal Stabilization Fund	Potential Total Section 3 Local Aid (Contingent Upon Allocation of Federal Funds)
Regional School District Chapter 70	7061-0008	
OLD COLONY	3,316,268	21,659
OLD ROCHESTER	2,070,404	0
PATHFINDER	5,011,306	0
PENTUCKET	13,226,986	0
PIONEER	4,195,800	0
QUABBIN	16,979,189	0
QUABOAG	8,335,277	0
RALPH C MAHAR	5,551,073	0
SHAWSHEEN VALLEY	5,375,355	429,386
SILVER LAKE	6,815,899	139,570
SOUTH MIDDLESEX	2,548,930	0
SOUTH SHORE	3,660,126	72,960
SOUTHEASTERN	11,804,129	948,483
SOUTHERN BERKSHIRE	1,900,305	0
SOUTHERN WORCESTER	9,053,691	450,977
SOUTHWICK TOLLAND	8,213,061	432,265
SPENCER EAST BROOKFIELD	13,983,163	0
TANTASQUA	7,904,757	0
TRI COUNTY	5,319,115	0
TRITON	8,568,933	0
UPISLAND	825,674	0
UPPER CAPE COD	3,008,736	0
WACHUSETT	21,490,211	1,053,746
WHITMAN HANSON	23,500,164	466,278
WHITTIER	5,511,728	967,966
Regional Totals	627,526,977	12,616,657
		640,143,634

SECTION 4. Section 68 of chapter 3 of the General Laws, inserted by section 3 of chapter 451 of the acts of 2008, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be a permanent commission on the status of citizens of Asian descent to consist of 21 persons as follows: 3 persons to be appointed by the governor; 3 persons to be appointed by the speaker of the house of representatives; 3 persons to be appointed by the president of the senate; 3 persons to be appointed by the state treasurer; 3 persons to be appointed by the state secretary; 3 persons to be appointed by the attorney general; and 3 persons appointed by the state auditor. Members of the commission shall be 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.

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SECTION 5. Chapter 6 of the General Laws is hereby amended by inserting after section 172J the following section:--

Section 172K. Notwithstanding section 172 or any other general or special law to the contrary, any children's camp or school that plans to employ or accept as a volunteer for a climbing wall or challenge course program, a person who is or has previously been the subject of a record check pursuant to sections 172G, 172H, 172I or section 38R of chapter 71, shall not be required to conduct a second record check by reason of such person's employment or volunteering for a climbing wall or challenge course program, within 12 months of the previous record check. Such camp or school may either simultaneously submit to the criminal history systems board applications for a record check under sections 172G, 172H, 172I or section 38R of chapter 71 and this section, or use the information obtained within the prior 12 months under sections 172G, 172H, 172I or section 38R of chapter 71 for the purpose of the climbing wall or challenge course program. If the camp or school submits simultaneous applications, the criminal history systems board shall conduct the most comprehensive record check required by either application, and the results of such record check shall satisfy the camp or school's obligations to request record information with respect to both job functions. The camp or school may also disseminate information obtained under this section to the department of public safety. The criminal history systems board shall only assess the camp or school 1 fee for simultaneous requests filed pursuant to this section.

Information obtained pursuant to this section shall not be disseminated for any purpose other than to further the protection of children.

SECTION 6. Paragraph (a) of section 4A of chapter 7 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:- The operational services division may charge and collect from statewide contractors a statewide contract administrative fee, to be established by the executive office for administration and finance; provided, however, that such fee shall not exceed 1 per cent of the total value of a contract awarded to a statewide contractor.

SECTION 7. Section 53 of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in line 17, the figure "\$200,000" and inserting in place thereof the following figure:- \$500,000.

SECTION 8. Subsection (a) of section 24A of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The commission is hereby authorized to enter into agreements with one or more states or other jurisdictions, hereinafter referred to as a group, for the purpose of creating and maintaining multi-jurisdictional lottery games; provided, however, that a group agreement shall not include the state lottery games created pursuant to section 24; provided further, that nothing in this section and nothing in a group agreement shall authorize the commission to make expenditures that are not consistent with restrictions on expenditures by the commission provided in any other general or special law.

SECTION 9. Said chapter 10 is hereby further amended by inserting after section 35KK, inserted by section 2 of chapter 422 of the acts of 2008, the following 2 sections:-

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Section 35LL. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Nantasket Beach Reservation Trust Fund to be used, without further appropriation, for the preservation, maintenance and safety of Nantasket Beach in the town of Hull. 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 \$4 for non-seniors and \$2 for seniors upon each fee charged and collected from admission into parking in the Nantasket Beach Reservation. The additional monies collected from the surcharge shall be deposited into the Nantasket Beach Preservation Trust Fund. Expenditures by the trust for public safety shall first be made available to the town of Hull's police, fire, ambulance and emergency personnel. No later than November 30 of each year, a representative from the department of conservation and recreation shall meet with the Hull board of selectmen to discuss the maintenance and safety plan for the next calendar year as well as the balance and expenditures from the Nantasket Beach Reservation Trust Fund.

Section 35MM. There shall be established and placed within the executive office of transportation or any successor agency or authority a separate fund to be known as the Massachusetts Transportation Trust Fund which shall be used for financing transportation-related purposes of the executive office of transportation or any successor agency or authority. The secretary shall be authorized to enter into agreements with the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the regional transit authorities and, for so long as it shall continue to exist, the Massachusetts Turnpike Authority to commit any funds generated from fares, fees, tolls or any other revenue sources including, but not limited to, from federal sources of these authorities to the fund. There shall be credited to the fund all turnpike revenues and other toll and non-toll revenue collected by the department after assumption of the assets, obligations and liabilities of the Massachusetts Turnpike Authority, all tolls collected by the department after transfer of the Maurice J. Tobin Memorial Bridge by the Massachusetts Port Authority to the department, all refunds and rebates made on account of expenditures on ways by the department, any revenues from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any gifts, grants, private contributions, investment income earned on the fund's assets, all monies received by the department for the sale or lease of property, all monies received by the department in satisfaction of claims by the department for damage to highway and bridge safety signs, signals, guardrails, curbing and other highway and bridge related facilities, and other receipts of the department. Money remaining in the fund at the end of the year shall not revert to the General Fund.

(b) In addition to those revenues credited to the fund pursuant to subsection (a), beginning in fiscal year 2011, there shall be credited to the Massachusetts Transportation Trust Fund all monies received by the commonwealth equal to .385 percent of the receipts

from sales, as defined by chapter 64H of the General Laws, and .385 per cent of the sales price of purchases, as defined by chapter 64I of the General Laws, from that portion of the taxes imposed under said chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property, or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of subsection (b ½) of section 10 of chapter 152 of the acts of 1997 or within the meaning of said subsection (b ½). If in a fiscal year the amount credited to the Massachusetts Transportation Trust Fund under this paragraph is less than \$275,000,000, then the comptroller shall transfer an amount from the General Fund to make up the difference between the amount credited to said fund and \$275,000,000, not later than September 1 of the following fiscal year; provided that the comptroller shall make said transfer according to a schedule developed annually by the comptroller in consultation with the secretary of administration and finance and the state treasurer to minimize adverse impact on the commonwealth's cash flow.

The comptroller shall only make transfers from the Massachusetts Transportation Trust Fund to any surface transportation-related authority or to any other fund used by the commonwealth or any such authority for toll and fare mitigation and other transportation-related purposes, as provided in this section.

(c) (i) Annually, beginning in fiscal year 2011, the secretary of the Massachusetts Department of Transportation and the secretary of administration and finance shall issue a written schedule for transfers from the fund to the comptroller and the chairs of the house and senate committees on ways and means at least 30 days in advance of the first proposed scheduled transfer. The secretary of the Massachusetts Department of Transportation and the secretary of administration and finance may amend the schedule upon 30 days advance notice to the comptroller and the chairs of the senate and house committees on ways and means. The schedule issued under this section shall ensure that \$100,000,000 shall be transferred to the Massachusetts Turnpike Authority or its successor in interest in each fiscal year and, to provide for and secure this payment obligation, the secretary of administration and finance, on behalf of the commonwealth, shall, with the concurrence of the secretary of transportation and public works, enter into a contract with the authority before July 1, 2009 providing for the payment of that amount to said authority in each fiscal year for the purpose of defraying costs, including debt service on bonds heretofore or hereafter issued by the authority or its successor in interest to finance or refinance improvements to the metropolitan highway system. The term of this contract shall extend until the last fiscal year in which any such bonds issued before the date of the contract are scheduled to mature. These payments may be treated as revenues of the authority or of its successor in interest within the meaning of section 6 of chapter 81A and the authority or its successor in interest may pledge such contract and the rights of the authority or its successor in interest to receive amounts thereunder as security for the payment of the bonds issued before the date of the contract or of any bonds or notes issued by the authority or its successor in interest to refinance those bonds. This contract shall constitute a general obligation of the commonwealth for which

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the faith and credit of the commonwealth shall be pledged for the benefit of the authority or its successor in interest and of the holders of any bonds or notes secured by a pledge of such contract or of amounts to be received by the authority or its successor in interest under the contract. The payment obligation and contract securing it provided for in this section shall be in addition to the payment obligation provided for under section 12 of chapter 81A and the contract securing it under said section 12.

(ii) The remaining amount transferred under this section shall be distributed to the Massachusetts Bay Transportation Authority and regional transit authorities according the following parameters:

(a) \$160,000,000 shall be transferred to the Massachusetts Bay Transportation Authority or any fund controlled by the authority in each fiscal year; and

(b) \$15,000,000 shall be transferred to regional transit authorities organized under chapter 161B or predecessor statutes in each fiscal year.

(iii) The comptroller shall only make transfers from the Massachusetts Transportation Trust Fund to any surface transportation-related authority or to any other fund used by the commonwealth or any such authority for toll and fare mitigation and other transportation-related purposes, as provided in this section. The final transfer to any transportation-related authority in a fiscal year shall be not later than two weeks before the end of that fiscal year.

(d) The remaining balance of the fund after compliance with subsection (c) shall be under the control of the executive office of transportation or any successor agency or authority, not subject to appropriation and shall be used as follows:-

(i) For expenditures to meet any debt obligations of the department following the dissolution of the Massachusetts Turnpike Authority and assumption of assets, obligations and liabilities by the department;

(ii) For expenditure by the department for maintaining, repairing, improving and constructing municipal ways and bridges, sidewalks adjacent to such ways and bridges, bikeways and other projects eligible for funding as a transportation enhancement project as described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways and public use off-street parking facilities related to mass transportation, for engineering services and expenses related to highway transportation enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase and long-term leasing of road building machinery, equipment and tools, for the erection and maintenance of direction signs and warning signs and for necessary or beneficial improvements to unpaved municipal ways together with any money which any municipality may appropriate for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. 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. Such ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities shall remain municipal ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities. The department shall withhold or withdraw the unexpended balance of any funds assigned by it under this clause if the municipality fails to comply with the official standards for traffic control established by the department or with any provision of a traffic control agreement negotiated between the department and the municipality, as required by the United States Secretary of Commerce under section 109 of Title 23 of the United States Code;

(iii) For expenditure by the department for maintaining, repairing and improving state highways and bridges in the state highway system designated parkways and for the turnpike and the metropolitan highway system managed by the Massachusetts Turnpike Authority until its dissolution ;

(iv) For expenditure by the department, in addition to federal aid payments received under section 30 of chapter 81, for construction of state highways;

(v) For expenditure by the department for engineering services and expenses, for care, repair, storage, replacement and purchase of road building machinery and tools, for snow removal, for the erection and maintenance of direction signs and warning signs, for the care of shrubs and trees on state highways and for expenses incidental to the foregoing or incidental to the purposes specified in clause (b), (c) or (d);

(vi) For expenditure for the operations of the department and any divisions thereof;

(vii) For expenditure by the department for infrastructure improvements to transportation facilities throughout the commonwealth;

(viii) For regional expenditure by the department for highway division projects in the 5 geographic regions of the commonwealth consistent with the boundaries of the 5 highway division districts as existing on July 1, 2009;

(ix) For expenditure for highway field services and transportation support programs including, but not limited to, state police highway patrols and accident teams; and

(x) For any other expense of the department necessary to carry out its purposes.

SECTION 10. Section 59 of said chapter 10, as appearing in the 2006 Official Edition, is hereby amended by inserting after the figure “90”, in line 4, the following words:- , sections 8 and 34 of chapter 90B.

SECTION 11. Section 3 of chapter 12 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The Massachusetts Turnpike Authority, or any successor in interest, shall enter into a memorandum of understanding with the attorney general through which the authority shall provide payment to the attorney general of all direct and indirect costs of the attorney general’s representation of the authority, and the attorney general may retain and expend such funds without further appropriation for the purpose of defraying such costs.

SECTION 12. Chapter 23 of the General Laws is hereby amended by striking out section 11W, as so appearing, and inserting in place thereof the following section:-

Section 11W. The deputy director shall require each apprentice entering into a written agreement pursuant to this chapter to submit an application to the division for an apprentice identification card. Such application shall be accompanied by a \$35 fee paid by the apprentice or the program sponsor, together with photographic prints as required by the deputy director. The apprentice identification card shall expire 1 year from the date of issue. Application for renewal of such card shall be submitted to the division and shall be accompanied by a fee of \$35 paid by the apprentice or the program sponsor. The funds shall be received by the state treasurer on behalf of the commonwealth and deposited in a special trust account for the division and may be expended, without further appropriation, under the direction of the deputy director. An apprentice identification card shall contain the photograph of the apprentice; the apprentice registration number or such other number as the deputy director requires; the date on which the apprentice identification card expires; the name and business address of the appropriate apprenticeship committee or single employer sponsor; the steps of progression and related dates applicable to the apprentice and the projected date on which the apprentice is projected to complete the apprenticeship. As a condition of apprenticeship, the apprentice shall keep the apprentice identification card on his person during all hours of employment during the apprenticeship

SECTION 13. The first paragraph of section 30 of chapter 23B of the General Laws, as appearing in section 37 of chapter 4 of the acts of 2009, is hereby amended by inserting after the second sentence the following sentence:- The department shall administer the program throughout the commonwealth at locations that are geographically convenient to families who are homeless or at-risk of homelessness and shall administer the program in a fair, just and equitable manner.

SECTION 14. The second paragraph of paragraph (B) of said section 30 of said chapter 23B, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following 2 sentences: Emergency housing assistance shall be denied to a family who, at any time within 1 year immediately prior to the filing of an application for emergency assistance, has depleted, assigned or transferred real or personal property that would have rendered such family ineligible for assistance if the depletion, transfer or assignment was not reasonable at the time or was not for good cause reasons. For purposes of the preceding sentence, good cause reasons shall include, but not be limited to, that the funds were expended for necessary or reasonable costs of living such as rent, utilities, food, health related needs, education related expenses or transportation.

SECTION 15. The first sentence of the second subparagraph of paragraph (C) of said section 30 of said chapter 23B, as so appearing, is hereby amended by striking out the words "any benefits" and inserting in place thereof the following words: - any non-shelter benefits.

SECTION 16. Paragraph (F) of said section 30 of said chapter 23B, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph: -

A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager and shall be conducted as an adjudicatory proceeding under chapter 30A. The department shall offer the person appealing the option to hold the hearing: (a) such that the hearing officer, person appealing and department representatives shall be in 1 location for the hearing and such location shall be convenient to the person appealing; (b) telephonically; or (c) through other available means such as videoconferencing. The person appealing shall have the right to choose among these options. No employee shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and may review and discuss with the hearing officers such decisions solely in order to carry out this responsibility. The hearing manager shall be responsible for the training of hearing officers, scheduling of hearings and the compilation of decisions. The hearings manager may grant a request by the person appealing for a remand of the decision to the hearings officer who made the initial decision or another hearings officer for reconsideration of an initial decision. The final decision of the hearing officer shall be the decision of the department.

SECTION 17. Section 8 of chapter 23D 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:- There shall be in the executive office of housing and economic development, but not subject to its jurisdiction, an economic stabilization trust which shall be administered by the secretary of the executive office of housing and economic development.

SECTION 18. Section 9 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words "director of economic development and director of labor and workforce development" and inserting in place thereof the following words:- secretary of the executive office of housing and economic development or his designee, the secretary of the executive office of labor and workforce development or his designee.

SECTION 19. Said chapter 23D is hereby further amended by striking out section 10, as so appearing, and inserting in place thereof the following section:-

Section 10. The offices of the trust shall be located within the executive office of housing and economic development. The secretary of the executive office of housing and economic development, in consultation with the trustees, shall appoint an executive director of the trust. The executive director shall serve as the chief executive, administrative and operational officer of the trust, shall attend meetings of the trust and shall direct the resources and staff of the program to achieve the purposes of sections 8 to 16, inclusive.

SECTION 20. Subsection (c) of section 11H of chapter 25A of the General Laws is hereby amended by striking out the second, third, and fourth sentences, as appearing in the 2008 Official Edition, and inserting in place thereof the following 2 sentences:- The assessment shall not exceed an amount equal to 3.75 per cent of the total annual mandatory charge collected by each utility company under section 19 of chapter 25 in the case of electric

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companies, or 3.75 per cent of the efficiency budgets as approved by the department of public utilities or otherwise required by law in the case of gas companies, as applicable. Assessments made under this section shall be charged by the utility companies against the revenues so collected under section 19 of chapter 25 or as the revenues are approved by the department of public utilities or otherwise required by law, as applicable.

SECTION 21. Chapter 29 of the General Laws is hereby amended by inserting after section 2YYY the following 2 sections:-

Section 2ZZZ. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Transportation Fund which shall be used exclusively for financing transportation-related purposes. There shall be credited to the fund all fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90, all receipts paid into the treasury of the commonwealth and directed to be credited to the Commonwealth Transportation Fund pursuant to chapters 64A, 64E, 64F and any other applicable general or special law and all amounts appropriated into the fund by the general court. The fund shall be subject to appropriation and shall be used for transportation related expenses of the executive office of transportation or any successor agency or authority, including to pay or reimburse the General Fund for payment of debt service on bonds issued by, or otherwise payable pursuant to a lease or other contract assistance agreement by, the commonwealth for transportation purposes.

(b) Notwithstanding subsection (a), the crediting of receipts from the tax imposed pursuant to chapter 64A to the fund shall not affect the obligations of the commonwealth relating to notes issued pursuant to sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the pledge of receipts from the portion of the tax per gallon imposed pursuant to said chapter 64A equal to 10 cents per gallon, to secure the payment of such bonds under the circumstances described in the trust agreements relating to such notes is hereby ratified and confirmed in all respects and shall remain in full force and effect as long as any such notes issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by funds in the fund.

SECTION 22. Chapter 29 of the General Laws is hereby amended by inserting after section 5F the following section:-

Section 5G. Notwithstanding any general or special law to the contrary, the department of revenue shall report by September 30 to the state comptroller, the executive office for administration and finance and the house and senate committees on ways and means the amount collected from capital gains revenue in the previous fiscal year; provided, however, that beginning October 31 and quarterly thereafter the department of revenue shall, within 15 days, certify to the state comptroller the amount collected in capital gains revenues for the previous quarter. The department of revenue shall certify by October 31, beginning in fiscal year 2010, the amount of actual receipts of capital gains for the previous fiscal year and the comptroller shall transfer 50 per cent of the growth in capital gains revenue that exceeds the amount collected during the previous fiscal year to the Commonwealth Stabilization Fund established by section 2H; provided, however, that said transfer shall be

made prior to the certification of the consolidated net surplus for the previous fiscal year as provided in section 5C; provided further, that 2 percent of any amount transferred to the Commonwealth Stabilization Fund under this section shall then be transferred from the Commonwealth Stabilization Fund to the State Retiree Benefits Trust Fund.

SECTION 23. Subdivision (1) of section 22C of chapter 32 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:-

Notwithstanding any general or special law to the contrary, appropriations or transfers made to the Commonwealth's Pension Liability Fund in fiscal years 2009 to 2011, inclusive, shall be made in accordance with the following funding schedule: \$1,314,396,000 in fiscal year 2009, \$1,376,619,000 in fiscal year 2010 and \$1,441,811,000 in fiscal year 2011.

SECTION 24. Section 5K of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the figure "\$750" and inserting in place thereof the following figure:- \$1,000

SECTION 25. Clause Fifth of section 18 of said chapter 59, as so appearing, is hereby amended by adding the following 2 sentences:- Poles, underground conduits, wires and pipes of telecommunications companies laid in or erected upon public or private ways and property shall be assessed to their owners in the cities or towns where they are laid or erected. For purposes of this clause, telecommunications companies shall include cable television, internet service, telephone service, data service and any other telecommunications service providers.

SECTION 26. Section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the figure "72", in line 8, the following figure:- , 139C.

SECTION 27. Paragraph (1) of subsection (d) of section 2 of said chapter 62, as so appearing, is hereby amended by adding the following paragraph:-

(P) The deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 28. Subsection (l) of section 6 of chapter 62 of the General Laws, as so appearing amended by sections 1 to 4, inclusive, of chapter 63 of the acts of 2007, is hereby further amended by adding the following paragraph:-

(8) Notwithstanding any other provision of this section, aggregate salary and compensation amounts including all per diems, housing and other allowances, paid to, or for the services of, an individual shall not qualify for the credit under this subsection or for the credit under section 38X of chapter 63 to the extent that such amounts exceed \$2,000,000.

SECTION 29. The first sentence of paragraph (4) of subsection (o) of said section 6 of said chapter 62, as appearing in section 3 of chapter 310 of the acts of 2008, is hereby amended by striking out the figure "90" and inserting in place thereof the following figure:-
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SECTION 30. Section 6L of said chapter 62 is hereby amended by striking out subsections (a) and (b), as amended by section 4 of said chapter 310, and inserting in place thereof the following 2 subsections:-

(a) This section shall apply to credits earned under subsection (l) of section 6.

(b) At the written election of a taxpayer entitled to a credit under subsection (l) of section 6, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

SECTION 31. Chapter 62C of the General Laws is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

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

“Administering agency head”, the agency head responsible for administering the applicable state tax credit program.

“Average salary”, the total Massachusetts gross salary of a group of Massachusetts employees divided by the number of Massachusetts employees in the group.

“Building contractor”, any general contractor, subcontractor or repairman who is engaged in the business of constructing or improving real property.

“Code”, the Internal Revenue Code of the United States in effect on July 1, 1983.

“Commissioner”, the commissioner of revenue.

“Full-time employee”, a person who is employed for consideration for at least 35 hours per week and whose salary is subject to withholding as provided in chapter 62B.

“Materialman”, a person primarily engaged in the retail sale of building material, tools and equipment to building contractors for the improvement of real property and authorized by law to file a mechanics lien upon real property for improvements related to the property. For the purposes of this definition, “primarily engaged” shall mean sales of 50 per cent or more of total sales to building contractors.

“Part-time employee”, a person who is employed for consideration for less than 35 hours a week and whose salary is subject to withholding as provided in chapter 62B.

“Promoter”, a person who, either directly or indirectly, rents, leases or grants a license to use space to any person for the display for sale or for the sale of tangible personal property subject to tax under chapter 64H, at more than 3 shows during the calendar year, or who operates more than 3 shows during the calendar year. For purposes of determining whether 3 shows have been held, the conduct of an activity described in the definition of “Show” on 1 day alone or on a series of up to 7 consecutive days shall be deemed to constitute a single show.

“Show”, a flea market, craft show, antique show, coin show, stamp show, comic book show fair and any similar show, whether held regularly or of a temporary nature at which more than 1 vendor displays for sale or sells tangible personal property subject to tax.

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“Tax”, any tax, excise, interest, penalty, or addition to tax imposed by this chapter or the statutes referred to in section 2.

“Tax credit program”, one of the following credits against the state income tax to stimulate economic development and other policy goals: the brownfields tax credit established by subsection (j) of section 6 of chapter 62 and section 38Q of chapter 63; the dairy farmer tax credit established by subsection (o) of section 6 of chapter 62 and section 38Z of chapter 63; the FDA user fees credit established by subsection (n) of section 6 of chapter 62 and section 31M of chapter 63; the film tax credit established by subsection (l) of section 6 of chapter 62 and subsection (b) of section 38X of chapter 63; the historic rehabilitation tax credit established by section 6J of chapter 62 and section 38R of chapter 63; the life sciences investment tax credit established by subsection (m) of section 6 of chapter 62 and section 38U of chapter 63; the low-income housing tax credit established by section 6I of chapter 62 and section 31H of chapter 63; the medical device tax credit established by section 6½ of chapter 62 and section 31L of chapter 63; and the refundable research credit established by subsection (j) of section 38M of chapter 63.

SECTION 32. Section 16 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 62 the words “sixty-four H or sixty-four I” and inserting in place thereof the following words:- 64H, 64I or 64L.

SECTION 33. Said section 16 of said chapter 62C, as amended by section 20 of chapter 182 of the acts of 2008, is hereby amended by adding the following subsection:-

(l) Every direct broadcast satellite service provider subject to taxation under section 2 of chapter 64M shall, on or before the twentieth day of each calendar month, file a return with the commissioner stating the gross revenues derived by the direct broadcast satellite service provider during such month from the provision of direct broadcast satellite service and such other information as the commissioner may deem necessary.

SECTION 34. Subsection (b) of section 21 of said chapter 62C, as most recently amended by section 8 of chapter 205 of the acts of 2008, is hereby further amended by adding the following 2 clauses:-

(24) the disclosure of information necessary to comply with the reporting requirements of section 88,

(25) the disclosure of information necessary for administration of the local option tax imposed pursuant to section 3A of chapter 64G and chapter 64L.

SECTION 35. Section 25 of said chapter 62C, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A distributor, unclassified importer, unclassified exporter or purchaser referred to in section 1 of chapter 64A, a stamper appointed under section 30 of chapter 64C, a user-seller or supplier of special fuels, as defined in section 1 of chapter 64E, a motor carrier required to be licensed under chapter 64F, an operator required to register under chapter 64G, a vendor required to register under chapter 64H or 64I, a user-seller or supplier of aircraft fuel, as defined in section 1 of chapter 64J, a direct broadcast satellite service provider as defined in section 1 of chapter 64M and a licensee referred to in section

21 of chapter 138 shall keep and preserve suitable records of taxable charges and such other books, papers, records and data as the commissioner may require to determine the amount of the tax due under the those respective chapters.

SECTION 36. Section 31A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 5, the words “or section 17 of chapter 64I” and inserting in place thereof the following words:- section 17 of chapter 64I or section 6 of chapter 64L.

SECTION 37. Section 37 of said chapter 62C, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

If such person is an operator as defined in section 1 of chapter 64G, a vendor as defined in section 1 of chapter 64H or section 1 of chapter 64I or a direct broadcast satellite service provider as defined in section 1 of chapter 64M who has collected such tax, no actual refund of money shall be made to such person until he establishes to the satisfaction of the commissioner, under such regulations as the commissioner may prescribe, that he has repaid to the purchaser the amount for which the application for refund is made.

SECTION 38. Section 66 of said chapter 62C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner may require a person required to be licensed or registered under chapters 64A to 64C, inclusive, chapters 64E to 64J, inclusive, or chapter 64M or subject to taxation under section 21 of chapter 138, to file with him a bond, satisfactory to the commissioner, in such amount as the commissioner may determine, with a surety company authorized to transact business in the commonwealth as surety, to secure the payment of any tax, including any interest and penalties thereon, due or which may become due from such person under said chapters; provided, however, that the amount of such bond required from a vendor under chapter 64H or 64I shall not exceed the amount which the commissioner shall determine to be such vendor’s average tax liability for a 6-month period.

SECTION 39. Section 67 of said chapter 62C, as most recently amended by section 31 of chapter 182 of the acts of 2008, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each vendor as defined in chapter 64H or 64I and each operator as defined in chapter 64G who desires to obtain a certificate of registration as required by said chapters 64G, 64H or 64I and each person who desires to obtain a license as a distributor, unclassified importer or unclassified exporter as defined in chapter 64A, as a manufacturer, wholesaler, vending machine operator, unclassified acquirer, transportation company, retailer, cigar distributor or cigar retailer as defined in chapter 64C, as a user-seller, supplier or user of special fuels as defined in chapter 64E, as a motor carrier as defined in chapter 64F, as a user-seller or supplier of aircraft fuel as defined in chapter 64J or as a direct broadcast satellite service provider as defined in chapter 64M shall file with the commissioner an application in such form as the commissioner prescribes, giving such information as the commissioner requires; provided, however, if the application is for a wholesaler’s license as defined in said chapter 64C, the commissioner shall require, in addition to such other information as may be deemed necessary, the filing of affidavits from 3 licensed manufacturers as defined in said chapter

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64C, stating that the manufacturer will supply the wholesaler if the applicant is granted a license.

SECTION 40. Said chapter 62C is hereby further amended by adding the following section:-

Section 88. (a) (1) Each administering agency head shall annually submit a report, no later than March 1, to the commissioner on each tax credit program authorized for the previous calendar year, hereinafter known as the report, which shall be a public record made available on a government internet website for public disclosure.

(2) The report shall contain the following information:

(i) the number of taxpayers authorized by the administering agency head to receive a tax credit;

(ii) the type and amount of the tax credit awarded to each industry;

(iii) the date that the tax credit was awarded; and

(iv) an aggregate summary of the employment data, by industry, provided by each taxpayer pursuant to subsection b.

(3) The report shall include, for the previous calendar year, an analysis of the benefits received by the commonwealth relevant to the specific goals of the tax credit program, the impact of the tax credit program on preserving, promoting and growing employment in the relevant industry in the commonwealth and any other benefits received as a result of the tax credit program.

(4) The report shall include the following information relevant to the specific tax credit programs:

(i) for the brownfields tax credit, an analysis of the impact of the brownfields tax credit program on the cleanup and development of contaminated properties;

(ii) for the dairy farmer tax credit, an analysis of the impact of the dairy farmer tax credit on preserving dairy farms and dairy farm employment including, but not limited to, an analysis of the dairy product output and the number and size in acreage of dairy farms receiving a dairy farm credit;

(iii) for the U.S.F.D.A. user fees credit, life sciences investment tax credit and the refundable research credit, an analysis of the impact of the program on preserving and increasing economic development and infrastructure for the calendar year;

(iv) for the film tax credit, an analysis of the impact of the film tax credit program on preserving or increasing film industry jobs and other benefits of the program;

(v) for the historic rehabilitation tax credit, an analysis of the impact of the program on preserving historic structures and other benefits of the program including, but not limited to, the employment created for the calendar year;

(vi) for the low-income housing tax credit, an analysis of the impact of the program on preserving or increasing low-income housing and other benefits of the program including, but not limited to, the number of low-income housing units placed in service for the calendar year; and

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(vii) for the medical device tax credit, an analysis of the impact of the medical device tax credit program on preserving or increasing medical device industry jobs and other benefits of the program.

(b) Each taxpayer receiving a tax credit from a tax credit program shall annually report, no later than February 15, a statement of jobs to the administering agency head which shall contain the following information:

(i) the number of full-time employees working for the taxpayer on the date the administering agency head authorized the tax credit, the number of full-time employees working for the taxpayer on December 31 of each calendar year that the tax credit is applied and the average salary of such employees;

(ii) the number of part-time employees working less than 35 hours but more than 20 hours per week for the taxpayer on the date the administering agency head authorized the tax credit, the number of such employees working for the taxpayer on December 31 of each calendar year that the tax credit is applied and the average salary of such employees;

(iii) the number of part-time employees working 20 hours per week or less for the taxpayer on the date the administering agency head authorized the tax credit, the number of such employees working for the taxpayer on December 31 of each calendar year that the tax credit is applied and the average salary of such employees; and

(iv) any other information required by the administering agency head to assist the agency head in assessing the economic and employment impact of the tax credit program on the commonwealth and in the relevant industry and otherwise in meeting the goals of the relevant tax credit program.

SECTION 41. The definition of “Gross income” in section 1 of chapter 63 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:- Gross income shall be determined without regard to section 108(i) of the Code.

SECTION 42. The definition of “Net income” in said section 1 of said chapter 63, as so appearing, is hereby amended by striking out clauses (d) and (e) and inserting in place thereof, the following 3 clauses:-

(d) the deduction allowed by section 168 (k) of the Code;

(e) the deduction allowed by section 199 of the Code; or

(f) the deduction described in section 163(e)(5) of the Code, to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) of the Code, inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 43. Paragraph 3 of section 30 of said chapter 63, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Gross income shall be determined without regard to section 108(i) of the Code.

SECTION 44. Paragraph 4 of said section 30 of said chapter 63, as so appearing, is hereby amended by adding the following clause:-

(vii) the deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) of the Code, inserted by section

1232 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

SECTION 45. Section 32E of said chapter 63, as amended by section 5 of chapter 310 of the acts of 2008, is hereby further amended by striking out subsections (a) and (b) and inserting in place thereof the following two subsections:-

(a) This section shall apply to credits earned under section 38X.

(b) At the written election of a taxpayer entitled to a credit under section 38X, the commissioner shall apply the credit against the liability of the taxpayer as determined on its return, as first reduced by any other available credits, and shall then refund to the taxpayer 90 per cent of the balance of the credits.

SECTION 46. Section 38X of said chapter 63, inserted by section 82 of chapter 173 of the acts of 2008, is hereby amended by adding the following subsection:-

(g) Notwithstanding any other provision of this section, aggregate salary and compensation amounts including all per diems, housing and other allowances, paid to, or for the services of, an individual shall not qualify for the credit under this section or for the credit under subsection (l) of section 6 of chapter 62 to the extent that such amounts exceed \$2,000,000.

SECTION 47. The first sentence of subsection (d) of section 38Z of said chapter 63, as appearing in section 6 of said chapter 310 of the acts of 2008, is hereby amended by striking out the figure “90” and inserting in place thereof the following figure:- 100.

SECTION 48. Section 52A of said chapter 63, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “exclusion”, in lines 27 and 28, the following words:- and without regard to section 108(i) of the Code.

SECTION 49. Paragraph (b) of subsection (1) of said section 52A of said chapter 63, as so appearing, is hereby amended by striking out clauses (iv) and (v) and inserting in place thereof the following 3 clauses:-

(iv) the deduction allowed by section 168(k) of the Code,

(v) the deduction allowed by section 199 of the Code, and

(vi) the deduction described in section 163(e)(5) of the Code, to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) of the Code, inserted by section 1232 of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.

SECTION 50. The first paragraph of section 2 of chapter 64G of the General Laws, as so appearing, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:- (b) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that this exemption shall not apply to accommodations provided by any such institution at a hotel or motel operated by the institution.

SECTION 51. Section 3A of said chapter 64G, as so appearing, is hereby amended by striking out, in line 5, the word “four” and inserting in place thereof the following figure:-
6

SECTION 52. Said section 3A of said chapter 64G, as so appearing, is hereby further amended by striking out, in line 10, the figure “4.5 ” and inserting in place thereof the following figure:- 6.5

SECTION 53. Section 2 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “five percent” and inserting in place thereof the following words:- 6.25 per cent.

SECTION 54. Said chapter 64H is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. For the purpose of adding and collecting the tax imposed by this chapter to be paid to the commonwealth or to be reimbursed to the seller by the purchaser, the tax computation shall be carried to the third decimal place and it shall be rounded to a whole cent, rounding up to the next cent whenever the third decimal place is greater than 4. A seller may elect to compute the tax due on a transaction on an item or an invoice basis.

SECTION 55. Section 6 of said chapter 64H, as so appearing, is hereby amended by striking out, in lines 71 to 72, the words “sixty-four F and one hundred and thirty-eight” and inserting in place thereof the following words:- and 64F.

SECTION 56. Section 30A of said chapter 64H, as so appearing, is hereby amended by striking out, in lines 5, 7, 14 and 18, the word “five” and inserting in place thereof, in each instance, the following figure:- 6.25.

SECTION 57. Section 2 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “five percent” and inserting in place thereof the following words:- 6.25 per cent.

SECTION 58. Said chapter 64I is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. For the purposes of adding and collecting the tax imposed by this chapter to be paid to the commonwealth or to be reimbursed to the seller by the purchaser, the tax computation shall be carried to the third decimal place and it shall be rounded to a whole cent, rounding up to the next cent whenever the third decimal place is greater than 4. A seller may elect to compute the tax due on a transaction on an item or an invoice basis.

SECTION 59. Section 31A of said chapter 64I, as so appearing, is hereby amended by striking out, in lines 5, 7, 14 and 18, the word “five” and inserting in place thereof, in each instance, the following figure:- 6.25.

SECTION 60. The General Laws are hereby amended by inserting after chapter 64K the following chapter:-

CHAPTER 64L.

LOCAL OPTION MEALS EXCISE

Section 1. As used in this chapter, the following words shall have the meaning assigned to them in paragraph (h) of section 6 of chapter 64H: “honor snack tray”, “meals” and “restaurant”.

“Commissioner”, the commissioner of revenue.

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“Sale”, a sale of meals by a restaurant for any purpose other than resale in the regular course of business.

“Vendor”, shall have the meaning assigned to it in section 1 of chapter 64H.

Section 2. (a) A city or town which accepts this section in the manner provided in section 4 of chapter 4 may impose a local sales tax upon the sale of restaurant meals originating within the city or town by a vendor at a rate of .75 per cent of the gross receipts of the vendor from the sale of restaurant meals. No excise shall be imposed if the sale is exempt under section 6 of chapter 64H. The vendor shall pay the local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

(b) All sums received by the commissioner under this section shall, at least quarterly, be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has accepted this section in proportion to the amount of the sums received from the sales of restaurant meals in that city or town. Any city or town seeking to dispute the commissioner’s calculation of its distribution under this subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

(c) This section shall take effect in a municipality on the first day of the calendar quarter following 30 days after its acceptance by the municipality or on the first day of a later calendar quarter that the city or town may designate.

(d) Notwithstanding any provisions in section 21 of chapter 62C to the contrary, the commissioner may make available to cities and towns any information necessary for administration of the excise imposed by this section including, but not limited to, a report of the amount of local option sales tax on restaurant meals collected in the aggregate by each city or town under this section in the preceding fiscal year, and the identification of each individual vendor collecting local option sales tax on restaurant meals collected under this chapter.

Section 3. Except as provided herein, a sale of a meal by a restaurant is sourced to the business location of the vendor if (1) the meal is received by the purchaser at the business location of the vendor or (2) if the meal is delivered by the vendor to a customer, regardless of the location of the customer. A vendor with multiple business locations in the commonwealth must separately report sales sourced to each location in a manner prescribed by the commissioner. Restaurant meal delivery companies that purchase meals for resale must source their sales to the delivery location indicated by instructions for delivery to the purchaser and shall separately report sales by municipality in a manner prescribed by the commissioner. The commissioner may also adopt by rule or regulation destination sourcing and reporting rules for caterers or other vendors with a high volume of delivered meals, as the commissioner may determine, in order to mitigate any anti-competitive impact of the local meals tax.

Section 4. Reimbursement for the tax imposed by this chapter shall be paid by the purchaser to the vendor, and each vendor in the commonwealth shall add to the sales price

and shall collect from the purchaser the full amount of the tax imposed by this chapter and such tax shall be a debt from the purchaser to the vendor, when so added to the sales price, and shall be recoverable at law in the same manner as other debts.

Section 5. Upon each sale of a meal by a restaurant taxable under this chapter, the amount of tax collected by the vendor from the purchaser shall be stated and charged separately from the sales price and shown separately on any record thereof at the time the sale is made or on any evidence of sale issued or used by the vendor, but in the instance of the sale of alcoholic beverages for on premises consumption, the tax collected need not be stated separately.

Section 6. Every person who fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefor to the commonwealth. The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as an officer, employee or member is under a duty to pay over the taxes imposed by this chapter.

SECTION 61. The General Laws are hereby amended by inserting after chapter 64L the following chapter:—

CHAPTER 64M TAXATION OF DIRECT BROADCAST SATELLITE SERVICE

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

"Commissioner", the commissioner of revenue.

"Direct broadcast satellite service", the distribution or broadcasting by satellite of video programming or services directly to receiving equipment located at an end user subscriber's or an end user customer's premises, including, but not limited to, the provision of premium channels, the provision of music or other audio services or channels, and any other service received in connection with the provision of direct broadcast satellite service.

"Direct broadcast satellite service provider", a person who transmits, broadcasts or otherwise provides direct broadcast satellite service to subscribers or customers in the commonwealth.

"Gross revenues", all consideration of any kind or nature received by a direct broadcast satellite service provider, or an affiliate of such person, in connection with the provision of direct broadcast satellite service to subscribers or customers, including recurring monthly charges for direct broadcast satellite service and pay-per-view, video-on-demand and other event-based charges for direct broadcast satellite service; provided, however, that gross revenues shall not include:

(1) charges for the rental of equipment related to the provision of direct broadcast satellite service;

(2) activation, installation, repair and maintenance charges or similar service charges related to the provision of direct broadcast satellite service;

(3) service order charges, service termination charges or any other administrative charges related to the provision of direct broadcast satellite service;

(4) revenue not actually received, regardless of whether it is billed, including, but not limited to, bad debts;

(5) revenue received by an affiliate or other person in exchange for supplying goods and services used by a direct broadcast satellite service provider;

(6) refunds, rebates or discounts made to subscribers or customers, to advertisers or to other persons;

(7) revenue from service other than direct broadcast satellite service, including:

(A) telecommunications service as defined in 47 U.S.C. section 153(46);

(B) information service as defined in 47 U.S.C. section 153(20); or

(C) any other service that is not a direct broadcast satellite service;

(8) revenue from any service that is subject to tax under chapter 64H or 64I;

(9) the tax imposed by this chapter or any other tax of general applicability imposed on a direct broadcast satellite service provider or a purchaser of direct broadcast satellite service, by a federal, state or local governmental entity and required to be collected by a person and remitted to the taxing entity;

(10) any foregone revenue from providing free or reduced-cost direct broadcast satellite service to any person, including employees of the direct broadcast satellite service provider or any governmental entity as required or authorized by federal, state or local law, except revenue foregone in exchange for the goods or services through a trade or barter arrangement;

(11) revenue from the sale of capital assets or surplus equipment not used by the purchaser to receive direct broadcast satellite service from the direct broadcast satellite service provider;

(12) reimbursements made by programmers to the direct broadcast satellite service provider for marketing costs incurred by the direct broadcast satellite service provider for the introduction of new programming that exceed the actual costs incurred by the direct broadcast satellite service provider;

(13) late payment fees collected from subscribers or customers; or

(14) charges, other than those charges specifically described herein, that are aggregated or bundled with such specifically-described charges on a subscriber or customer's bill, if the direct broadcast satellite service provider can reasonably identify the charges in its books and records kept in the regular course of business.

"Person", an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

"Subscriber or customer", a member of the general public who receives direct broadcast satellite service from a direct broadcast satellite service provider and does not further distribute such service in the ordinary course of business.

“Video programming”, programming provided by, or comparable to programming provided by, a television broadcast station including, but not limited to, video programming provided by local networks, national broadcast networks and all forms of pay-per-view video entertainment.

Section 2. An excise is hereby imposed upon the provision of direct broadcast satellite service to a subscriber or customer by any direct broadcast satellite service provider in an amount equal to 5 per cent of the direct broadcast satellite service provider’s gross revenues derived from or attributable to such customer or subscriber. A direct broadcast satellite service provider shall pay the excise to the commissioner at the time provided for filing the return required by section 16 of chapter 62C.

Section 3. Reimbursement for the excise imposed in this chapter shall be paid by the subscriber or customer to the direct broadcast satellite service provider and each direct broadcast satellite service provider providing direct broadcast satellite service to subscribers or customers shall collect from such subscriber or customer the full amount of the excise imposed with respect to gross revenues derived from or attributable to such customer or subscriber and such excise shall be a debt from the subscriber or customer to the direct broadcast satellite service provider when added to the subscriber or customer’s invoice for video programming service and shall be recoverable at law in the same manner as other debts.

Section 4. No person shall do business in this commonwealth as a direct broadcast satellite service provider unless a registration shall have been issued to him in accordance with section 67 of chapter 62C.

Section 5. A direct broadcast satellite service provider who fails to pay the commissioner any sums required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. The term “direct broadcast satellite service provider”, as used in this section, includes an officer or employee of a corporation or other business entity or a member or employee of a partnership who, as such officer, employee or member, is under a duty to pay over the taxes imposed by this chapter.

Section 6. A person not a resident of the commonwealth who engages in the business of providing direct broadcast satellite service to subscribers or customers in the commonwealth shall, as a condition precedent to engaging in such business and by so engaging in such business, be deemed thereby to appoint the state secretary as his agent for the service of process in any judicial proceeding under this chapter. Such process shall be served by delivering a copy of the process in the hands of the state secretary or a deputy or in the office of the state secretary. Such service shall be sufficient service upon the person; provided, however, that such notice of such service and a copy of the process shall, at least 15 days before the return day of such process, be sent by registered mail to such person’s last known address, and that the sender’s registered mail receipt and the commissioner’s affidavit of compliance with this section shall be appended to the process and filed in the action or proceeding on or before the return day of the process or within such further time as the court

may allow. The court in which the action or proceeding is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. Service of process in the foregoing manner shall have the same force and validity as if served upon the taxpayer personally within the commonwealth.

SECTION 62. Subsection (d) of section 6 of chapter 70B 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:- Any city, town or regional school district which has received, in accordance with subsections (b) and (c), notice of approval and an estimate of the amount of a school facilities grant, may borrow from time to time to finance that portion of the cost of the approved school project not being paid by such grant, in such amount approved by the board of selectmen, mayor or city manager of the city or town, or the regional district school committee of the regional school district, and may issue bonds or notes therefor which shall bear on their face the words (name of city, town or regional school district) School Project Loan, chapter 70B.

SECTION 63. Section 10 of said chapter 70B, as so appearing, is hereby amended by striking out, in line 3, the words "less than 40 per cent nor".

SECTION 64. Subsection (a) of said section 10 of said chapter 70B, as so appearing, is hereby amended by striking out paragraph (C) and inserting in place thereof the following paragraph:-

(C) Incentive percentage points may be awarded by the authority. Incentive percentage points granted, if any, shall be in the sole discretion of the authority. The authority may issue regulations delineating the type and amounts of any such incentive percentage points; provided, however, that no individual category of incentive points shall exceed 6 additional points; and provided further, that no district shall receive more than 18 incentive percentage points. Such incentive points may be awarded for a district's use of efficient construction delivery methods; regionalization with other districts; superior maintenance practices of a district; energy efficient and sustainable design and construction; major renovation rather than building new construction; the use of model schools as adopted by the authority; and other incentives as determined by the board of the authority in order to encourage the most cost-effective and quality construction.

SECTION 65. Chapter 71 of the General Laws is hereby amended by adding the following section:-

Section 91. (a) The term "Recovery High School" shall mean a public school or collaborative program for students diagnosed with substance use disorder or dependency, as defined by the Diagnostic and Statistical Manual of Mental Disorders IV-TR, that provides: (1) a comprehensive 4-year high school education, and (2) a structured plan of recovery.

(b) A school district shall transfer the state average chapter 70 per pupil allotment to a Recovery High School for a student meeting the following criteria: (1) the student is currently enrolled in the district or currently resides in the municipality in which the district is located; (2) the student is considered by a clinician, as defined by 105 CMR 164.006, to

be clinically appropriate, using the criteria for Substance Use Disorders as defined in the Diagnostic and Statistical Manual of Mental Disorders IV-TR; and (3) the student meets all matriculation criteria as outlined by the sending district and the department of elementary and secondary education, with determination of academic eligibility based on existing documentation provided by the district. The district and the Recovery High School shall arrange to confer a diploma when a student completes state and district-mandated graduation requirements.

(c) A Recovery High School shall submit to the board of elementary and secondary education data considered necessary by the board to provide information regarding each student's academic performance. A Recovery High School shall also submit to the department of public health data regarding each student's recovery.

(d) The board of elementary and secondary education, in consultation with the department of public health and the department of mental health, shall promulgate rules and regulations, as necessary to implement this section.

SECTION 66. Section 2 of chapter 90 of the General Laws, most recently amended by section 3 of chapter 407 of the acts of 2008, is hereby further amended by adding the following 2 paragraphs:-

The registrar shall furnish without charge to owners of private passenger motor vehicles who are veterans, as defined in said clause Forty-third of said section 7 of said chapter 4 who have been awarded the Iraqi Freedom Campaign Ribbon and upon presentation of evidence deemed satisfactory by the registrar, distinctive registration plates for one private passenger motor vehicle owned and principally used by such Iraqi Freedom Campaign Ribbon recipient or a distinctive emblem to be affixed to a "VETERAN" registration plate for a motorcycle owned and principally used by such recipient; provided, however, that the surviving spouse of a deceased survivor may elect to retain such distinctive registration plate or emblem for personal use upon payment of the established registration fee for private passenger motor vehicles or motorcycles and an additional annual \$20 fee until such time as such spouse remarries or fails to renew or cancels such registration.

The registrar shall furnish without charge to owners of private passenger motor vehicles or motorcycles who have been issued "VETERAN" plates pursuant to this section, a distinctive emblem to be affixed to such plates which identifies service in Operation Enduring Freedom. The surviving spouse of a deceased recipient may elect to retain the distinctive emblem for personal use upon payment of the established registration fee and an additional \$20 fee until such time as the spouse remarries or fails to renew or cancels the registration.

SECTION 67. Section 23 of said chapter 90, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:-

Notwithstanding the preceding paragraph or any other general or special law to the contrary, whoever has not been previously found responsible for or convicted of, or against whom a finding of delinquency or a finding of sufficient facts to support a conviction has not

been rendered on, a complaint charging a violation of operating a motor vehicle after his license to operate has been suspended or revoked, or after notice of the suspension or revocation of his right to operate a motor vehicle without a license has been issued by the registrar and received by such person or by his agent or employer, and prior to the restoration of such license or right to operate or to the issuance to him of a new license to operate shall be punished by a fine of not more than \$500. This paragraph shall not apply to any person who is charged with operating a motor vehicle after his license to operate has been suspended or revoked pursuant to a violation of paragraph (a) of subdivision (1) of section 24, or section 24D, 24E, 24G, 24L or 24N of this chapter, subsection (a) of section 8 or section 8A or 8B of chapter 90B, section 8, 9 or 11 of chapter 90F or after notice of such suspension or revocation of his right to operate a motor vehicle without a license has been issued and received by such person or by his agent or employer, and prior to the restoration of such license or right to operate or the issuance to him of a new license or right to operate because of any such violation.

SECTION 68. Section 33 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “, the fee for which is not otherwise provided for in any general or special law, the fee shall be \$36”.

SECTION 69. Said section 33 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 143, the words “, the fee shall be \$40”.

SECTION 70. Section 34J of said chapter 90, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, whoever violates this section and has not been previously determined responsible for or convicted therefor, or against whom a finding of delinquency or a finding of sufficient facts to support a conviction has not previously been rendered, on a complaint charging a violation of this section shall be punished by fine of not more than \$500.

SECTION 71. Paragraph (4) of subsection (a) of section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

There shall be an assessment of \$250 against a person who is convicted of, placed on probation for, or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a vessel while under the influence of intoxicating liquor or marijuana, narcotic drugs, depressant or stimulant substances or the vapors of glue; provided, however, that \$150 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, established by section 59 of chapter 10, 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 72. Section 34 of said chapter 90B, as so appearing, is hereby amended by adding the following paragraph:-

There shall be an assessment of \$250 against a person who is convicted of, placed on probation for, or granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a snow vehicle or recreation vehicle while

under the influence of intoxicating liquor or narcotic drugs in violation of section 26; provided, however, that \$150 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, established by section 59 of chapter 10, 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 73. The first paragraph of paragraph (4) of subsection (A) of section 3 of chapter 90C of the General Laws, as so appearing, is hereby amended by adding the following sentence:- If a violator requests a noncriminal hearing, he shall pay a fee of \$25 to the court prior to the commencement of the hearing before the clerk magistrate.

SECTION 74. Said section 3 of said chapter 90C, as so appearing, is hereby further amended by striking out, in line 56, the words “\$20 prior to the commencement” and inserting in place thereof the following words:- \$50 prior to the scheduling.

SECTION 75. The definition of “Facility” in subsection (a) of section 51H of chapter 111 of the General Laws, as appearing in section 9 of chapter 305 of the acts of 2008, is hereby amended by striking out the figure “25” and inserting in place thereof the following figure:- 25B.

SECTION 76. Said section 51H of said chapter 111, as appearing in section 65 of chapter 451 of the acts of 2008, is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The department shall adopt regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a health-care associated infection or serious reportable event. A health care facility shall not charge or seek reimbursement for a health-care associated infection or serious reportable event that the facility has determined, through a documented review process and under regulations adopted 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 77. Section 6 of chapter 118G of the General Laws, as most recently amended by section 23 of chapter 305 of the acts of 2008, is hereby further amended by adding the following paragraph:-

Except as specifically provided otherwise by the division, insurer data collected by the division under this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or under chapter 66.

SECTION 78. Paragraph (2) of subsection (a) of section 39 of said chapter 118G, as appearing in section 15 of chapter 61 of the acts of 2007, is hereby amended by inserting after the first sentence the following 2 sentences:- The office may recover from a third party that is financially responsible for the costs attributable to services provided to an individual that were paid by the fund. A payment from the fund for such services shall be recoverable

from the third party and the payment shall, after notice to the third party, operate as a lien under section 22 of chapter 118E.

SECTION 79. Subsection (b) of section 3 of chapter 121F of the General Laws, as appearing in section 6 of chapter 119 of the acts of 2008, is hereby amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) notwithstanding the restrictions described in this chapter, for the purposes of the soft second mortgage program described in item 3322-8880 of section 2 of chapter 110 of the acts of 1993

SECTION 80. The first paragraph of section 11 of chapter 142A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second and third sentences.

SECTION 81. [/ S 51A] Chapter 149 of the General Laws is hereby amended by inserting after section 44 the following section:-

Section 44 ½. Notwithstanding any general or special law to the contrary, a state or municipal government entity shall not terminate the employment of any veteran for at least 30 days following the return of the veteran from overseas duty.

SECTION 82. Section 46 of chapter 151A of the General Laws, amended by chapter 194 of the acts of 2007, is hereby further amended by adding the following subsection:-

(j)(1) The commissioner may provide the United States Census Bureau with information for use by the Census Bureau in the Longitudinal Household – Employer Dynamics System pursuant to a written agreement between the United States Census Bureau and the commissioner. The confidentiality of such information shall be protected by this section and Title XIII of the United States Code.

(2) The commissioner may provide the Bureau of Labor Statistics with information for the purpose of carrying out its responsibilities and duties under chapter 1 of Title XXIX of the United States Code pursuant to a written agreement between the Bureau of Labor Statistics and the commissioner. The confidentiality of such information shall be protected by this section and Title XXIX of the United States Code.

SECTION 83. The third paragraph of section 47C of chapter 175 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:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

SECTION 84. The third paragraph of section 8B of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

SECTION 85. The third paragraph of section 4C of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

SECTION 86. The second paragraph of section 4 of chapter 176G of the General Laws, as so appearing, is hereby amended by striking the last sentence and inserting in place thereof the following sentence:- Reimbursement of costs for such services shall be part of a basic benefits package offered by the insurer or a third party.

SECTION 87. Section 17G of chapter 180 of the General Laws, as so appearing, is hereby amended by the inserting after word "employed", in line 5, the following words:- or which may be specified by a collective bargaining agreement with the PCA quality home care workforce council.

SECTION 88. Chapter 211D of the General Laws is hereby amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. The committee shall establish policies and procedures to provide fair compensation to private counsel, which shall include a remedy for an attorney aggrieved by the amount of payment. The committee shall also establish an audit and oversight department to monitor billing and private attorney compensation. All invoices shall be processed for payment within 30 days of receipt by the chief counsel. Bills shall be submitted to the committee within 60 days of the conclusion of a case or, if the case is pending at the end of the fiscal year, within 30 days after the end of such fiscal year. The amount of payment for invoices received by the chief counsel more than 60 days but less than 90 days after the final disposition of the case or more than 30 days but less than 90 days after the end of the fiscal year shall be reduced by 10 per cent. Bills submitted after such date need not be processed for payment within 30 days. For all bills not submitted to the committee within 90 days after the conclusion of a case or, if the case is pending at the end of the fiscal year, within 90 days after the end of the fiscal year, those bills so submitted after such date shall not be processed for payment; provided, however, that the chief counsel may authorize the payment of such bills either in whole or in part upon a determination that the delay was due to extraordinary circumstances beyond the control of the attorney. The committee may further prescribe such policies and procedures for payment as it deems appropriate; provided, however, that the committee may impose interest and penalties, where appropriate, upon overpayment of the private attorney bills recovered from private attorneys.

SECTION 89. Section 23D of chapter 217 of the General Laws, as so appearing , is hereby amended by striking out, in line 14, the figure "6" and inserting in place thereof the following figure:- 8

SECTION 90. Section 6E of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "justices of the superior court" and inserting in place thereof the followings words:- clerk of courts for the county of Worcester.

SECTION 91. Section 6F of said chapter 221, as so appearing, is hereby amended by striking out, in line 1, the words "justices of the superior court" and inserting in place thereof the following words:- clerk of courts for the county of Worcester.

SECTION 92. Section 6K of said chapter 221, as so appearing, is hereby amended

by striking out, in line 1, the words "justices of the superior court" and inserting in place thereof the following words:- clerk of courts for the county of Hampden.

SECTION 93. Section 6L of said chapter 221, as so appearing, is hereby amended by striking out, in line 1, the words "justices of the superior court" and inserting in place thereof the following words:- clerk of courts for the county of Hampden.

SECTION 94. Section 86 of said chapter 221, as so appearing, is hereby amended by adding the following sentence:- Transcription costs shall be paid as provided in section 88.

SECTION 95. Section 88 of said chapter 221, as so appearing, is hereby amended by striking out, in line 11, the words "commonwealth upon voucher approved by him," and inserting in place thereof the following words:- administrative office of the trial court upon a voucher approved by the presiding justice.

SECTION 96. Said section 88 of said chapter 221, as so appearing, is hereby further amended by adding the following sentence:- If the presiding justice orders that a statement given to the police be transcribed, all parties shall receive a copy, and payment therefor shall be at the same rate and made by the administrative office of the trial court upon a voucher approved by the presiding justice.

SECTION 97. Chapter 262 of the General Laws is hereby amended by striking out section 40, as so appearing, and inserting in place thereof the following section:-

Section 40. The fees of registers of the probate and family court department of the trial court shall be as follows:

for the entry of a complaint for divorce or for affirming or annulling marriage, except as provided hereinafter for an action in equity, \$200;

for the entry of an action for separate support, \$100;

for the issuance of a contempt summons, \$5;

for the entry of a petition for the probate of a will, for administration of the estate of a person deceased intestate, for administration of goods not already administered, with the will annexed or otherwise, of a petition under section 35 or 36 of chapter 209 by a husband or wife for authority to convey land as if sole, for change of name, for leave to carry on the business of the deceased and for the appointment of a special administrator, trustee, receiver of the estate of an absentee, or conservator except when the conservator petition is filed concurrently with a petition for removal, resignation, or termination of a conservator, \$150;

for the entry of a petition to partition, \$255;

for filing a representation of insolvency, \$150;

for the entry of a petition: for leave to lease real estate; for specific performance; for leave to mortgage real estate; for release of dower or courtesy; for letters to a foreign guardian; for leave to compromise and for leave to pay debts, except when the petitioner or accountant certifies that the estate does not exceed \$1,000 in value, \$75;

for filing of a complaint in equity, except such as relates to separate support, adoption or the custody or support of minors, \$240;

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for filing of a complaint in equity related to separate support or the custody or support of minors, \$100;

for the entry of a general petition except such as relates to adoption or custody or support of minors, \$150;

for the entry of a petition for removal of a fiduciary, \$100;

for the amendment of record except such as relates to separate support, adoption or the custody or support of minors, for discharge of surety, for care of burial lot and for erection of a monument, \$60 each;

for new bond and for new inventory, \$75 each;

for filing a statement of voluntary administration, \$100;

for the petition or application for allowance of an account where the gross value accounted for in Schedule A of the account is \$1,000 or less, no fee; where the gross value is more than \$1,000 but not more than \$10,000, \$75 a year; provided, however, that the fees shall not exceed \$170 regardless of the time covered by the account; where the gross value is \$10,000 or more but not more than \$100,000, \$100 for each year or major fraction thereof covered by the account; where the gross value is more than \$100,000 but not more than \$500,000, \$150 for each year or major fraction thereof covered by the account; where the gross value is more than \$500,000 but not more than \$1,000,000, \$200 for each year or major fraction thereof covered by the account; where the gross value is more than \$1,000,000, \$400 for each year or major fraction thereof covered by the account;

for the petition or application for sale of real or personal estate where the gross value accounted for is \$100,000 or less, \$100; where the gross value is more than \$100,000 but not more than \$250,000, \$250; where the gross value is more than \$250,000 but not more than \$500,000, \$500; where the gross value is more than \$500,000 but not more than \$1,000,000, \$750; where said gross value is over \$1,000,000, \$1000;

for filing a motion for change of name, \$100;

for filing a motion for the framing of jury issues, \$140;

for filing a will for safekeeping, \$75; provided, however, that no additional fee shall be charged for filing a will in substitution for a will previously filed and withdrawn;

for filing a bond, \$50;

for issuance of an injunction, \$150;

for issuance of a temporary restraining order, \$100;

for entry of an action for the modification of a judgment relative to all non-child related issues, \$150;

for entry of an action for modification relative to child support, custody, and visitation, except for those actions filed by the IV-D agency for which there is no filing fee, \$50;

for filing a complaint to modify a foreign custody or support decree pursuant to section 29 of chapter 208, except for those complaints filed by the IV-D agency for which there is no filing fee, \$100;

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for application of leave to deposit certain funds pursuant to section 27 of chapter 206, \$200; and

for filing a complaint to establish paternity or for custody-support-visitation, except for those actions filed by the IV-D agency for which there is no filing fee, \$100;

Notwithstanding this section, no fee shall be charged for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support.

SECTION 98. Chapter 272 is hereby amended by striking out section 53, as so appearing, and inserting in place thereof the following section:-

Section 53. (a) Common night walkers, common street walkers, both male and female, persons who with offensive and disorderly acts or language accost or annoy persons of the opposite sex, lewd, wanton and lascivious persons in speech or behavior, keepers of noisy and disorderly houses, and persons guilty of indecent exposure shall be punished by imprisonment in a jail or house of correction for not more than 6 months, or by a fine of not more than \$200, or by both such fine and imprisonment.

(b) Disorderly persons and disturbers of the peace, for the first offense, shall be punished by a fine of not more than \$150. On a second or subsequent offense, such person shall be punished by imprisonment in a jail or house of correction for not more than 6 months, or by a fine of not more than \$200, or by both such fine and imprisonment.

SECTION 99. Section 87A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, the figure "\$20" and inserting in place thereof the following figure:- \$45.

SECTION 100. Said section 87A of said chapter 276, as so appearing, is hereby further amended by striking out, in line 56, the figure "\$1" and inserting in place thereof the following figure:- \$5.

SECTION 101. Chapter 27 of the acts of 1969 is hereby amended by striking out section 2, as amended by chapter 524 of the acts of 2008, and inserting in place thereof the following section:-

Section 2. Section 8 of chapter 210 of the General Laws as amended by section 1 of this act shall be applicable only to grants, trust settlements, entails, devises or bequest executed after September 1, 1969.

SECTION 102. Chapter 27 of the acts of 1969 is hereby further amended by striking out section 2, as amended by the preceding section, and inserting in place hereof the following:-

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 July 1, 2010 under testamentary instruments executed before September 1, 1969.

SECTION 103. The second paragraph of section 1 of chapter 395 of the acts of 2002 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The purchase price payable to the Taunton Development Corporation

for the parcel shall be the full and fair market value of the property less any environmental cleanup 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.

SECTION 104. Section 5 of chapter 210 of the acts of 2004 is hereby repealed.

SECTION 105. Item 1100-8000 of Section 2B of chapter 123 of the acts of 2006 is hereby amended by adding at the end the following words:- provided further, that notwithstanding any general or special law to the contrary, in the procurement of design and construction services for such bio-processing facility pursuant to this item, the University of Massachusetts Building Authority may use an alternative mode of procurement of design and construction, including but not limited to, sequential construction management, turnkey, design/build procurement and the phasing of such procurement, including, but not limited to, approval of design and construction stages as separate for combined phases; provided further, that the University of Massachusetts Building Authority shall require the assurance of labor harmony during all phases of development, including construction, reconstruction and capital and routine maintenance and shall provide adequate remedies to address the failure to maintain labor harmony which shall include, but not be limited to, assessment of liquidated damages and contract termination; and provided further, that the payment of prevailing wages, in accordance with sections 26 to 27F, inclusive, of chapter 149 of the General Laws, shall be required for all phases of these projects.

SECTION 106. Section 3 of chapter 258 of the acts of 2006 is hereby amended by adding the following subsection:-

(g) The state auditor shall appoint, on or before August 1, 2009, 1 member for a term of 1 year, 1 member for a term of 2 years and 1 member for a term of 3 years.

SECTION 107. Section 56 of chapter 302 of the acts of 2008 is hereby amended by striking out the words:- “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” and inserting in place thereof the following words:- and 8 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; 1 of whom shall be a representative from the department of correction; 1 of whom shall be the executive director of the interagency council on substance abuse and prevention; 1 of whom shall be a representative from the office of community corrections; and 1 of whom shall be a representative from the department of mental health.

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SECTION 108. Said section 56 of said chapter 302 is hereby further amended by striking out the words “January 1, 2009” and inserting in place thereof the following words: - October 1, 2009.

SECTION 109. Notwithstanding any general or special law to the contrary, except to the extent otherwise required by chapter 4 of the acts of 2009 or other provisions of law, and until such time as the department adopts regulations pursuant to and in conformity with section 30 of chapter 23B of the General Laws and other applicable laws, the department of housing and community development shall administer the emergency housing assistance program pursuant to 106 C.M.R. sections 204, 309, 701.310 to 701.330, inclusive, 701.350 to 701.360, inclusive, and 701.380 to 701.390, inclusive, in effect on June 30, 2009.

SECTION 110. Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, functions, proceedings, rules and regulations, property and legal obligations of the economic stabilization trust from the Commonwealth Corporation to the executive office of housing and economic development. The economic stabilization trust, transferred to the Commonwealth Corporation by section 64 of chapter 365 of the acts of 1996, is hereby transferred to the executive office of housing and economic development. The trust shall continue as a quasi-public instrumentality of the commonwealth, with all the legal powers, authority, responsibilities, duties, rights and obligations vested in the trust by sections 8 to 16, inclusive, of chapter 23D of the General Laws.

SECTION 111. Notwithstanding any general or special law to the contrary, the state comptroller shall, according to a schedule developed in consultation with the state treasurer and the secretary of the executive office for administration and finance, transfer \$372,000,000 from the General Fund to the State Retiree Benefits Trust Fund established by section 24 of chapter 32A of the General Laws.

SECTION 112. Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2010, transfer funds from any item of appropriation within the trial court, except items 0339-1001 and 0339-1003, to any other item of appropriation within the trial court, except items 0339-1001 and 0339-1003. These transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. The schedule shall include the following: (1) the amount of money transferred from any item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

SECTION 113. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2010, the office of the inspector general may continue to expend funds

from the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws, for the costs associated with maintaining a pool audit unit within the office. The unit shall continue to oversee and examine the practices in all hospitals including, but not limited to, the care of the uninsured and the resulting free care charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2010. For the purposes of these audits, allowable free care services shall be defined pursuant to said chapter 118G and any regulations adopted thereunder.

SECTION 114. (a) Notwithstanding any general or special law to the contrary, upon the request of the board of selectmen in a town, the city council in a plan E city, or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2010. Based on the criteria established in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of elementary and secondary education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which will not be available for use in the next fiscal year or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor or whose fiscal year 2008 actual local contributions were lower than the amounts calculated in the one-time adjustment used pursuant to the fiscal year funding formula under chapter 70 of the General Laws, may appeal to the department of revenue not later than October 1, 2009, for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2010 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of elementary and secondary education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief

granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a plan E city, the mayor in any other city, or a majority of the member municipalities of a regional school district, which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the department of revenue not later than October 1, 2009, for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of elementary and secondary education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined pursuant to this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of elementary and secondary education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized pursuant to this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2010 pursuant to chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution pursuant to this section.

(j) The department of revenue and the department of elementary and secondary education shall issue guidelines for their respective duties pursuant to this section.

SECTION 115. Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to subdivision (1) of section 22C of chapter 32 of the General Laws shall be made available for the commonwealth's Pension Liability Fund established by section 22 of said chapter 32. The amounts transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant

to said section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, for the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32 and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town, county and district shall verify these costs, subject to the rules adopted by the state treasurer. The state treasurer may make payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers, including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and also including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to clause (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this section shall be made only pursuant to distribution of monies from the fund, and any distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the secretary of the executive office for administration and finance with the house and senate committees on ways and means and the joint committee on public service in advance of this distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. The state board of retirement may expend an amount for the purposes of the board of higher education's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund, established by subdivision (8) of section 22 of said chapter 32, for the purpose of reducing the unfunded pension liability of the commonwealth.

SECTION 116. Notwithstanding any general or special law to the contrary, the executive office of health and human services, in this section called the executive office, acting in its capacity as the single state agency under Title XIX of the Social Security Act and as the principal agency for all of the agencies within the executive office and other federally-assisted programs administered by the executive office, may enter into interdepartmental services agreements with the University of Massachusetts Medical School to perform activities that the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of Title XIX and other federal funding provisions to support the programs and activities of the executive office. These activities may include: (1) providing administrative services including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities and similar initiatives; (2) providing consulting services related to quality assurance, program evaluation and development, integrity and soundness and project

management; and (3) providing activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts Medical School relative to federally-reimbursable services the university provides under these interdepartmental service agreements or other contracts with the executive office shall be distributed to the university and recorded distinctly in the state accounting system. The secretary may negotiate contingency fees for activities and services related to the purpose of pursuing federal reimbursement or avoiding costs and the comptroller shall certify these fees and pay them upon the receipt of this revenue, reimbursement or demonstration of costs avoided. Contracts for contingency fees shall not extend longer than 3 years and shall not be renewed without prior review and approval from the executive office for administration and finance. The secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2010; provided, however, that contingency fees paid to the University of Massachusetts Medical School under the terms of any interagency service agreement for recoveries related to the special disability workload projects shall be excluded from that \$40,000,000 limit for fiscal year 2010. The secretary of the executive office shall submit to the secretary of the executive office for administration and finance and the senate and house committees on ways and means a quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the university, the amounts spent on personnel and the amount of federal reimbursement and recoupment payments that the university collected.

SECTION 117. Notwithstanding any general or special law to the contrary, the secretary of health and human services, may, consistent with federal law, pursue an alternative payment demonstration project with 1 or more hospitals or hospital systems in the commonwealth. For the purposes of this section, "alternative payment" shall mean a methodology that establishes an aggregate prospective payment to cover the total cost of a defined set of health care services provided by a hospital or hospital system, creating incentives for such providers to integrate services, manage costs and utilization and ensure high-quality care. In implementing any such alternative payment demonstration project, the secretary shall consider using information systems to monitor performance of the hospital or hospital system and apply measures of cost and quality. The secretary shall report to the house and senate committees on ways and means and the joint committee on health care financing 30 days prior to implementing said demonstration project: (1) the type of alternative payment system to be demonstrated; and (2) the projected costs associated with the implementation of said demonstration project.

SECTION 118. Notwithstanding any general or special law to the contrary, the nursing home assessment established by subsection (b) of section 25 of chapter 118G of the General Laws shall be sufficient in the aggregate to generate \$220,000,000 in fiscal year 2010.

SECTION 119. (a) Notwithstanding any general or special law to the contrary, on or before October 1, 2009 and without further appropriation, the comptroller shall transfer

from the General Fund to the Health Safety Net Trust Fund, established pursuant to section 36 of chapter 118G of the General Laws and in this subsection referred to as the fund, the greater of \$45,000,000 or one-twelfth the total expenditures to hospitals and community health centers as required by subsection (b), for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2009. These payments shall be made to hospitals before, and in anticipation of, the payment by hospitals of their gross liability to the fund. The comptroller shall transfer from the fund to the General Fund not later than June 30, 2010, the amount of the transfer authorized by this subsection and any allocation thereof as certified by the director of the health safety net office.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the state treasurer, the secretary of administration and finance and the secretary of health and human services, develop a schedule for transferring funds among the General Fund, the Commonwealth Care Trust Fund established pursuant to section 2000 of chapter 29 of the General Laws, and the Health Safety Net Trust Fund. Not less than \$591,685,136 shall be transferred from the General Fund to the Commonwealth Care Trust Fund. The hospital fiscal year 2010 payment amount to each hospital shall be funded by the Health Safety Net Trust Fund. Payments may be made either as safety net care payments under the commonwealth's 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination thereof. The executive office of health and human services and the health safety net office may use other federally permissible funding mechanisms available for public service hospitals, as defined in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources distinct from the funding made available to the Health Safety Net Trust Fund. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of these funds. The transfers shall not begin before July 1, 2009 and shall be completed on or before June 30, 2010. The secretary of administration and finance, in consultation with the secretary of health and human services and the executive director of the commonwealth health insurance connector, shall on a quarterly basis evaluate the revenue needs of the health safety net program funded by the Health Safety Net Trust Fund and the Commonwealth Care subsidized health insurance program funded from the Commonwealth Care Trust Fund, and if necessary, transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to support projected program expenditures. The secretary of health and human services in consultation with the secretary of administration and finance and the executive director of the commonwealth health insurance connector, shall submit a quarterly report to the house and senate committees on ways and means and joint committee on healthcare financing which shall include, but not be limited to, the projected and actual expenditures and revenues for the Commonwealth Care Trust Fund and any transfers made between the Health Safety Net Trust Fund and the Commonwealth Care Trust Fund.

(c) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office of administration

and finance and the executive office of health and human services, develop a schedule and make a series of transfers not to exceed \$399,000,000 from the General Fund to the MassHealth provider payment account in the Medical Assistance Trust Fund, established pursuant to section 2QQQ of chapter 29 of the General Laws, if the comptroller has determined that General Fund revenues are sufficient to accommodate the schedule of transfers. These funds may be expended only for services provided during state or federal fiscal year 2010, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund may be expended on payments described in the 1115 demonstration waiver for services provided during state fiscal year 2010 or payments described in the state plan for services provided during federal fiscal year 2010. All payments from the Medical Assistance Trust Fund shall be subject to the availability of federal financial participation, shall be made only in accordance with federally-approved payment methods, shall be consistent with federal funding requirements and all federal payment limits as determined by the secretary of health and human services, and shall be subject to the terms and conditions of an agreement with the executive office of health and human services. Any increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2010 shall be made only after the secretary of health and human services certifies that any increase in payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver spending. The secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the house and the joint committee on healthcare financing for any increases in payments within 15 days. The secretary of the executive office of health and human services shall make a payment of up to \$265,000,000 from the Medical Assistance Trust Fund to the Cambridge public health commission for dates of service in state and federal fiscal year 2010 only after the Cambridge public health commission transfers up to \$106,000,000 of its funds to the Medical Assistance Trust Fund, using a federally permissible source of funds which shall fully satisfy the nonfederal share of such payment. Notwithstanding any provision to the contrary, for state and federal fiscal year 2010, such payment to the Cambridge public health commission from this fund may include an amount up to \$20,000,000 for which no intergovernmental transfer is required, but for which federal financial participation is otherwise available.

SECTION 120. Effective January 1, 2009, no amendment of 114.3 CMR 20.00 shall take effect until the division of health care finance and policy has certified that it has conducted its mandated biennial review of all of the services and procedures, as provided in section 7 of chapter 118G of the General Laws, with data and testimony that: (1) explains and supports any rates that are not subject to adjustment; and (2) establishes the statutory basis that explains and supports any rates that are adjusted.

SECTION 121. Notwithstanding any general or special law to the contrary, an eligible individual pursuant to section 3 of chapter 118H of the General Laws shall not include persons who cannot receive federally-funded benefits under sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended, for fiscal year 2010. The Commonwealth Health Insurance

Connector Authority shall provide notice at least 30 days prior to termination of benefits for any member pursuant to this section.

SECTION 122. Notwithstanding any general or special law to the contrary, and in order to maintain the fiscal viability of the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the prescription advantage program, authorized by section 39 of chapter 19A of the General Laws, cost-sharing required of enrollees in the form of co-payments, premiums and deductibles, or any combination thereof, may be adjusted by the executive office of elder affairs to reflect price trends for outpatient prescription drugs, as determined by the secretary of elder affairs. In addition to the eligibility requirements set forth in said section 39 of said chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program shall also be enrolled in a Medicare prescription drug plan, a Medicare Advantage prescription drug plan or in a plan which provides creditable prescription drug coverage as defined in section 104 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, Pub. L. No. 108-173, hereinafter referred to as “MMA,” and which provides coverage of the cost of prescription drugs actuarially equal to or better than that provided by Medicare Part D, hereinafter referred to as a “creditable coverage” plan. In addition to the eligibility requirements set forth in said section 39 of said chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for or are enrolled in the prescription advantage program shall apply for the low-income subsidy provided under MMA Subpart P: Premium and Cost-Sharing Subsidies for Low-income Individuals, if such individuals qualify for such subsidy. To the extent permitted by MMA, regulations promulgated thereunder, and all other applicable federal law, the prescription advantage program may apply on behalf of a member for enrollment into a Medicare prescription drug plan or for the low-income subsidy provided under MMA, and may receive information about the member’s eligibility and enrollment status necessary for the operation of the prescription advantage program. For enrollees who qualify for enrollment in a Medicare Part D plan, the prescription advantage program shall provide a supplemental source of financial assistance for prescription drug costs, hereinafter referred to as “supplemental assistance,” in lieu of the catastrophic prescription drug coverage provided pursuant to said section 39 of said chapter 19A. The prescription advantage program shall provide supplemental assistance to eligible individuals enrolled in a Medicare prescription drug plan, Medicare Advantage prescription drug plan, or a plan offering creditable coverage, and may do so to assist with premiums, deductibles, payments or co-payments that are required by such plans. The executive office shall establish the amount of the supplemental assistance to be provided to enrollees based on a sliding income scale and the coverage provided by the enrollees’ Medicare prescription drug plan, Medicare Advantage prescription drug plan or creditable coverage plan. In addition to the eligibility requirements set forth in said section 39 of said chapter 19A, to be considered eligible for the prescription advantage

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program, an individual shall have a household income of less than 500 per cent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). Residents of the commonwealth who are not eligible for Medicare shall continue to be eligible for the prescription advantage program pursuant to said section 39 of said chapter 19A.

SECTION 123. Notwithstanding any general or special law to the contrary, the formula for application of funds provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2010.

SECTION 124. Notwithstanding any general or special law to the contrary, the comptroller shall, not later than June 30, 2010, transfer \$199,000,000 to the General Fund from the Commonwealth Stabilization Fund, established by section 2H of chapter 29 of the General Laws, but the comptroller shall instead transfer a lesser amount if the secretary of the executive office for administration and finance so requests in writing.

SECTION 125. Notwithstanding any general or special law to the contrary, the state comptroller shall, not later than June 30, 2010, transfer the interest earned from the Commonwealth Stabilization Fund during fiscal year 2010 to the General Fund.

SECTION 126. Notwithstanding any general or special law to the contrary, during fiscal year 2010 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal year to the Commonwealth Stabilization Fund, established by section 2H of chapter 29 of the General Laws, as otherwise required pursuant to clause (a) of section 5C of said chapter 29.

SECTION 127. No section 127.

SECTION 128. (a) Notwithstanding any general or special law to the contrary, any successor agreement to the current collective bargaining agreement for employees of the state police executed by the commonwealth, acting by and through the secretary of administration and finance, and the State Police Association of Massachusetts shall not include benefits pursuant to the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws. Nothing in this section shall preclude regular full-time members of the state police otherwise eligible for participation in the career incentive pay program established pursuant to said section 108L of said chapter 41 from participating in the program subject to appropriation.

(b) Notwithstanding any general or special law to the contrary, any current regular full-time member of the state police who has not started accumulating points pursuant to said section 108L of said chapter 41, as of September 1, 2009, shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41; provided, however, that any current regular full-time member of the department of state police who has begun to accumulate points pursuant to said section 108L of said chapter 41 of the General Laws as of September 1, 2009 shall be allowed to accumulate the maximum number of points permissible pursuant to said section 108L of said chapter 41.

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(c) Notwithstanding any general or special law to the contrary, regular full-time members of the state police hired on or after July 1, 2009 shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41 of the General Laws.

SECTION 129. The following agencies or authorities which, as a result of the governor's actions to reduce allotments under section 9C of chapter 29 of the General Laws in fiscal year 2009, assumed or were assigned the responsibility for programs or other services which were otherwise funded in the fiscal year 2009 general appropriation act or a supplementary appropriation act prior to the governor's actions to reduce allotments under said section 9C of said chapter 29, shall continue their contribution for said programs or services in fiscal year 2010:

(a) the Massachusetts Housing Finance Authority, the Massachusetts rental voucher program and subsidies for interest payments on affordable housing bonds;

(b) the Massachusetts Development Finance Authority, the chapter 43D Expedited Permitting Grants and Small Business Technical Assistance Grants;

(c) the Massachusetts Educational Finance Authority, the McNair Scholarship Program;

(d) the Massachusetts Housing Partnership, the Soft Second Mortgage Program and the 40B Technical Assistance Program;

(e) the Massachusetts Convention Center Authority, the Massachusetts Office of Travel and Tourism Marketing program;

(f) the Massachusetts Health Insurance Connector Authority, the MassHealth Outreach Enrollment Grants;

(g) the Commonwealth health and educational facilities authority, the MassHealth Outreach Enrollment Grants; and

(h) the Massachusetts Technology Collaborative, the Massachusetts International Trade Council Funding.

SECTION 130. 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 the executive office for administration and finance that sufficient funds are available:

(a) \$10,000,000 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established in section 35FF of chapter 10 of the General Laws;

(b) \$5,000,000 from the Workforce Competitiveness Trust Fund, established in section 2WWW of chapter 29 of the General Laws;

(c) \$7,000,000 from the Smart Growth Housing Trust Fund established in section 35AA of chapter 10 of the General Laws;

(e) \$3,000,000 from the County Registers Technological Fund, established in section 2KKK of chapter 29 of the General Laws;

(f) \$3,000,000 from the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund established in section 2MMM of chapter 29; and

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(g) \$3,000,000 from the Commonwealth Covenant Fund established in section 35EE of chapter 10 of the General Laws.

Transfers under this section shall be made not later than June 30, 2010.

SECTION 131. Notwithstanding any general or special law to the contrary, the department of environmental protection shall transfer \$4,000,000 of funds previously appropriated or loans repaid as a result of item 1231-1020 of section 2 of chapter 151 of the acts of 1996 to the lead paint abatement program established by section 197E of chapter 111 of the General Laws.

SECTION 132. Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the District Local Technical Assistance Fund, established by section 2XXX of chapter 29 of the General Laws.

SECTION 133. (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 2009 as follows: (i) the comptroller shall transfer \$10,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; and (ii) the remaining balance shall be transferred from the General Fund to the Stabilization Fund.

(b) Notwithstanding any general or special law to the contrary, the total administrative and operational expenses of the Massachusetts Life Sciences Center established in section 3 of said chapter 23I shall not exceed \$3,000,000 for fiscal year 2010; provided, however, that said center shall report on the center's annual operating expenses including, but not limited to: payroll costs, contracted personnel costs, consultant costs, travel costs, pension and insurance costs, office related expenses, lease costs, facility operating expenses, energy costs and costs of equipment leases and maintenance. Said center shall file a report with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies on or before February 28, 2010.

(c) All transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances, provided that no such transfer shall cause a deficit in any of the funds.

SECTION 134. Notwithstanding federal income tax treatment to the contrary, for purposes of chapters 62 and 63 of the General Laws, the rules of section 382 of the Internal Revenue Code shall be applied without regard to the treatment of a change in ownership of a bank or other corporation provided in Internal Revenue Service Notice 2008-83 or in any federal statutory or administrative codification, supplement or implementation of such Notice. For purposes of said chapters 62 and 63, Internal Revenue Service Notice 2008-83 and any such codification, supplement or implementation shall have no force or effect in any taxable year.

SECTION 135. Notwithstanding federal income tax treatment to the contrary, for purposes of chapters 62 and 63 of the General Laws, section 382(n) of the Internal Revenue Code, inserted by the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, shall have no force or effect in any taxable year.

SECTION 136. Notwithstanding any general or special law to the contrary, the operational services division, which, under section 22N of chapter 7 of the General Laws, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set those prices in fiscal year 2010 at the same level calculated for fiscal year 2009, except the prices for those programs for extraordinary relief and reconstruction, as defined in the division's regulations; provided, however, that programs for which prices in fiscal year 2009 were lower than the full amount permitted by the division may charge in fiscal year 2010 the full price calculated for fiscal year 2009; provided further, that the operational services division shall authorize a minimum price for the program to charge out-of-state purchasers; and provided further that, upon request of a program, the division shall determine the minimum price for out-of-state purchasers by identifying the most recent price calculated for the program and applying the estimated rates of inflation which are established by December 1 of each year pursuant to said section 22N of said chapter 7 in a compounded manner for each fiscal year following the most recent calculated price.

SECTION 137. Notwithstanding any general or special law to the contrary, the commonwealth hereby designates the Massachusetts School Building Authority, established in section 1A of chapter 70B of the General Laws, to allocate to governmental issuers of bonds within the commonwealth, pursuant to section 54F(d)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, including to said authority, the limitation amount allocated to the commonwealth by the United States Department of the Treasury, but not including the amount allocated to large local educational agencies pursuant to section 54F(d)(2) of said act except to the extent that any such large local educational agency reallocates amounts to the commonwealth pursuant to said section 54F(d)(2), in which case such reallocated amounts shall also be allocated by said authority. Notwithstanding section 89 of chapter 71 of the General Laws, or any other general or special law to the contrary, the Massachusetts School Building Authority may, in its discretion, distribute to charter schools proceeds from bonds authorized under section 54F(d)(1) of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, or make a portion of the allocation available to other issuers on behalf of charter schools.

SECTION 138. (a) Notwithstanding any general or special law to the contrary, upon the effective date of this act, the comptroller shall make a transfer from the General Fund to the Commonwealth Transportation Fund, established pursuant to section 2ZZZ of chapter 29, totaling \$275,000,000. The secretary of administration and finance, in concurrence with the secretary of transportation and public works, shall ensure that \$100,000,000 shall be transferred to the Massachusetts Turnpike Authority or its successor in interest in fiscal year 2010 and, to provide for and secure this payment obligation, the secretary of administration and finance, on behalf of the commonwealth, shall, with the concurrence of the secretary of

transportation and public works, enter into a contract with the authority before July 1, 2009 providing for the payment of that amount to said authority or its successor in interest in each fiscal year for the purpose of defraying costs, including debt service on bonds heretofore or hereafter issued by the authority or its successor in interest to finance or refinance improvements to the metropolitan highway system. The term of this contract shall extend until the last fiscal year in which any such bonds issued before the date of the contract are scheduled to mature. These payments may be treated as revenues of the authority or of its successor in interest within the meaning of section 6 of chapter 81A of the General Laws and the authority or its successor in interest may pledge such contract and the rights of the authority or its successor in interest to receive amounts thereunder as security for the payment of the bonds issued before the date of the contract or of any bonds or notes issued by the authority or its successor in interest to refinance those bonds. This contract 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 authority or its successor in interest and of the holders of any bonds or notes secured by a pledge of such contract or of amounts to be received by the authority or its successor in interest under the contract. The payment obligation and contract securing it provided for in this section shall be in addition to the payment obligation provided for under section 12 of said chapter 81A of the General Laws and the contract securing it under said section 12.

(b) The remaining amount transferred under this section shall be distributed to the Massachusetts Bay Transportation Authority and regional transit authorities according the following parameters:

(i) \$160,000,000 shall be transferred to the Massachusetts Bay Transportation Authority or any fund controlled by the authority in each fiscal year; and

(ii) \$15,000,000 shall be transferred to regional transit authorities organized under chapter 161B or predecessor statutes in each fiscal year.

(c) Notwithstanding any general or special law to the contrary, no contract shall be entered into providing for transferring and securing the additional payment obligation provided for in this section unless the board of the Massachusetts Turnpike Authority has first adopted a budget for fiscal year 2010 that provides for no new toll increase to take effect in fiscal year 2010 in the event that \$100,000,000 is transferred to the authority and secured in accordance with this section.

SECTION 139. Notwithstanding section 2ZZZ of chapter 29 or any other general or special law to the contrary, during fiscal year 2010, the Commonwealth Transportation Fund may pay for operating expenses of the executive office of transportation, the highway department and the registry of motor vehicles appropriated in the General Appropriations Act until the Massachusetts department of transportation is able to exercise spending authority over those agencies, which shall be not later than November 1, 2009.

SECTION 140. Notwithstanding any general or special law to the contrary, the governor or secretary of administration and finance shall ensure that the allotments provided

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under section 9B of chapter 29 to an agency within the executive office of transportation shall not exceed, and an agency shall not expend in excess of, one quarter of the appropriation for fiscal year 2010 for the agency in each quarter.

SECTION 141. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the state treasurer, the secretary of administration and finance and the secretary of the Massachusetts Department of Transportation, develop a schedule for transferring remaining funds not obligated for debt service, contract assistance or otherwise expended from the Commonwealth Transportation Fund established pursuant to section 2ZZZ of chapter 29 of the General Laws, to the Massachusetts Transportation Trust Fund. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of these funds. The transfers shall not begin before November 1, 2009 and shall be completed on or before June 30, 2010.

SECTION 142. Notwithstanding any general or special law to the contrary, applications for assistance from the emergency housing program established in section 30 of chapter 23B of the General Laws shall be taken and processed at offices of the department of transitional assistance until the department of housing and community development develops an operational plan ensuring that convenient access to emergency housing assistance will not be impaired by any alternative arrangement. The department of housing and community development shall provide the joint committee on children, families and persons with disabilities, the joint committee on housing and the house and senate committees on ways and means with 180 days advance notice of any proposal to stop making emergency housing assistance accessible in offices of the department of transitional assistance. The department of housing and community development shall provide said committees with a copy of the operational plan and, in cooperation with the department of transitional assistance, an analysis of the impact of such plan on the ability of homeless and at-risk families to conveniently access emergency housing assistance, food stamps and cash assistance. Nothing in this section shall prevent the department from making emergency housing assistance available at locations in addition to offices of the department of transitional assistance.

SECTION 143. The department of conservation and recreation shall conduct an environmental study in the city of Worcester and in certain other towns within the county of Worcester to determine the long-term effects due to the eradication process for the permanent removal of the Asian longhorned beetle. The area of study shall include the city of Worcester and other towns within the county of Worcester including Boylston, Holden, Shrewsbury and West Boylston. The study shall determine the impact on the immediate environment, and shall include the replacement of a natural barrier, the restoration of indigenous wildlife, the cost of such remediation and long-term planning and solutions. The department of conservation and recreation 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

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house of representatives and senate and the joint committee on environment, natural resources and agriculture by December 31, 2009.

SECTION 144. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Commissioner", the commissioner of capital asset management and maintenance.

"Developer", a person, entity or governmental body that acquires an ownership or leasehold interest in the site or any portion thereof pursuant to this section.

"Division", the division of capital asset management and maintenance.

"MDC committee", the Monson Developmental Center Reuse Committee, which shall include 3 representatives of the town of Monson, 1 of whom shall be a member of the Monson board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Monson planning board or his designee, and 1 of whom shall be chosen by the Monson board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; and 1 representative of Parents and Friend. Such members shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.

"MDC site," the area of state-owned land located in the town of Monson known as the Monson Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

"Plan", a reuse plan prepared by the MDC committee and TDC committee which shall be approved by the commissioner and filed in accordance with subsection (b); provided, however, that the plan may be enhanced, refined or amended from time to time as provided in this section and shall include uses that promote environmental preservation, open space and any other use found to be appropriate by the town and the committee.

"Selection committee", the proposal selection committee established to review proposals and make recommendations to the commissioner, which shall include 1 representative of the respective town chosen by the board of selectmen to be appointed annually; 1 representative of the division of capital asset management and maintenance; 1 representative from the MDC committee; and 1 representative from the TDC committee.

"TDC committee", the Templeton Developmental Center Reuse Committee, which shall include 3 representatives of the town of Templeton, 1 of whom shall be a member of the Templeton board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Templeton planning board or his designee, and 1 of whom shall be chosen by the Templeton board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; and 1 representative of the legal guardians of the clients currently housed at Templeton Developmental Center. Such members shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.

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"TDC site", the area of state-owned land located in the town of Templeton known as the Templeton Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

(b) The commissioner shall undertake planning, studies and preparation of plans and specifications necessary to carry out the provisions of this section consistent with the plan. The TDC committee and MDC committee shall file the plans with the commissioner within 180 days after the effective date of this section. The commissioner shall consult with the TDC committee and the MDC committee on any amendment to the plan and shall develop, issue and advertise requests for proposals consistent with the plan within 90 days of receipt of the plan. Upon receipt of proposals the commissioner shall convene the selection committees for the purpose of reviewing and making recommendations regarding selection to the commissioner. The respective town's governing authority shall be encouraged to submit proposals for uses consistent with the plan for some or all of the property. Should proposals from the municipalities be among those recommended to the commissioner, the commissioner shall reasonably accommodate the schedule required for town meeting votes, should said vote be required to complete or approve a proposal, prior to making any final decisions on the proposals. In regard to TDC, any re-use must be consistent with chapter 504 of the acts of 2002 which limits some uses on the TDC site. Further, any reuse shall be consistent with restrictions resulting from the TDC and MDC sites being listed on the National Historic Register.

(c) The commissioner may, subject to sections 40E to section 40J, inclusive, of chapter 7 of the General Laws, and in accordance with this section and the plan and subject to such terms and conditions as the commissioner may, from time to time, prescribe, solicit, evaluate and select development proposals, enter into land disposition agreements, enter into agricultural leases for up to 5 years, sell, lease for terms of up to 99 years including extensions or otherwise grant, convey or transfer to a developer, any interest in the site or portions thereof and any facilities, associated improvements or appurtenances thereon, on such terms and conditions as the commissioner deems appropriate provided the end use meets the guidelines developed by the MDC committee and the TDC committee. The amount of consideration for the sale, lease or other disposition of any interest in the sites or portion thereof shall be the full and fair market value or the highest and best value of the property determined by independent appraisal. Additionally, the respective towns may to collect property taxes or payments in lieu of taxes if land is leased or sold for taxable uses. The inspector general shall review and comment on 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 said report with the commissioner for submission to the house and senate committees on ways and means and the joint committee on state administration. No less than 2 public comment sessions shall take place. The developer shall be responsible for any costs of appraisals, surveys and other expenses relating to the transfer of the parcel or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel. In the event the parcel of land ceases

to be used at any time for the purposes contained herein as deemed by the appropriate reuse committee, the parcel of land shall revert to the care and control of the division of capital asset management and maintenance and any further disposition of the parcel of land shall be subject to said sections 40E to 40J, inclusive, of said chapter 7. The town that contains the affected property shall retain the right to contend that the current use of the property is not appropriate through action of the local board of selectmen or town meeting vote. The commissioner shall, 30 days before the execution of any agreement or amendment thereto authorized by this section, submit the agreement or amendment and a report thereon to the inspector general for review and comment. No less than 2 public comment sessions shall take place. The inspector general shall issue his review and comment within 30 days after receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration at least 30 days before execution.

(d) The affected town's board of selectmen shall have the right of first refusal before any decision is made as to the reuse or sale of either the land or facilities in each town.

(e) Notwithstanding any general or special law to the contrary, the commissioner may, subject to appropriation, and subject to sections 40E to 40G, inclusive, 40I and 40J of chapter 7 of the General Laws retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of the General Laws, or otherwise, grant by deed, transfer, lease, eminent domain, pursuant to said chapter 79, or otherwise, or grant by deed, transfer, lease or otherwise, any rights-of-way or easements, in, over and beneath the site or portions thereof or other property in the commonwealth contiguous to the site for drainage, access, egress, utilities and other purposes, as the commissioner deems necessary and appropriate to carry out the purposes of this section. The commissioner shall seek advice from the appropriate reuse committee prior to the implementation of any action.

(f) The department of developmental services, with the approval of the commissioner, may enter into contracts for the provision of building management services for buildings and facilities located on the site as deemed by the commissioner and the reuse committee.

(g) Notwithstanding any general or special law to the contrary, the commissioner may employ designers who prepare studies or programs or other design services for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion or repair of buildings on the MDC site and the TDC site to prepare plans and specifications and provide any other design services deemed necessary by the commissioner for such projects. The commissioner shall obtain an independent comprehensive value engineering review of the completed study and program to identify proposed functions of the facility, evaluate the construction cost estimates, calculate estimated life-cycle costs and develop recommended design changes that will produce a more cost-effective facility by modifying or eliminating features that add cost but do not add to the quality, useful life, utility or appearance of the facility. The commissioner shall obtain an independent comprehensive value engineering review of the completed schematic design documents to identify proposed functions of the

facility, evaluate the construction cost estimates, calculate estimated life-cycle costs and develop recommended design changes that will produce a more cost-effective facility by modifying or eliminating features that add cost but do not add to the quality, useful life, utility or appearance of the facility before the acceptance by the commissioner. The commissioner shall document the reasons for accepting, modifying or rejecting all value engineering recommendations.

SECTION 145. (a) There shall be a special water infrastructure finance commission to develop a comprehensive, long-range water infrastructure finance plan for the commonwealth and municipalities.

(b) The commission shall consist of the commissioner of environmental protection or his designee; the state treasurer or his designee; 2 people to be appointed by the president of the senate, 1 of whom shall be a member of the senate and 1 of whom shall be a representative of a planning organization, environmental consumer organization or other public interest organization; 2 people to be appointed by the speaker of the house of representatives, 1 of whom shall be a member of the house of representatives and 1 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 of representatives, 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. Each of those 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 shall serve until the completion of the long-range infrastructure finance plan.

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(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, the Massachusetts water policy and current federal and state funding programs.

(d) 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.

(e) The commission shall develop recommendations as to what funding or finance measures the commonwealth or 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 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.

(f) The commission may hold public hearings to assist in the collection and evaluation of data and testimony.

(g) 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 the executive office of energy and environmental affairs, the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the joint committee on environment, natural resources and agriculture not later than 2 years after the effective date of this act.

(h) Any research, analysis or other staff support that the commission reasonably requires shall be provided by the executive office of energy and environmental affairs and its agencies, with assistance from the Massachusetts Water Resources Authority.

SECTION 146. Notwithstanding any general or special law to the contrary, there shall be a 17 member Massachusetts regionalization advisory commission consisting of the following members: the secretary of the executive office for administration and finance, or his designee, who shall serve as chair of the commission; the secretary of the executive office of health and human services or his designee; the secretary of the executive office of energy and environmental affairs or his designee; the secretary of the executive office of public safety or his designee; the secretary of the executive office of transportation and public works or his designee; the secretary of the executive office of elder affairs or his designee; the secretary of the executive office of veterans' affairs or his designee; the secretary of the executive office of labor and workforce development or his designee; the secretary of the executive office of education or his designee; the secretary of the executive office of housing and economic development or his designee; the president of the senate or his designee; the speaker of the house of representatives or his designee; a representative from the metropolitan area planning council; a representative from the Massachusetts Municipal Association; and 3 members to be appointed by the governor all of whom shall have knowledge and experience in 1 or more of the following areas: municipal government and services, municipal agreements, shared services or regionalization. Each member shall serve without compensation.

The commission shall review all aspects of regionalization including possible opportunities, benefits and challenges to regionalizing services within the commonwealth. The commission shall consider the costs and effects of regionalizing all services including, but not limited to: education, public safety, public health, public works, housing, veterans' services, workforce development, municipal finance and structure, elder services and transportation.

The commission shall submit its finding and recommendations for regionalizing services, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on municipalities and regional government not later than April 30, 2010.

SECTION 147. In the case of retail sales of gas, steam, electricity or telecommunications services, billed on a recurring basis, the rate stated in section 2 of chapter 64H of the General Laws and section 2 of chapter 64I of the General Laws shall apply as of the first billing period starting on or after the effective date.

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SECTION 148. The commissioner of revenue may adopt reasonable transition rules, by regulation or otherwise, including but not limited to the application of the sales and use tax rate increase authorized by this act to: (1) building materials and supplies to be used in construction, reconstruction, alteration, remodeling or repair of any building or structure pursuant to a contract entered into before the effective date of the rate increase or entered into within 60 days after said effective date pursuant to a bid required to be submitted before said date; (2) unconditional written contracts for the sale of tangible personal property subject to sales or use tax entered into before the effective date of the sales and use tax rate increase where such property is delivered not later than 90 days from said effective date; or (3) periodic bills for taxable services including periods before and after the effective date of the rate increase. For purposes of subsection (1), the sale or use must take place before January 1, 2011. For purposes of subsections (1) and (2), sale or use excludes the rental or lease of tangible personal property.

SECTION 149. Section 25 shall take effect as of January 1, 2009 and shall apply to property taxes assessed for fiscal years beginning on or after July 1, 2009. Notwithstanding any general or special law to the contrary, for fiscal year 2010, the assessors of any city or town may assess taxes for any personal property taxable under section 25 not included in the fiscal year 2010 annual tax assessment to its owner in the manner and within the time provided by section 75 or 76 of chapter 59 of the General Laws.

SECTION 150. Chapter 64M of the General Laws, inserted by section 61, shall take effect on August 1, 2009 and shall apply to gross revenues derived by a direct broadcast satellite service provider that are billed to subscribers or customers on or after that date.

SECTION 151. Section 26 shall be effective for taxable years ending on or after January 1, 2009.

SECTION 152. Sections 27, 42, 44 and 49 shall apply to obligations issued after August 31, 2008 in taxable years ending after that date.

SECTION 153. Sections 41, 43 and 48 shall be effective for discharges in taxable years ending after December 31, 2008.

SECTION 154. Sections 50, 51 and 52 shall take effect on August 1, 2009.

SECTION 155. Sections 53, 54, 56, 57, 58 and 59 shall take effect on August 1, 2009.

SECTION 156. Sections 32, 36 and 60 shall take effect on October 1, 2009.

SECTION 157. Section 55 shall take effect on August 1, 2009.

SECTION 158. Sections 28 and 46 shall take effect for motion picture production companies filing film credit applications received by the commissioner on or after January 1, 2009, provided that it shall not apply to motion picture production companies filing sales tax exemption applications, as provided under paragraph (ww) of section 6 of chapter 64H, that are received by the commissioner before June 1, 2009.

SECTION 159. Nothing in section 101 shall affect the validity of any action taken

pursuant to chapter 524 of the acts of 2008 between April 15, 2009 and effective date of this act.

SECTION 160. Section 102 shall take effect on July 1, 2010.

SECTION 161. Except as otherwise specified, this act shall take effect on July 1, 2009.

This bill was returned on June 29, 2009, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein:

Items Disapproved:

SECTION 2:	1599-6425	4510-0716	7061-0011	7061-9634	8910-8200
	8910-8210	8910-8300	8910-8310	8910-8400	8910-8500
	8910-8610	8910-8700	8910-8710	8910-8800	8910-8810

SECTIONS 89, 90, 91, 92, 93, 120, 129, 140, and 145.

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
0321-0100	111,341	1,000,000
0321-2205	506,704	1,000,000
0330-0300	5,763,036	190,422,288
0330-3337	1,892,192	9,300,000
0333-0002	702,478	18,611,265
0335-0001	310,109	6,862,466
0339-1001	9,000,000	122,138,285
0339-1003	788,786	23,404,762
0699-0015	20,986,427	1,804,013,573
0699-0016	996,269	11,003,731
0810-0045	363,636	3,133,588
1201-0118	54,800	5,429,718
1310-1000	466,000	1,459,270
2200-0100	117,228	29,637,373
2200-0107	200,000	275,000
2511-0100	100,000	4,683,708
2511-0105	1,000,000	11,000,000
2800-0501	74,976	13,060,407
2820-0101	250,000	1,291,621
4000-0265	400,000	450,000
4000-0355	133,128	813,128
4000-0500	3,873,282	3,456,559,882
4000-0950	2,311,037	65,688,963

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Item	Reduce by	Reduce to
4200-0200	500,000	23,868,223
4510-0715	250,000	250,000
4510-0810	500,000	3,003,336
4512-0202	2,000,000	2,000,000
4512-0203	1,000,000	1,000,000
4513-1000	100,000	4,655,623
4513-1002	1,100,000	12,465,092
4513-1111	1,159,313	7,295,685
4590-0915	797,000	137,664,607
4800-0038	2,500,000	299,234,364
5046-0000	500,000	309,783,591
5095-0015	600,000	169,333,412
6000-1700	564,146	5,586,841
6005-0015	435,854	44,235,055
6030-7201	7,000,000	58,000,000
7000-9401	2,250,000	12,341,160
7002-0017	114,202	2,783,169
7002-0500	202,534	20,555,968
7003-0605	450,000	450,000
7003-0803	441,231	4,994,467
7004-9005	2,800,000	62,500,000
7004-9316	1,940,000	3,060,000
7006-0040	222,000	2,760,991
7007-0500	210,000	210,000
7007-0951	4,000,000	2,500,000
7007-1000	1,500,000	4,500,000
7030-1002	1,000,000	25,748,947
7061-0012	1,000,000	140,113,160
7061-9604	53,081	1,546,270
7066-0009	67,500	300,000
7100-0200	1,500,000	411,898,263
8000-1700	165,848	21,098,510
8700-1150	449,174	3,582,564
9110-1633	1,500,000	36,068,041
9500-0000	568,921	17,067,606
9600-0000	1,009,726	30,292,914
9700-0000	158,808	6,333,424

Chap. 27**SECTION 2** *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0610-0050	100,000	2,057,305	"; provided further, that \$100,000 shall be expended for the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs"
2810-0100	125,000	46,558,361	"; provided further, that the parkways, boulevards, roadways, bridges and related appurtenances under the care and custody of the metropolitan district commission in fiscal year 2003 shall remain solely under the jurisdiction, custody and care of the department of conservation and recreation"
4000-0600	25,000,000	2,114,610,628	"; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further, care management under section 3 of chapter 211 of the acts of 2006 shall be implemented through Aging & Disability Resource Consortiums, which shall include a combination of 1 or more Aging Services Access Points and Independent Living Centers"
4200-0300	500,000	99,326,675	"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, after March 15, 2009; and provided further, that after March 15, 2009, no charge or contract shall be made with alternate vendors to provide pharmacy services other than the state office of pharmacy services"

8324-0000	2,514,767	14,394,926	<p>"; provided further, that not less than \$1,750,000 shall be provided for the Boston fire department training academy; provided further, that \$100,000 shall be expended to Norfolk county to maintain and improve services of the Norfolk county regional fire & rescue dispatch center"</p> <p>and</p> <p>"; provided further, that \$500,000 shall be provided for the Boston, Cambridge and Everett fire department hazardous material response teams"</p>
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SECTION 2 *Items reduced in amount and by striking the wording and inserting in place thereof the following:*

Item	Reduce by	Reduce to	Wording Stricken
4000-0700	23,374,735	1,607,619,796	<p>"; provided further, that \$25,000,000 shall be expended from this item, or item 4000-0500, if necessary to achieve maximum federal financial participation, to enhance the ability of hospitals, community health centers and primary care clinicians to serve populations in need more efficiently and effectively"</p> <p>and</p> <p>"; provided further, that the executive office shall not, in fiscal year 2010, fund programs relating to case management with the intention of reducing length of stay for neonatal intensive care unit cases; provided further, that the division of health care finance and policy and the executive office of health and human services shall establish a new rate methodology to cover the cost of care provided by any facility licensed by the department of public health as a chronic disease hospital providing services solely to children and adolescents as follows: (1) the rate of reimbursement for any such facility shall be developed collaboratively through an agreement</p>

among the office of Medicaid, the division of health care finance and policy and any such facility; (2) the reimbursement rate for any such facility shall incorporate the following components: (a) utilization of the reimbursement methodology used by the division and the executive office of health and human services to determine payments for Medicaid disproportionate share pediatric hospitals in effect in 2007 utilizing the most recently filed 403 cost report with the division and the payments received from Medicaid eligible patients for the base period; (b) a per-diem rate for inpatient and a payment on account factor for outpatient shall be established which reimburses the full unrecovered cost, including capital; and (c) the rates shall be inflated over the base period by the applicable Medicare market basket inflation factors; and (3) notwithstanding any general or special law to the contrary, in no event shall the rates of payment be lower than the rates in effect for such facility in the prior fiscal year"

Wording Inserted

"; provided further, that \$20,000,000 shall be expended from this item, or item 4000-0500, if necessary to achieve maximum federal financial participation, to enhance the ability of hospitals, community health centers and primary care clinicians to serve populations in need more efficiently and effectively"

SECTION 2 *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
1000-0001	"; provided further, that notwithstanding any general or special law to the contrary, the comptroller shall deduct \$1,000 from any item of appropriation in section 2 in which a reporting requirement is stipulated within such item and which report is not filed within 10 days of the stated due date; provided further, that all amounts de-

ducted shall be deposited into the General Fund and the comptroller shall notify the house and senate committees on ways and means of all amounts so deducted"

1100-1100

" that the secretary shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards, departments, commissions or divisions to determine whether such agencies, boards, departments, commissions or divisions are complying with the commonwealth's policies of non-discrimination and equal opportunity; provided further, that whenever non-compliance is determined by the secretary, the secretary shall hold a public hearing on the matter and report her resulting recommendations to the head of the particular agency, board, department, commission or division, to the governor and to the Massachusetts commission against discrimination; provided further, that the secretary shall report on the status of each agency, board, department, commission or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or non-compliance with affirmative action policies to the chairs of the house and senate committees on ways and means, the joint committee on public service and the joint committee on labor and workforce development on or before December 1, 2009; and provided further,"

1201-0100

"; provided further, that the department may conduct a public awareness and education outreach campaign about state and local tax credits, deductions, deferrals and exemptions and other tax information available to persons age 65 and over including, but not limited to, section 6 of chapter 62 and section 5 of chapter 59 of the General Laws; provided further, that the department may work in conjunction with the executive office of elder affairs in disseminating information and conducting the campaign; provided further, that the department may conduct the campaign from July 1, 2009, to April 15, 2010, inclusive, and shall report their efforts to the house and senate committee on ways and means and the joint committee on elder affairs not later than May 31, 2010; and provided further, that the department shall also file an interim report to the house and senate committee on ways and means and the joint committee on elder affairs not later than January 1, 2010"

Item	<i>Wording Stricken</i>
1790-0100	"; and provided further, that the division shall file a report by secretariat with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following: (a) financial statements detailing savings realized from the consolidation of information technology services within each executive office; (b) the number of personnel assigned to the information technology services within each executive office; and (c) efficiencies that have been achieved from the sharing of resources"
2800-0100	"; provided further, that the amount transferred pursuant to interagency service agreements shall not increase from fiscal year 2009; and provided further, that any employee paid from this item as of August 1, 2004, that was included in the report required from said item in chapter 149 of the acts of 2004, and any employees assigned to that item after August 1, 2004, shall not be paid from any other item of appropriation"
4180-0100	"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services"
4190-0100	"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; and provided further, that no charge or contract shall be made with any alternate vendor to provide pharmacy services other than the state office of pharmacy services"
4403-2000	"; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the senate and house of representatives a detailed and comprehensive report setting forth the text of, basis, and reasons for the proposed changes; and provided further, that the report shall state the department's most accurate assessment of the probable effects of benefit or eligibility changes upon recipient families"
4408-1000	"; and provided further, that, notwithstanding any general or special law to the contrary, 60 days before implementing any eligi-

Item*Wording Stricken*

bility or benefit changes, the commissioner shall file with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth the proposed changes"

4800-0015

"; provided further, that the report shall also contain, for each area office, the number of kinship guardianship subsidies that it provided for the calendar quarters ending on March 31, 2009 and June 30, 2009, the number of kinship guardianship subsidies provided in the month covered by the report, and the number of kinship guardianship subsidies provided in that month for which federal reimbursement was received; provided further, that the report shall also contain, for each area office, the total spending on services other than case management services provided to families for the purposes of keeping a child with his parents or reunifying the child with his parents, spending by type of the service, and the unduplicated number of families that receive the services; provided further, that the report shall also contain for each area office, the total number of families in the month residing in shelter paid for by the department, a list of where the families are sheltered, the total cost and average cost per family of those shelters, and a description of how the department determines who does or does not qualify for shelter; provided further, that the report shall include, for each area office, broken down by type of service, the number of requests for voluntary services, whether the request was approved or denied, the reasons for denying the service, and what, if any, referrals were made for services by other agencies or entities"

6010-0001

"; provided further, that the costs of routine highway maintenance provided by private and union workers in contract areas 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B and 5C and for costs associated with police services and overtime within such areas shall be paid from this item"

7004-0101

"; provided further, that notwithstanding any general or special law to the contrary, 60 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and

Item	<i>Wording Stricken</i>
	senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of the executive office of housing and economic development that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes"
7009-1700	"; provided, that the secretary shall file a report with the house and senate committees on ways and means not later than December 15, 2009 that shall include, but not be limited to, the following: (a) financial statements detailing savings realized from said consolidation; (b) the number of personnel assigned to the information technology services within the executive office; and (c) efficiencies that have been achieved from the sharing of resources"
7010-0033	"; and provided further, that funds appropriated in this item for said Institute may be expended through June 30, 2011"
8000-0125	"; provided, that the \$75 registration fee paid by convicted sex offenders shall be directed from the General Fund to the Massachusetts office for victim assistance"
8400-0001	"; provided further, that the registrar of motor vehicles shall report to the house and senate committees on ways and means and the joint committee on transportation 60 days prior to the closure of any registry branch; provided further, that said report shall include all cost savings associated with the closure"
8900-0001	"; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and homeland security shall report to the house and senate committees on ways and means and public safety on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be moved"
8910-0102	"; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B"
8910-0105	"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provid-

Item

Wording Stricken

ed further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services"

8910-0107

"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services"

8910-0108

"; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B"

8910-0110

"; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B"

8910-0145

"; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services"

8910-0619

"; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B"

SECTION 2B *Items disapproved by striking the wording:*

Item

Wording Stricken

4510-0108

"; provided further, that SOPS shall continue to be the sole provider of pharmacy services for the following agencies currently under SOPS: the department of public health, the department of mental health, the department of developmental services, the de-

partment of correction, the department of youth services, the sheriff's departments of Bristol, Essex, Franklin, Hampden, Hampshire, and Plymouth, and the Soldiers' Homes in Holyoke and Chelsea; provided further, that SOPS shall become the sole provider of pharmacy services to the following agencies currently not being serviced by SOPS: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes; provided further, that SOPS shall be the sole provider of pharmacy services for all said agencies and all costs for pharmacy services shall be charged by this item; provided further, that said agencies shall not charge or contract with any other alternative vendor for pharmacy services other than SOPS; provided further, that SOPS shall develop an implementation plan to transition the following agencies within the current fiscal year: the sheriff's departments of Worcester, Middlesex, Berkshire, Suffolk, Norfolk, Barnstable and Dukes"

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 5, 21, 22, 31, 40, 66, 76, 87, 105, 112, 121, 130, 132, 133, 144, and 146.

The remainder of the bill was approved by the Governor on June 29, 2009 at four o'clock and ten minutes, P.M.

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2009 the House of Representatives and in concurrence on July 16, 2009 the Senate passed the following Items: **SECTION 129.***

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 28, 2009 the House of Representatives and in concurrence on July 28, 2009 the Senate passed the following Items:

SECTION 2. Items: 1100-1100, 1201-0100, 1790-0100, 2800-0100, 4180-0100, 4190-0100, 4403-2000, 4408-1000, 4800-0015, 7004-0101, 7010-0033, 8400-0001, 8900-0001, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145, and 8910-0619. **SECTION 2B.** Item: 4510-0108. **SECTION 145.**

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 28, 2009 the House of Representatives and in concurrence on July 29, 2009 the Senate passed the following Items:

SECTION 2. Item: 1000-0001

*The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on July 14, 2009 the House of Representatives and in concurrence on July 28, 2009 the Senate passed the following Item: **SECTION 89.***

Chapter 28. AN ACT TO IMPROVE THE LAWS RELATING TO CAMPAIGN FINANCE, ETHICS AND LOBBYING.

Be it enacted, etc., as follows:

SECTION 1. Section 39 of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of “Client” and inserting in place thereof the following definition:-

“Client”, any person, corporation, partnership, association, or other entity that contracts with another person, corporation, partnership, association, or other entity to receive lobbying services.

SECTION 2. Said section 39 of said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out the definition of “Executive agent” and inserting in place thereof the following two definitions:-

“Executive agent”, a person who for compensation or reward engages in executive lobbying, which includes at least 1 lobbying communication with a government employee made by said person. The term “executive agent” shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in executive lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For the purposes of this definition a person shall be presumed to be engaged in executive lobbying that is simply incidental to his regular and usual business or professional activities if he: (i) engages in executive lobbying for not more than 25 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period for executive lobbying.

“Executive lobbying,” any act to promote, oppose, influence, or attempt to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation promulgated pursuant to any general or special law, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement; provided further, that executive lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with executive lobbying at the state level; and provided further, that executive lobbying shall include strategizing, planning, and research if performed in connection with, or for use in, an actual communication with a government employee; and provided, further, that “executive lobbying” shall not include providing information in writing in response to a written request from an officer or employee of the executive branch or an authority for technical advice or factual information regarding a standard, rate, rule or regulation, policy or procurement for the purposes of this chapter.

SECTION 3. Said section 39 of said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out the definition of “Legislative agent” and inserting in place thereof the following two definitions:-

“Legislative agent”, a person who for compensation or reward engages in legislative lobbying, which includes at least1 lobbying communication with a government employee made by said person. The term “legislative agent” shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in legislative lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For purposes of this definition a person shall be presumed to be engaged legislative lobbying that is simply incidental to his regular and usual business or professional activities if he: (i) engages in legislative lobbying for not more than 25 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period for legislative lobbying.

“Legislative lobbying,” any act to promote, oppose, influence or attempt to influence legislation, or to promote, oppose or influence the governor’s approval or veto thereof including, without limitation, any action to influence the introduction, sponsorship, consideration, action or non-action with respect to any legislation; provided further, that legislative lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with legislative lobbying at the state level; and provided further, that legislative lobbying shall include strategizing, planning and research if performed in connection with or for use in an actual communication with a government employee; provided, however, that “legislative lobbying” shall not include providing information in writing in response to a written request from an officer or employee of the legislative branch for technical advice or factual information regarding any legislation for the purposes of this chapter.

SECTION 4. Section 41 of said chapter 3, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The state secretary shall offer educational seminars on the requirements of sections 39 to 50, inclusive, for all legislative agents and executive agents. The seminars shall be conducted in person or offered online through the state secretary’s website. All legislative and executive agents shall: (i) before registering with the state secretary and annually thereafter, complete an in person or online seminar offered by the state secretary; and (ii) complete an in person or online seminar offered by the state secretary upon any material change to sections 39 to 50, inclusive, or any regulations promulgated pursuant thereto. The superintendent of the bureau of state office buildings shall, upon request of the state secretary, provide at no cost to the state secretary suitable facilities for such seminars. The state secretary shall adopt regulations for the administration and enforcement of this section.

SECTION 5. Said section 41 of said chapter 3, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following 2 paragraphs:-

Upon registration, the state secretary shall issue to each legislative agent and executive agent a license which shall entitle the holder to act as a legislative agent and executive agent for a client that has filed a registration statement pursuant to this section. A nontransferable identification card shall evidence this license and shall include the agent’s name and photograph. Each license shall expire on December 31 of each year. Out-of-state

legislative agents and executive agents shall submit 3 passport-sized photographs to the state secretary upon registration.

The state secretary shall, upon written request from a person who is or may be subject to sections 39 to 50, inclusive, render advisory opinions on the requirements of those sections. An opinion rendered by the state secretary, unless amended or revoked, shall be a defense in a criminal action brought pursuant to sections 39 to 50, inclusive, and shall be binding on the state secretary, the attorney general or the district attorney in any subsequent proceedings concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests shall be confidential; provided, however, that the state secretary may publish such opinions if the name of the requesting person and any other identifying information is not included in such publication unless the requesting person consents to such inclusion.

SECTION 6. Said chapter 3 is hereby amended by striking out section 42, as so appearing, and inserting in place thereof the following section:-

Section 42. No person shall make any agreement whereby any compensation or thing of value is to be paid to any person contingent upon a decision as described in the definition of "executive lobbying", or the passage or defeat of any legislation or the approval or veto of any legislation by the governor. No person shall agree to engage in legislative lobbying for consideration to be paid upon the contingency of the outcome of the actions described in the definition of "legislative lobbying" or that any legislation is passed or defeated.

Nothing in this section shall prohibit a person whose primary occupation is in marketing or selling a product or service for the person's company of employment from engaging in the sale of that product or service to the commonwealth for a commission or other compensation as long as the person is a full time employee for said company.

SECTION 7. Section 43 of said chapter 3, as so appearing, is hereby amended by striking out, in line 4, the words "appearing on the docket".

SECTION 8. Said section 43 of said chapter 3, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Every legislative agent and executive agent shall include in the statement required by this section for the relevant reporting period: (1) the identification of each client for whom the legislative or executive agent provided lobbying services; (2) a list of all bill numbers and names of legislation and other governmental action that the executive or legislative agent acted to promote, oppose or influence; (3) a statement of the executive or legislative agent's position, if any, on each such bill or other governmental action; (4) the identification of the client or clients on whose behalf the executive or legislative agent was acting with respect to each such bill or governmental action; (5) the amount of compensation received for executive or legislative lobbying from each client with respect to such lobbying services; and (6) all direct business associations with public officials. The disclosure shall be required regardless of whether the legislative agent or executive agent specifically referenced the bill

number or name, or other governmental action while acting to promote, oppose or influence legislation, and shall be as complete as practicable.

SECTION 9. Said section 43 of said chapter 3, as so appearing is hereby further amended by inserting after , the word “consumed”, in line 78, the following words:-; provided, however, that regulations promulgated by the state ethics commission under section 6 of chapter 268B, shall apply to this provision.

SECTION 10. The fourth paragraph of said section 43 of said chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

SECTION 11. The second paragraph of section 44 of said chapter 3, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

SECTION 12 Said chapter 3 is hereby further amended by striking out section 45, as so appearing, and inserting in place thereof the following section:-

Section 45. (a) Upon receipt of a sworn complaint signed under pains and penalties of perjury, or upon receipt of evidence which is deemed sufficient by the state secretary, the state secretary shall initiate a preliminary inquiry into any alleged violation of sections 39 to 50, inclusive. At the commencement of a preliminary inquiry into any such alleged violation, the state secretary shall notify the attorney general. All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the state secretary may provide to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding. Any information provided by the state secretary pursuant to this section shall be confidential pursuant to this section and section 4 of chapter 268B, except that such information may be used by the officer or agency to whom it was provided in any investigation or subsequent proceedings. The state secretary shall notify any person who is the subject of the preliminary inquiry of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

(b) If a preliminary inquiry fails to indicate reasonable cause for belief that there has been a violation of sections 39 to 50, inclusive, the state secretary shall immediately terminate the inquiry and shall within 10 days so notify, in writing, the complainant, if any, and the person who had been the subject of the inquiry.

(c) If a preliminary inquiry indicates reasonable cause for belief that there has been a violation of sections 39 to 50, inclusive, the state secretary may initiate an adjudicatory proceeding to determine whether there has been such a violation.

(d) The state secretary may require by summons the attendance and testimony of witnesses and the production of books, papers or other financial documents directly relating

to any matter being investigated pursuant to sections 39 to 50, inclusive, provided that the state secretary's subpoena power shall be limited to obtaining employment contracts and other contracts or agreements related to services rendered, work performed or compensation received in connection with executive lobbying or legislative lobbying. Any justice of the supreme judicial court or the superior court may, upon application by the state secretary, issue a summons to be served in the same manner as summonses for witnesses in criminal cases, issued on behalf of the commonwealth and all the provisions of law relative to summonses shall apply to summonses issued under this section so far as applicable. Any justice of the supreme judicial court or the superior court may upon application by the state secretary compel the attendance of witnesses summoned as aforesaid and the giving of testimony under oath before the state secretary in furtherance of any investigation in the same manner and to the same extent as before said courts.

(e) The state secretary, or his designee, may administer oaths and may hear testimony or receive other evidence in any proceeding.

(f) All testimony in an adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify, to submit evidence, and to be represented by counsel. Before testifying, all witnesses shall be given a copy of the regulations governing adjudicatory proceedings.

(g) Any person whose name is mentioned during an adjudicatory proceeding of the state secretary and who may be adversely affected thereby may appear personally before the state secretary on his own behalf, with or without counsel, to give a statement in opposition to such adverse mention or file a written statement of such opposition for incorporation into the record of the proceeding.

(h) All adjudicatory proceedings of the state secretary pursuant to this section shall be public and shall be subject to chapter 30A.

(i) Within 30 days after completion of deliberations, the state secretary shall publish a written report of his findings and conclusions.

(j) Upon a finding pursuant to an adjudicatory proceeding that there has been a violation, the state secretary may issue an order: (1) requiring the violator to cease and desist such violation; (2) requiring the violator to file any report, statement or other information as required by sections 39 to 50, inclusive; (3) suspending for a specified period or revoking the license and registration of the violator; or (4) requiring the violator to pay a civil penalty of not more than \$10,000 for each violation. The state secretary may file a civil action in superior court to enforce this order.

(k) Final action by the state secretary under this section shall be subject to review in superior court upon petition of any party in interest filed within 30 days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the state secretary, or it may remand the proceedings to the state secretary for such further action as the court may direct. If the court modifies or sets aside the state secretary's order or remands the proceedings to the state secretary, the court shall determine

whether such modification, set aside, or remand is substantial. If the court does find such modification, set aside, or remand to be substantial, the petitioner shall be entitled to be reimbursed from the treasury of the commonwealth for reasonable attorneys' fees and all court costs incurred by him in the defense of the charges contained in the proceedings. The amount of such reimbursement shall be awarded by the court but shall not exceed \$20,000 per person, per case.

(l) Any person who violates the confidentiality of an inquiry under this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or both.

(m) The state secretary shall automatically disqualify any person convicted of a felony in violation of chapter 3, chapter 55, or chapter 268A from acting or registering as an executive or legislative agent for a period of 10 years from the date of conviction.

SECTION 13. Section 47 of said chapter 3, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words "whose name appears upon the docket".

SECTION 14. The second paragraph of said section 47 of said chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

SECTION 15. Section 48 of said chapter 3, as so appearing, is hereby amended by striking out, in line 3, the words "five thousand dollars" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½ years, or both.

SECTION 16. Section 49 of said chapter 3, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:- The supreme judicial court or superior court may, upon application of the attorney general, grant equitable or mandamus relief to enforce sections 41 to 43, inclusive, prohibiting the offering or giving of or paying for gifts, meals, beverages, or other items. Relief under this section may include (a) an order to pay to the commonwealth an amount equal to the value of any compensation or thing paid or received in violation of section 42, or the value of any gift, meal, beverage, or other item given or received in violation of section 43; and (b) a civil penalty of up to \$10,000 for each violation of sections 41 to 47, inclusive.

SECTION 17. Sections 11A and 11A½ of chapter 30A of the General Laws are hereby repealed.

SECTION 18. Said chapter 30A is hereby further amended by adding the following 8 sections:-

Section 18: As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Deliberation", an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within

its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any part of a meeting of a public body closed to the public for deliberation of certain matters.

"Intentional violation", an act or omission by a public body or a member thereof, in knowing by violating the open meeting law.

"Meeting", a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

(a) an on-site inspection of a project or program, so long as the members do not deliberate;

(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;

(c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;

(d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or

(e) a session of a town meeting convened under section 10 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

"Minutes", the written report of a meeting created by a public body required by subsection (a) of section 23 and section 5A of chapter 66.

"Open meeting law", sections 18 to 25, inclusive.

"Post notice", to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

"Preliminary screening", the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

"Public body", a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees

or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. (a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

- (1) the general background of the legal requirements for the open meeting law;
- (2) applicability of sections 18 to 25, inclusive, to governmental bodies;
- (3) the role of the attorney general in enforcing the open meeting law; and
- (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;

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(4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;

(5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;

(6) the number of actions filed in superior court seeking relief from an order of the attorney general; and

(7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. (a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose.

The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

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(e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. (a) A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

i. to be present at such executive session during deliberations which involve that individual;

ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;

iii. to speak on his own behalf; and

iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

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The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

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 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.

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(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. (a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

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When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. (a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold

a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;

- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (b).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest

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possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

SECTION 19. Sections 9F and 9G of chapter 34 of the General Laws are hereby repealed.

SECTION 20. Sections 23A to 23C, inclusive, of chapter 39 of the General Laws are hereby repealed.

SECTION 21. Section 9 of chapter 53 of the General Laws, as appearing in the 2006

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Official Edition, is hereby amended by striking out, in lines 21 and 22, the words “, as defined in section one of chapter fifty-five A,”.

SECTION 22. Said section 9 of said chapter 53, as so appearing, is hereby further amended by striking out, in line 25, the word “fifty-five A” and inserting in place thereof the following figure:- 55C.

SECTION 23. Section 1 of chapter 55 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Candidate’s committee” the following definition:-

“Clearly identified candidate”, a candidate whose name, photo or image appears in a communication or a candidate whose identity is apparent by unambiguous reference in a communication.

SECTION 24. Said section 1 of said chapter 55, as so appearing, is hereby further amended by inserting after the definition of “Election” the following definition:-

“Electioneering communication”, any broadcast, cable, mail, satellite or print communication that: (1) refers to a clearly identified candidate; and (2) is publicly distributed within 90 days before an election in which the candidate is seeking election or reelection; provided, however, that “electioneering communication” shall not include the following communications: (1) a communication that is disseminated through a means other than a broadcast station, radio station, cable television system or satellite system, newspaper, magazine, periodical, billboard advertisement, or mail; (2) a communication to less than 100 recipients; (3) a news story, commentary, letter to the editor, news release, column, op-ed or editorial broadcast by a television station, radio station, cable television system or satellite system, or printed in a newspaper, magazine, or other periodical in general circulation; (4) expenditures or independent expenditures or contributions that must otherwise be reported under this chapter; (5) a communication from a membership organization exclusively to its members and their families, otherwise known as a membership communication; (6) bonafide candidate debates or forums and advertising or promotion of the same; and (7) internet or email communications.

SECTION 25. Said section 1 of said chapter 55, as so appearing, is hereby further amended by inserting after the definition of “Expenditure” the following definition:-

“Independent expenditure”, an expenditure made, or liability incurred, by an individual, group, or association for goods or services expressly advocating the election or defeat of a clearly identified candidate which is made or incurred without cooperation or consultation with any candidate, or a nonelected political committee organized on behalf of a candidate, or any agent of a candidate and which is not made or incurred in concert with, or at the request or suggestion of, any candidate, or any nonelected political committee organized on behalf of a candidate or agent of such candidate.

SECTION 26 The eighth paragraph of section 3 of said chapter 55, as so appearing, is hereby amended by adding the following four sentences:- The name of a candidate who fails to file any statement or report after the institution of civil proceedings under this section

to compel such filing shall not be printed on a state primary or state election ballot unless the statement or report is filed prior to the deadline for filing nomination papers with the state secretary for such candidate pursuant to chapter 53. The director shall notify the state secretary of the names of those candidates against whom civil proceedings have been instituted and shall do so within 72 hours of the filing deadline for nomination papers with the state secretary. Any candidate who is disqualified from appearing on a state primary or state election ballot as set forth above shall be ineligible to be nominated at a state primary as a write-in or sticker candidate unless the candidate shall have filed the statements or reports which are the subject of the civil litigation by the date of the primary. The director shall notify the state secretary of any candidates who have filed their statements or reports which were the subject of civil litigation no later than 24 hours after the date of the state primary.

SECTION 27. Said section 3 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “requested”, in line 111, the following words:- , by personal delivery, by leaving a copy of the notice at the person’s last and usual place of residence or by delivering a copy of the notice to an attorney who has appeared on behalf of the alleged violator.

SECTION 28. The eleventh paragraph of said section 3 of said chapter 55, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Evidence of any such violation of this chapter which has come to the director’s attention shall be presented by the director to the attorney general not later than 120 days before or 3 years after the relevant election or, if the evidence does not relate to an identifiable election, not later than 3 years after the violation.

SECTION 29. The twelfth paragraph of said section 3 of said chapter 55, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said civil penalty shall be in the amount of \$25 per day; provided, however, that the maximum penalty the director may assess shall be no greater than \$5,000 for any one report, statement or affidavit which is filed later than the prescribed date.

SECTION 30. Said section 3 of said chapter 55, as so appearing, is hereby amended by adding the following paragraph:-

The director shall not disclose publicly any correspondence or communication to a candidate, political committee, or ballot question committee which contains a deadline for response until the deadline has passed or until the director has received a response, whichever is earlier. Notwithstanding the forgoing notices of future filing requirements and notices of failure to file, a required report shall be a public record when issued.

SECTION 31. The ninth paragraph of section 5 of said chapter 55, as so appearing, is hereby amended by adding the following sentence:- No person who is authorized to make such expenditures shall sign a committee check payable to himself or herself.

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SECTION 32. Section 6 of said chapter 55, as so appearing, is further hereby amended by adding after the fifth paragraph the following paragraph:-

For purposes of this section the term “personal use” shall include the payment of fines, penalties, restitution or damages incurred for a violation of chapters 268A and 268B, but shall not include payments made in relation to allegations of violations of such chapters.

SECTION 33. Section 8 of said chapter 55, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “corporation incorporated” and inserting in place thereof the following words:- or professional corporation, partnership, limited liability company partnership.

SECTION 34. Subsection (d) of section 10A of said chapter 55, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) a bona fide joint fund-raising effort conducted solely for the purpose of sponsorship of a fund-raising reception, dinner, or other event, in accordance with the rules prescribed by the director by 2 or more state or local committees of a political party acting on their own behalf; or

SECTION 35. Section 18 of said chapter 55, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each candidate and each treasurer of a political committee shall, except as provided in this section and section 24, file with the director reports of contributions received and expenditures made. A candidate and a committee organized on behalf of candidates seeking public office at a municipal election shall file such reports with the director, if the candidate is seeking the office of mayor in a municipality with a total population, as determined by the most recent federal decennial census, of between 40,000 and 100,000 persons, if the candidate or the candidate’s committee, during the election cycle, can reasonably expect to raise or spend more than \$5,000, or if the committee is required to file such reports with the director pursuant to section 19. All other candidates seeking public office at a city or town election shall file reports with the city or town clerk. A committee organized under section 5 to favor or oppose a question submitted to the voters shall file its reports with the director if the question appears on ballots at a state election, or with the city or town clerk if the question appears on ballots at a city or town election or for use in a city or town at a state election. Reports of contributions received and expenditures made shall be filed using forms prescribed by the director.

SECTION 36. Said section 18 of said chapter 55, as so appearing, is hereby amended by inserting after the word “January”, in line 102, the following words:- ; provided, however, that candidates for the state senate or house of representatives, the nonelected political committees organized on behalf of such candidates, and political action committees, that file with the director, shall also file mid-year reports on or before the twentieth day of July in each year in each odd-numbered year.

SECTION 37 The third paragraph of said section 18 of said chapter 55, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- For all candidates and all political committees, if said report is not an initial report, the reporting period of such reports required to be filed on or before the twentieth day of July in each odd-numbered year shall commence on the first day of January of that year, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the thirtieth day of June of said year. The reporting period for the report required to be filed on or before January 20 in each odd-numbered year shall commence on the day following the end of the reporting period of the last report filed and shall end as of December 31 of the prior year.

SECTION 38. Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the thirteenth paragraph the following 2 paragraphs:-

Each year-end campaign finance report filed by a candidate or non-elected political committee required to designate a depository by section 19 and who also maintains or who has maintained a savings account or money market account, shall disclose, for each reporting period, all activity in any such account. Nothing in this section shall authorize a transfer made from any such savings or money market accounts to an account other than the depository account established by a candidate or committee in accordance with said section 19.

Every political committee organized on behalf of a candidate that files with the director, and every ballot question committee that files with the director, which receives and deposits a contribution in the amount of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

SECTION 39. Said section 18 of said chapter 55, as so appearing, is hereby further amended by striking out, in line 253, the words "Local Aid" and inserting in place thereof the word:- General.

SECTION 40. Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the seventeenth paragraph the following paragraph:-

Any person nominated by the governor for a position that requires confirmation by the executive council shall, within 6 months of the date of confirmation, dissolve any political committee organized on behalf of such person and disperse all funds remaining in such committee's account in accordance with this section.

SECTION 41. Said chapter 55 is hereby further amended by striking out section 18A, as so appearing, and inserting in place thereof the following section:-

Section 18A. (a) Every individual, group or association not defined as a political committee who makes independent expenditures in an aggregate amount exceeding \$250 during any calendar year for the express purpose of promoting the election or defeat of a candidate shall file with the director, except as provided in subsection (c), within 7 business days after the goods or services for which the independent expenditure was made are utilized

to advocate for the election or defeat of a clearly identified candidate, on a form prescribed by the director, a report stating: (1) the name and address of the individual, group or association making any such independent expenditures; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the expenditures were made; (4) the total amount or value; and (5) the purpose and the date of each independent expenditure.

(b) In addition to any reports required by subsection (a), any individual, group, association or political committee that makes an independent expenditure in an aggregate amount exceeding \$250 after the tenth day, but more than 24 hours, before the date of any election, shall file a preliminary report within 24 hours of making the independent expenditure, disclosing: (1) the name and address of the individual, group, association or political committee making the expenditure; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the independent expenditures were made; and (4) the purpose and the date of each expenditure.

(c) The individual, group, association or political committee shall file an additional preliminary report within 24 hours after each time it makes additional independent expenditures equal, in the aggregate, to \$250 with respect to the same election as that to which the initial report relates, and shall also file any report required by subsection (a).

(d) The reports required by this section shall be filed with the director as provided in section 18C if expenditures are made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the expenditures are made to promote the election or defeat of any candidate seeking public office at a city or town election who does not file with the director.

(e) A violation of any provision of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in a house of correction for not more than 1 year.

SECTION 42. Subsection (b) of section 18C of said chapter 55, as so appearing, is hereby amended by adding the following 6 clauses:-

(4) every political committee organized on behalf of a candidate that files with the director, including committees required to designate a depository on behalf of a candidate and every ballot question committee that files with the director, which receives and deposits a contribution of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election within 72 hours of depositing such contribution;

(5) every state committee referred to in section 1 of chapter 52 required to designate a depository by section 19 of this chapter, which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours before, the date of a special, preliminary, primary or general election, within 72 hours of depositing such contribution;

(6) for every political committee required to file campaign finance reports electronically with the director, any reports filed pursuant to section 18D made to disclose expenditures by vendors of the committee to subvendors;

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(7) an individual, group, association or political committee that is required to file a report of independent expenditures with the director in accordance with subsection (a) or (b) of section 18A;

(8) each candidate's committee organized on behalf of a candidate for mayor in a municipality with a total population, as determined by the most recent federal decennial census, of 40,000 to 100,000 persons, if the committee, during the election cycle, can reasonably expect to raise or spend more than \$5,000; and

(9) every individual, group or association who makes an independent expenditure or electioneering communication expenditure in an aggregate amount exceeding \$250 during any calendar year.

SECTION 43. Said chapter 55 is hereby further amended by inserting after section 18C the following 3 sections:-

Section 18D. (a) For the purpose of this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Expenditure", any payment made or liability incurred by a vendor on behalf of a political committee.

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

"Subvendor", a person providing goods or services to a vendor or who contracts with a vendor to provide goods or services to a committee.

"Vendor", any person including, but not limited to, a consultant, who provides goods or services to a political committee that files with the director and either receives or is promised \$5,000 or more in the aggregate during a calendar year by the committee for such goods or services, or contracts with another on behalf of the committee for such goods or services valued at \$5,000 or more in the aggregate to be provided to the committee.

(b) A vendor that makes an expenditure on behalf of a political committee shall within 5 days of making such expenditure provide the political committee with a detailed account of the expenditure including, but not limited to, the date of the expenditure, the person who received payment, the full name and address of the subvendor, the purpose of the expenditure, and the amount of the expenditure.

(c) A political committee that makes a payment to a vendor or incurs a liability to a vendor shall file reports with the director disclosing the full name and address, listed alphabetically, of each subvendor receiving payments of more than \$500 in the aggregate during a calendar year from the vendor, and of each subvendor to whom a liability of more than \$500 was incurred. The contents of such report shall include the information required by section 18 and shall be disclosed on a form prescribed by the director. For committees required to designate a depository account under section 19, the reports shall be filed on or before the fifth day of each month covering the preceding month; provided, however, that for other committees, the report must be filed in accordance with the schedule established by section 18.

(d) Vendors shall keep detailed accounts of all expenditures made on behalf of political committees.

Section 18E. (a) Legal defense funds may be created by a candidate or the candidate's political committee to defend against a criminal matter or to pay costs associated with a civil matter that is not primarily personal in nature. Inauguration funds may be created by a candidate or the candidate's political committee to pay for the costs associated with an inaugural event. Recount funds may be created by a candidate or candidate's political committee to pay for the legal and other costs associated with a recount. Legal defense, inauguration, or recount funds shall be created separately from the candidate's campaign account or committee, and shall be subject to the following conditions: (1) assets of a political committee may not be used by the fund; (2) any donations received by the fund shall not be deposited into the candidate's campaign account or a committee account; and (3) donations to such fund shall not be used to benefit a political committee.

(b) Donations to a legal defense, recount, or inauguration fund, if not contributions, shall be disclosed to the director or, if made by a candidate or committee that does not file with the director, the city or town clerk, on or before the fifth day of the month following the month in which the donations are received, complete as of the last day of the preceding month, on forms to be prescribed by the director. The report shall disclose the name and address and employer of all persons donating more than \$50 during the reporting period, listed alphabetically, the amount of each such donation, and the total amount of donations received in the reporting period not otherwise reported.

(c) For purposes of this section, the term "donations" shall include donations in money or in-kind, and loans provided to legal defense, recount, or inauguration fund.

Section 18F. Every individual, group or association not defined as a political committee who makes an electioneering communication expenditure, in an aggregate amount exceeding \$250 during a calendar year, shall electronically file with the director, within 7 days after making such an expenditure, a report stating the name and address of the individual, group or association making the electioneering communication, the name of any candidate clearly identified in the communication, the total amount or value of the communication, the name and address of the vendor to whom the payments were made and the purpose and date of any such expenditure. In addition, any individual, group or association not defined as a political committee who makes an electioneering communication expenditure, in an aggregate amount exceeding \$250 during a calendar year, who receives funds for the purpose of making such electioneering communications shall include in the electronic filing the date the funds were received and the name and address of the provider of any such funds in excess of \$250, if any. Reports required by this section shall be filed with the director as provided in section 18C if communications were made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the communications were made to promote the election or defeat of any candidate seeking public office at a city or town election who does not otherwise file with the director.

Any person, group or association that makes or contracts to make electioneering communications aggregating \$1,000 or more within 7 days before the date of an election shall

file a report containing the information required by this section within 48 hours after making such expenditure.

A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 1 year.

SECTION 44. Section 19 of said chapter 55, as so appearing, is hereby amended by striking out, lines 5 and 6, the words “other citywide office, except for the office of school committee,” and inserting in place thereof the following words:- city council or alderman.

SECTION 45. Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out, in lines 101 and 102, the words “mayor or other citywide office except for school committee” and inserting in place thereof the following words:- city council, aldermen or mayor.

SECTION 46. Said section 19 of said chapter 55, as so appearing, is hereby further amended by adding the following subsection:-

(g) Each committee required to designate a depository on behalf of a candidate that files with the director in accordance with this section and which receives and deposits a contribution of \$500 or more after the eighteenth day but more than 72 hours before the date of a special, preliminary, primary or general election shall file a report to disclose the information required by this section within 72 hours of depositing such contribution. In addition, each state committee referred to in section 1 of chapter 52 required to designate a depository pursuant to this section and which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

SECTION 47. Section 22 of said chapter 55, as so appearing, is hereby amended by striking out, in line 1, the word “The” and inserting in place thereof the following words:- Any person or the.

SECTION 48. Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

Any person who makes an expenditure of \$250 or more other than a contribution to a ballot question committee or incurs a liability of \$250 or more to influence or affect the vote on any question submitted to the voters shall file reports setting forth the amount or value of the expenditure or liability, together with the date, purpose and full name of the person to whom the expenditure was made or the liability incurred.

SECTION 49. Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “such”, in lines 17, 31 and 41, the following words:- person or.

SECTION 50. Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “Any”, in line 38, the following words:- person or.

SECTION 51. Section 24 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “statement”, in lines 1, 4, 5, 8, 9, and 12, the following

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words:- or report.

SECTION 52. Section 24 of said chapter 55, as so appearing, is hereby amended by inserting after the word "office", in line 3, the following words:- , other than a municipal office for which a candidate is required to file with the director in accordance with section 18C or section 19.

SECTION 53. Said section 24 of said chapter 55, as so appearing, is hereby further amended by inserting after the word "statements", in lines 13 and 14, the following words:- or reports.

SECTION 54. Section 26 of said chapter 55, as so appearing, is hereby amended by striking the first and second sentences and inserting in place thereof the following sentence:- The city or town clerk shall retain all statements and reports required to be filed with such clerk until December 31st of the sixth year following the relevant election. In the case of committees other than those authorized by a candidate, the city or town clerk shall retain all required statements and reports filed with such clerk until December 31st of the sixth year following the date that the statement or report was filed.

SECTION 55. Said section 26 of said chapter 55, as so appearing, is hereby further amended by adding the following sentence:- Within 30 days after the filing deadline, all campaign finance reports required to be filed with the city or town clerk under section 18 shall be made available for viewing on the internet website of the municipality if such municipality has such a website, if the report discloses that a candidate or committee filing a report has received contributions or made expenditures in excess of \$1,000 during a reporting period or incurred liabilities or acquired or disposed of assets in excess of \$1,000 during a reporting period.

SECTION 56. Said chapter 55 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. Upon failure to file a statement, report or affidavit within 10 days after receiving notice under section 28, the city or town clerk, as the case may be, shall notify the director thereof and shall furnish him with copies of all papers related thereto and the director, if satisfied there is cause, shall assess a penalty and may refer the person or committee to the attorney general pursuant to section 3. If any statement filed with the city or town clerk, as the case may be, discloses any violation of this chapter, such city or town clerk shall notify the director thereof and shall furnish him with copies of all papers relating thereto. The director shall examine every such case referred to him by such clerk and may refer such cases to the attorney general in accordance with section 3. If satisfied that there is cause, the attorney general shall, in the name of the commonwealth, institute appropriate criminal or civil proceedings or refer the case to the proper district attorney for such actions as may be appropriate. Any city or town clerk shall at any time upon the request of the attorney general or the director forward any evidence or information received by such clerk to the attorney general or director for whatever action the attorney general or director deems appropriate pursuant to law.

SECTION 57. The last paragraph of section 4 of chapter 55C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Determination and certification of the eligibility of candidates shall be made by the director on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed by candidates. Candidates for governor seeking public financing shall file the statement on or before the Friday that is 11 days preceding said eighth Tuesday and other candidates seeking public financing shall file said statements on or before the Friday next preceding said eighth Tuesday.

SECTION 58. The second paragraph of section 6 of said chapter 55C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Determination and certification of the eligibility of candidates shall be made by the director on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed by candidates. Candidates for governor and lieutenant governor seeking public financing shall file the statement on or before the Friday that is 11 days preceding said fourth Tuesday and other candidates seeking public financing shall file said statements on or before the Friday next preceding said fourth Tuesday.

SECTION 59. Section 2 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word “income” in line 229, the following words:- ; provided, however, that Part B gross income shall include bribes, corrupt gifts and any income gained through illegal activities.

SECTION 60. Chapter 268 of the General Laws is hereby amended by inserting after section 13D the following section:-

Section 13E. (a) As used in this section the following word shall, unless the context clearly requires otherwise, have the following meaning:-

“Official proceeding”, a proceeding before a court or grand jury, or a proceeding before a state agency or commission, which proceeding is authorized by law and relates to an alleged violation of a criminal statute or the laws and regulations enforced by the state ethics commission, the state secretary, the office of the inspector general, or the office of campaign and political finance, or an alleged violation for which the attorney general may issue a civil investigative demand.

(b) Whoever alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the record, document or object’s integrity or availability for use in an official proceeding, whether or not the proceeding is pending at that time, shall be punished, by (i) a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½ years, or both, or (ii) if the official proceeding involves a violation of a criminal statute, by a fine of not more than \$25,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2½ years, or both.

(c) The record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(d) A prosecution under this section may be brought in the county where the official proceeding was or would have been convened or where the alleged conduct constituting an offense occurred.

SECTION 61. Section 2 of chapter 268A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 46 to 49, inclusive, the words "five thousand dollars or by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one half years, or by both such fine and imprisonment in a jail or house of correction" and inserting in place thereof the following words:- \$100,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2½ years, or both.

SECTION 62. Said chapter 268A is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (a) Whoever knowingly, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, gives, offers or promises anything of substantial value to any present or former state, county or municipal employee or to any member of the judiciary, or to any person selected to be such an employee or member of the judiciary: (i) for or because of any official act performed or to be performed by such an employee or member of the judiciary or person selected to be such an employee or member of the judiciary; or (ii) to influence, or attempt to influence, an official action of the state, county or municipal employee or to any member of the judiciary; or

(b) Whoever knowingly, being a present or former state, county or municipal employee or member of the judiciary, or person selected to be such an employee or member of the judiciary, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of substantial value: (i) for himself for or because of any official act or act within his official responsibility performed or to be performed by him; or (ii) to influence, or attempt to influence, him in an official act taken; or

(c) Whoever knowingly, directly or indirectly, gives, offers or promises anything of substantial value to any person, for or because of testimony under oath or affirmation given or to be given by such person or any other person as a witness upon a trial, hearing or other proceeding, before any court, any committee of either house or both houses of the general court, or any agency, commission or officer authorized by the laws of the commonwealth to hear evidence or take testimony or for or because of his absence therefrom; or

(d) Whoever knowingly, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of substantial value for himself for or because of the testimony under oath or affirmation given or to be given by him or any other person as a witness upon any such trial, hearing or other proceeding, or for or because of his absence therefrom; shall be punished by a fine of not more than \$50,000, or by imprisonment in the

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state prison for not more than 5 years, or in a jail or house of correction for not more than 2½ years, or both.

(e) Clauses (c) and (d) shall not prohibit the payment or receipt of witness fees provided by law or the payment by the party upon whose behalf a witness is called and receipt by a witness of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing or proceeding, or, in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, in appearing or testifying.

(f) The state ethics commission shall adopt regulations: (i) defining “substantial value,” ; provided, however, that “substantial value” shall not be less than \$50; (ii) establishing exclusions for ceremonial gifts; (iii) establishing exclusions for gifts given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

SECTION 63. Section 4 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 17 and 18, inclusive, the words “three thousand dollars or by imprisonment for not more than two years, or both” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½ years, or both.

SECTION 64. Section 5 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 26, the word “agent” and inserting in place thereof the following words:- or executive agent.

SECTION 65. Said section 5 of said chapter 268A, as so appearing, is hereby further amended by inserting after the word “body”, in line 28, the following words:- , as determined by the state ethics commission.

SECTION 66. Said section 5 of said chapter 268A, as so appearing, is hereby further amended by striking out, in lines 41 and 42, inclusive, the words “three thousand dollars or by imprisonment for not more than two ” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 67. Section 6 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 68. Section 7 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 5, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

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SECTION 69. Section 8 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 17, the words "five thousand dollars or by imprisonment for not more than two" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 70. Said chapter 268A is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. (a) In addition to any other remedies provided by law, any violation of sections 2 to 8, inclusive, or section 23 which has substantially influenced the action taken by any state agency in any particular matter, shall be grounds for avoiding, rescinding or canceling the action on such terms as the interests of the commonwealth and innocent third persons shall require.

(b) In addition to the remedies set forth in subsection (a), the state ethics commission upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2 to 8, inclusive, or section 23, may issue an order: (1) requiring the violator to pay the commission on behalf of the commonwealth damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the state ethics commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 71. Section 11 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words "three thousand dollars or by imprisonment for not more than two" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 72. Section 12 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 24 and 25, inclusive, the words "three thousand dollars or by imprisonment for not more than two" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 73. Section 13 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "three thousand dollars or by imprisonment for

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not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 74. Section 14 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 75. Said chapter 268A is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. (a) In addition to any other remedies provided by law, a violation of section 2, 3, 8, or sections 11 to 14, inclusive, or section 23 which has substantially influenced the action taken by any county agency in any particular matter, shall be grounds for avoiding, rescinding, or canceling the action on such terms as the interests of the county and innocent third persons shall require.

(b) In addition to the remedies set forth in subsection (a), the commission may, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of section 2, 3, 8, sections 11 to 14, inclusive, or section 23, issue an order (1) requiring the violator to pay the commission on behalf of the county damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general and the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 76. Section 17 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 77. Section 18 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 22 and 23, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:-

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\$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 78. Section 19 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "three thousand dollars or by imprisonment for not more than two" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 79. Section 20 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, inclusive, the words "three thousand dollars or by imprisonment for not more than two" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 80. Said chapter 268A is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. (a) In addition to any other remedies provided by law, a finding by the commission pursuant to an adjudicatory proceeding that there has been any violation of sections 2, 3, 8, 17 to 20, inclusive, or section 23, which has substantially influenced the action taken by any municipal agency in any particular matter, shall be grounds for avoiding, rescinding or canceling the action of said municipal agency upon request by said municipal agency on such terms as the interests of the municipality and innocent third persons require.

(b) In addition to the remedies set forth in subsection (a), the commission may, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2, 3, 8, 17 to 20, inclusive, or section 23, may issue an order (1) requiring the violator to pay the commission on behalf of the municipality damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation. The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

SECTION 81. Subsection (b) of section 23 of said chapter 268A, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) (i) solicit or receive anything of substantial value for such officer or employee,

which is not otherwise authorized by statute or regulation, for or because of the officer or employee's official position; or (ii) use or attempt to use such official position to secure for such officer, employee or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals;

SECTION 82. Said section 23 of said chapter 268A, as so appearing, is hereby further amended by striking out, in line 21, the word "conclusion." and inserting in place thereof the following words:- conclusion; or

(4) present a false or fraudulent claim to his employer for any payment or benefit of substantial value.

SECTION 83. Said section 23 of said chapter 268A, as so appearing, is hereby further amended by striking out subsection(f) and inserting in place thereof the following subsection:-

(f) The state ethics commission shall adopt regulations: (i) defining substantial value; provided, however, that substantial value shall not be less than \$50; (ii) establishing exclusions for ceremonial privileges and exemptions; (iii) establishing exclusions for privileges and exemptions given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

SECTION 84. Said chapter 268A is hereby further amended by adding the following 4 sections:-

Section 26. (a) Any person who, directly or through another, with fraudulent intent, violates clause (2) or (4) of subsection (b) of section 23, or any person who, with fraudulent intent, causes any other person to violate said clauses (2) or (4) of said subsection (b) of said section 23 or with fraudulent intent offers or gives any privileges or exemptions of substantial value in violation of said clause (2) or (4) of said subsection (b) of said section 23, shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½ years, or both, if the unwarranted privileges or exemptions have a fair market value in the aggregate of more than \$1,000 in any 12 month period.

Section 27. The commission shall prepare, and update as necessary, summaries of this chapter for state, county, and municipal employees, respectively, which the commission shall publish on its official website. Every state, county and municipal employee shall, within 30 days of becoming such an employee, and on an annual basis thereafter, be furnished with a summary of this chapter prepared by the commission and sign a written acknowledgment that he has been provided with such a summary. Municipal employees shall be furnished with the summary by, and file an acknowledgment with, the city or town clerk. Appointed state and county employees shall be furnished with the summary by, and file an acknowledgment with, the employee's appointing authority or his designee. Elected state and county employees shall be furnished with the summary by, and file an acknowledgment with, the commission. The commission shall establish procedures for implementing this section and ensuring compliance.

Section 28. The state ethics commission shall prepare and update from time to time the following online training programs, which the commission shall publish on its official website: (1) a program which shall provide a general introduction to the requirements of this chapter; and (2) a program which shall provide information on the requirements of this chapter applicable to former state, county, and municipal employees. Every state, county, and municipal employee shall, within 30 days after becoming such an employee, and every 2 years thereafter, complete the online training program. Upon completion of the online training program, the employee shall provide notice of such completion to be retained for 6 years by the appropriate employer.

The commission shall establish procedures for implementing this section and ensuring compliance.

Section 29. Each municipality, acting through its city council, board of selectmen, or board of aldermen, shall designate a senior level employee of the municipality as its liaison to the state ethics commission. The municipality shall notify the commission in writing of any change to such designation within 30 days of such change. The commission shall disseminate information to the designated liaisons and conduct educational seminars for designated liaisons on a regular basis on a schedule to be determined by the commission in consultation with the municipalities.

SECTION 85. Chapter 268B of the General Laws, is hereby amended by striking out section 1, as appearing in the 2006 Official Edition and inserting in place thereof, the following section:-

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

“Amount”, a category of value, rather than an exact dollar figure, as follows: greater than \$1,000 but not more than \$5,000; greater than \$5,000 but not more than \$10,000; greater than \$10,000 but not more than \$20,000; greater than \$20,000 but not more than \$40,000; greater than \$40,000 but not more than \$60,000; greater than \$60,000 but not more than \$100,000; greater than \$100,000.

“Business”, any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized for profit or charitable purposes.

“Business with which he is associated”, any business in which the reporting person or a member of his immediate family is a general partner, proprietor, officer or other employee, including one who is self-employed or serves as a director, trustee or in any similar managerial capacity and any business more than 1 per cent of any class of the outstanding equity of which is beneficially owned in the aggregate by the reporting person and members of his immediate family.

“Candidate for public office”, any individual who seeks nomination or election to public office; provided, however, that, an individual shall be deemed to be seeking nomination or election to public office if he has: (1) received a political contribution or made

an expenditure, or has given his consent for any other person or committee to receive a political contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the specific public office for which he will seek nomination or election is known at the time the political contribution is received or the expenditure is made; or (2) taken the action necessary under the laws of the commonwealth to qualify himself for nomination or election to such office.

“Commission”, the state ethics commission established by section 2;

“Equity”, any stock or similar ownership interest in a business.

“Executive agent”, an executive agent as defined in section 39 of chapter 3.

“Governmental body”, a state or county agency, authority, board, bureau, commission, council, department, division or other entity, including the general court and the courts of the commonwealth.

“Immediate family”, a spouse and any dependent children residing in the reporting person’s household.

“Income”, income from whatever source derived, whether in the form of a fee, salary, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other form of recompense or any combination thereof; provided, however, that interest from savings accounts or from government obligations other than those of the commonwealth or any political subdivision thereof or any public agency or authority created by the general court, alimony and support payments, proceeds from a life insurance policy, retirement or disability benefits and social security payments shall not be considered income for the purposes of this chapter.

“Legislative agent”, a legislative agent as defined in section 39 of chapter 3.

“Major policymaking position”, the executive or administrative head of a governmental body, all members of the judiciary, any person whose salary equals or exceeds that of a state employee classified in step 1 of job group XXV of the general salary schedule contained in section 46 of chapter 30 and who reports directly to said executive or administrative head, the head of each division, bureau or other major administrative unit within such governmental body and persons exercising similar authority.

“Person”, a business, individual, corporation, union, association, firm, partnership, committee or other organization or group of persons.

“Political contribution”, a contribution of money or anything of value to an individual, candidate, political committee or person acting on behalf of an individual, candidate or political committee, for the purpose of influencing the nomination or election of the individual or candidate or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment or other question submitted to the voters and shall include any: (1) gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; (2) transfer of money or anything of value between political committees; (3) payment, by any

person other than a candidate or political committee, or compensation for the personal services of another person which are rendered to such candidate or committee; (4) purchase from an individual, candidate or political committee, or person acting on behalf of an individual, candidate or political committee, whether through the device of tickets, advertisements, or otherwise, for fund-raising activities, including testimonials, held on behalf of said individual, candidate or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered; (5) discount or rebate not available to other candidates for the same office and to the general public; and (6) forgiveness of indebtedness or payment of indebtedness by another person; provided, however, that political contribution shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, or the payment by those rendering such services of such personal expenses as may be incidental thereto, or the exercise of ordinary hospitality.

“Public employee”, a person who holds a major policymaking position in a governmental body; provided, however, that a person who receives no compensation other than reimbursements for expenses, or any person serving on a governmental body that has no authority to expend public funds other than to approve reimbursements for expenses shall not be considered a public employee for the purposes of this chapter; provided, further, that the members of the board of bar examiners shall not be considered public employees for the purposes of this chapter.

“Public office”, a position for which one is nominated at a state primary or chosen at a state election, excluding the positions of senator and representative in congress and the office of regional district school committee member elected district-wide.

“Public official”, a person who holds a public office.

“Reporting person”, a person required to file a statement of financial interest pursuant to section 5.

SECTION 86. Section 4 of said chapter 268B, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following:-

(a) Upon receipt of a sworn complaint signed under the penalties of perjury, or upon receipt of evidence which is deemed sufficient by the commission, the commission shall initiate a preliminary inquiry into any alleged violation of chapter 268A or 268B. At the commencement of a preliminary inquiry into any such alleged violation, the general counsel shall notify the attorney general in order to avoid overlapping civil and criminal investigations. All commission proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the general counsel may turn over to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding. The general counsel shall notify any person who is the subject of the preliminary inquiry of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

SECTION 87. Subsection (c) of said section 4 of said chapter 268B, as so appearing, is hereby amended by adding the following sentence:- The commission shall initiate such an adjudicatory proceeding within 5 years from the date the commission learns of the alleged violation, but not more than 6 years from the date of the last conduct relating to the alleged violation.

SECTION 88. Subsection (d) of said section 4 of said chapter 268B as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Such summonses shall have the same force, and be obeyed in the same manner, and under the same penalties in case of default, as if issued by order of a justice of the superior court and may be quashed only upon motion of the summonsed party and by order of a justice of the superior court.

SECTION 89. Said section 4 of said chapter 268B, as so appearing, is hereby further amended by striking out, in lines 73 and 74, the words “two thousand dollars for each violation of this chapter or said chapter two hundred and sixty-eight A” and inserting in place thereof the following words:- \$10,000 for each violation of this chapter or chapter 268A, with the exception of a violation of section 2 of chapter 268A, which shall be subject to a civil penalty of not more than \$25,000.

SECTION 90. Said section 4 of said chapter 268B, as so appearing, is hereby further amended by inserting after the word “order”, in line 76, the following words:- and any order issued by the commission in accordance with chapter 268A.

SECTION 91. Said section 4 of said chapter 268B, as so appearing, is hereby further amended by inserting after the word “to”, in line 77, the following words:- chapter 268A or 268B.

SECTION 92. Said section 4 said chapter 268B, as so appearing, is hereby further amended by striking out, in line 91, the words “twenty thousand dollars” and inserting in place thereof the following figure:- \$30,000.

SECTION 93. Said section 4 of said chapter 268B, as so appearing, is hereby further amended by adding the following paragraph:-

(l) The superior court shall have concurrent jurisdiction to issue orders under paragraph (j) in a civil action brought by the attorney general. In any such action, an advisory opinion of the commission under clause (g) of section 3 shall be binding to the same extent as it is against the commission under that clause.

SECTION 94. Section 5 of said chapter 268B, as so appearing, is hereby amended by inserting after the word legislative, in line 68, the following words:- or executive.

SECTION 95. Said chapter 268B is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. No executive or legislative agent shall knowingly and willfully offer or give to any public official or public employee or a member of such person’s immediate family, and no public official or public employee or member of such person’s immediate family shall knowingly and willfully solicit or accept from any executive or legislative agent,

any gift of any kind or nature; provided, however, that the state ethics commission shall promulgate regulations: (i) establishing exclusions for ceremonial gifts; (ii) establishing exclusions for gifts given solely because of family or friendship; and (iii) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

SECTION 96. Section 7 of said chapter 268B, as so appearing, is hereby amended by striking out, in line 7, the words "files a " and inserting in place thereof the following words:- willfully files a materially.

SECTION 97. Said section 7 of said chapter 268B, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words "one thousand dollars or by imprisonment in the state prison for not more than three years, or in a house of correction for not more than two and one-half" and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2½.

SECTION 98. The General Laws are hereby further amended by inserting after chapter 277 the following chapter:-

CHAPTER 277A
Statewide Grand Jury

Section 1. Upon written application of the attorney general to the chief justice of the superior court department, with good cause stated therein, the chief justice may authorize the convening of a statewide grand jury with jurisdiction extending throughout the commonwealth.

Section 2. The chief justice of the superior court department shall, upon granting an application, receive recommendations from the attorney general as to the county in which the statewide grand jury shall sit. Upon receiving the attorney general's recommendations, the chief justice shall choose 1 of those recommended locations as the site where the grand jury shall sit. Once a county has been selected, the chief justice shall direct the regional administrative judge from the county selected to appoint, and reappoint as necessary, a superior court judge to preside over the statewide grand jury.

Section 3. The superior court judge presiding over the grand jury shall consult with the attorney general and district attorney for the relevant district about the nature and scope of the investigation and shall thereafter designate and authorize an existing county grand jury to serve as a statewide grand jury for purposes of the investigation specified in the written application, or, alternatively, convene and preside over a specially empaneled statewide grand jury.

Section 4. A specially empaneled statewide grand jury shall be drawn and selected in the same manner as the county grand jury in the county in which the specially empaneled statewide grand jury sits. A specially empaneled statewide grand jury may, at the discretion of the presiding superior court judge, draw jurors from counties adjoining the one in which the statewide grand jury is to sit.

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Section 5. A specially empaneled statewide grand jury convened pursuant to this chapter shall sit for a period not to exceed 18 months. The superior court judge presiding over the grand jury may extend this period if, in accordance with section 1A of chapter 277 and section 41 of chapter 234A, public necessity requires further time by the grand jury to complete an on-going investigation.

Section 6. The attorney general or an assistant attorney general shall attend each session of a statewide grand jury and may prosecute any indictment returned by it. The attorney general or assistant attorney general shall have the same powers and duties in relation to a statewide grand jury that she has in relation to a county grand jury, except as otherwise provided by law.

Section 7. Indictments shall be returned in the county where the statewide grand jury sits and shall thereafter be transferred to the county specified by the grand jury on the indictment. Venue for purposes of trial of offenses indicted by a statewide grand jury shall be in any county where venue would otherwise be proper.

Section 8. No provision of this chapter shall be construed as limiting the jurisdiction of county grand juries or district attorneys. Except as otherwise provided by law, an investigation by a statewide grand jury shall not preempt an investigation by any other grand jury or agency having jurisdiction over the same subject matter.

SECTION 99. Chapter 277A of the General Laws is hereby repealed.

SECTION 100. Notwithstanding any general or special law to the contrary, every legislative agent and executive agent, as defined by section 39 of chapter 3 of the General Laws shall, within 90 days after the effective date of this act, and every year thereafter, complete an in-person or online seminar offered by the state secretary in accordance with section 41 of said chapter 3.

SECTION 101. Notwithstanding any general or special law to the contrary, in accordance with section 27 of chapter 268A of the General Laws within 90 days after the effective date of this act every state, county, and municipal employee shall be provided a summary of chapter 268A prepared by the state ethics commission and shall file a written acknowledgment as required by that section.

SECTION 102. Notwithstanding any general or special law to the contrary, within 120 days after the effective date of this act, each municipality shall provide written notification to the state ethics commission of the liaison designated under section 29 of chapter 268A of the General Laws.

SECTION 103. Notwithstanding any general or special law to the contrary, any person who has previously received confirmation by the executive council, and who is, on the effective date of this act still a member of the judiciary shall, within 6 months of the effective date of this act, dissolve any political committee organized on behalf of such person and disperse any funds remaining in such committee's account in accordance with section 18 of chapter 55 of the General Laws.

SECTION 104. Notwithstanding any general or special law to the contrary, there shall be established a special commission to study the creation of a new independent office of public accountability which would function as the single state entity for the administration and enforcement of the provisions of law currently administered and enforced by the state ethics commission, the office of campaign and political finance and the lobbyist division of the office of the secretary of state.

The commission shall consider factors, including, but not limited to: (1) creating a new independent office of public accountability which would function as the single state entity for the administration and enforcement of the provisions of law currently administered and enforced by the state ethics commission, the office of campaign and political finance and the lobbyist division of the office of the secretary of state; (2) the cost of establishing such an office and the potential cost savings from efficiencies created by consolidating certain functions of the various offices; (3) what personnel would be required in such an office and who would set the salaries for those individuals, and whether civil service laws should apply to such an office; (4) the optimal composition of the new independent office to preserve its impartiality and integrity, including the question of whether no more than a certain number of commission members shall be members of a single political party and whether elected officials should participate in the process including appointing the commission or executive director; (5) who should be responsible for the removal of an executive director or commission member and how to fill such a vacancy; (6) whether any changes are necessary regarding jurisdiction for criminal or civil prosecutions of violations of laws within the purview of the office, and who should be responsible for investigating those matters; (7) whether there is a need for any expanded rulemaking authority within the new office; (8) whether the new office should be authorized to share information with any and all other enforcement agencies or what limitations are required for any particular type of inquiry, and whether information sharing within the office itself should be limited in any way; and (9) whether the confidentiality provisions under chapters 268A and 268B would be jeopardized by consolidation of operations of the state ethics commission with other agencies.

The special commission shall consist of: the secretary of the commonwealth, or his designee; the director of the office of campaign and political finance, or his designee; the executive director of the state ethics commission, or his designee; 3 members of the senate 1 of whom shall be appointed by the minority leader of the senate; 3 members of the house of representatives 1 of whom shall be appointed by the minority leader of the house of representatives; and 2 members to be appointed by the attorney general. The special commission shall report to the general court the results of its investigation and study, together with recommendations and drafts of legislation necessary to carry out any recommendations, if any, by filing a report with the clerks of the senate and the house of representatives by July 31, 2010.

SECTION 105. Sections 23 to 59, inclusive, of this act shall take effect on January 1, 2010.

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SECTION 106. Sections 17 to 20, inclusive, of this act shall take effect July 1, 2010.

SECTION 107. Section 99 shall take effect on December 31, 2014.

Approved July 1 , 2009.

Chapter 29. AN ACT PROVIDING FOR THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith provide for uniform prudent management of institutional funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by striking out chapter 180A and inserting in place thereof the following chapter:-

CHAPTER 180A.

UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS

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

“Charitable purpose”, the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose or the promotion of any other purpose the achievement of which is beneficial to the community.

“Endowment fund”, an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis; provided, however, that “endowment fund” shall not include assets that an institution designates as an endowment fund for its own use.

“Gift instrument”, a record, including an institutional solicitation, under which property is granted to, transferred to or held by an institution as an institutional fund.

“Institution”, (i) a person, other than an individual, organized and operated exclusively for charitable purposes; (ii) a government or governmental subdivision, agency or instrumentality to the extent that it holds funds exclusively for a charitable purpose; or (iii) a trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

“Institutional fund”, a fund held by an institution exclusively for charitable purposes or a fund held by trustee for a charitable community trust, but not including: (i) program-related assets; (ii) a fund held for an institution by a trustee that is not an institution,

other than a fund which is held for a charitable community trust; or (iii) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

“Person”, an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

“Program-related asset”, an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

“Record”, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Section 2. (a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In managing and investing an institutional fund, an institution:

(1) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution and the skills available to the institution;

(2) except as otherwise provided by a gift instrument, shall allocate those costs on a reasonable basis to each institutional fund prior to any appropriation; and

(3) shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool 2 or more institutional funds for purposes of management and investment.

(e)(1) Except as otherwise provided by a gift instrument, the rules set forth in this subsection shall apply.

(2) In managing and investing an institutional fund, the following factors, if relevant, shall be considered:

(i) general economic conditions;

(ii) the possible effect of inflation or deflation;

(iii) the expected tax consequences, if any, of investment decisions or strategies;

(iv) the role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) the expected total return from income and the appreciation of investments;

(vi) other resources of the institution;

(vii) the needs of the institution and the fund to make distributions and to preserve capital; and

(viii) an asset's special relationship or special value, if any, to the charitable purposes of the institution.

(3) Management and investment decisions about an individual asset shall not be made in isolation but shall be made in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(4) Except as provided by any other general or special law, an institution may invest in any kind of property or type of investment consistent with this section.

(5) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund will be better served without diversification.

(6) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio in order to bring the institutional fund into compliance with the purposes, terms and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

(7) A person who has special skills or expertise or who is selected in reliance upon the person's representation that the person possesses special skills or expertise shall have a duty to use those skills or that expertise in managing and investing institutional funds.

Section 3. (a) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund shall be donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (i) the duration and preservation of the endowment fund;
- (ii) the purposes of the institution and the endowment fund;
- (iii) general economic conditions;
- (iv) the possible effect of inflation or deflation;
- (v) the expected total return from income and the appreciation of investments;
- (vi) other resources of the institution; and
- (vii) the investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under subsection (a), a gift instrument shall specifically state the limitation.

(c) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends" or "rents, issues or profits", or "to preserve the principal intact" or words of similar import shall:

(i) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration of the fund; and

(ii) not, standing alone, limit the authority to appropriate for expenditure or accumulate under subsection (a).

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Section 4. (a) Subject to any specific limitation set forth in a gift instrument or in other general or special law, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

- (i) selecting an agent;
- (ii) establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
- (iii) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent shall owe a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(c) An institution that complies with subsection (a) shall not be liable for the decisions or actions of an agent to which the function was delegated.

(d) By accepting delegation of a management or investment function from an institution that is subject to the laws of the commonwealth, an agent submits to the jurisdiction of the courts of the commonwealth in all proceedings arising from or related to the delegation or the performance of the delegated function.

(e) An institution may delegate management and investment functions to its committees, officers or employees as authorized by any other general or special law.

Section 5. (a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, duration or purpose of an institutional fund. A release or modification shall not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management, investment or duration of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The attorney general shall be made a party to any such application and resulting proceeding. To the extent practicable, a modification shall be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The attorney general shall be made a party to any such application and resulting proceeding.

(d) The supreme judicial court may by rule or order provide that an application otherwise subject to court approval pursuant to subsections (b) and (c), may be approved by the attorney general if the value of the fund is not greater than such amount as the court may

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provide or in such other situations as the court may so provide.

Section 6. Compliance with this chapter shall be determined in light of the facts and circumstances existing at the time a decision is made or an action is taken and not by hindsight.

Section 7. This chapter shall apply to institutional funds existing on or established after June 30, 2009. As applied to institutional funds existing on June 30, 2009, this chapter shall govern only decisions made or actions taken on or after that date.

Section 8. This chapter modifies, limits and supersedes the electronic signatures in the Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of said act, 15 U.S.C. Section 7001(c) or authorize electronic delivery of any of the notices described in Section 103 of said act, 15 U.S.C. Section 7003(b).

Section 9. In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Prudent Management of Institutional Funds Act. To the extent that any provision of the law, rule or regulation is in conflict with this chapter, specifically to the extent that any such conflict would operate to defeat or otherwise interfere with the purposes of this chapter, this chapter shall supersede and take precedence over any such law, rule or regulation. This act shall be construed to the maximum extent possible so as to not constitute an impairment of contract.

Approved July 2 , 2009.

Chapter 30. AN ACT MOBILIZING ECONOMIC RECOVERY IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to infuse the state economy with available federal funds, create jobs and provide economic relief to the people of the Commonwealth of Massachusetts in the present fiscal emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 30 of chapter 151A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 32, the word “eighteen” and inserting in place thereof the following figure:- 26.

SECTION 2. Said section 30 of said chapter 151A, as so appearing, is hereby further amended by striking out, in lines 43 to 45, inclusive, the words “because of the individual’s need to address the physical, psychological and legal effects of domestic violence; provided that” and inserting in place thereof the following words:- ; provided, however, that such circumstances shall include an individual’s need to address the physical,

psychological and legal effects of domestic violence, as well as any period in which economic circumstances permit the provision of extended benefits or any other emergency benefits funded in whole or in part by the federal government; provided, further, that.

SECTION 3. Said section 30 of said chapter 151A, as so appearing, is hereby further amended by inserting after the word “claim”, in line 64, the following words:- unless the period is tolled by regulation.

SECTION 4. Notwithstanding section 38C of chapter 7 of the General Laws, contracts for design services which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009 shall be exempt from the jurisdiction of the designer selection board if the design fee under the contract is less than \$25,000, if the estimated construction cost of the project for which the design services are required is less than \$250,000 or if the contract is otherwise exempt under said section 38C of said chapter 7.

SECTION 5. Notwithstanding section 38D of chapter 7 of the General Laws, each contract for designer services for a project which is funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and which is subject to the jurisdiction of the designer selection board shall be publicly advertised by the board either: (i) within the COMPASS system, not less than 2 weeks before the deadline for filing applications, and in the central register established under section 20A of chapter 9, not less than 2 weeks before the deadline for filing applications; or (ii) if the contract is not advertised within the COMPASS system, the contract shall be publicly advertised in the central register at least 2 weeks before this deadline. Every contract for design services for a project which is funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and subject to section 38K of said chapter 7 shall be publicly advertised under this section.

SECTION 6. Subsection (d) of section 38F of chapter 7 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009. For those projects, the designer selection board may delegate its powers and duties under subparagraph (b) of section 38D of said chapter 7, paragraphs (c) and (d) of section 38E of said chapter 7, and subsections (a) and (b) of sections 38G, and subsections 38H and 38I of said chapter 7 to panels of less than all the board members. A panel of at least 6 members shall be required for selection of designers under this section, 4 of whom shall be architects or engineers; provided, however, that there shall be at least 1 architect and 1 engineer on the panel.

SECTION 7. Notwithstanding section 38H of chapter 7 of the General Laws, for contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, the certification required by clause (iv) of subsection (e) of said section 38H of said chapter 7 shall only apply to contracts which exceed \$25,000 or which are for the design of a building for which the budgeted or estimated construction costs exceed \$250,000.

SECTION 8. Notwithstanding section 38K of chapter 7, a contract for design services which is funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and which would otherwise be subject to the requirements of said section 38K

of said chapter 7 shall not be subject to those requirements unless the project at issue is estimated to exceed \$250,000.

SECTION 9. Notwithstanding section 40B of chapter 7 of the General Laws, for projects which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, the commissioner of capital asset management and maintenance may, upon request of a state agency or building authority, delegate project control and supervision to that state agency or building authority over projects involving structural or mechanical work in which the estimated cost is less than \$2,000,000 if the commissioner determines that the agency or authority has the ability to control and supervise such project. Except as otherwise provided in said section 40B of said chapter 7, any state agency or building authority shall control and supervise its own building projects when the estimated cost of such project is less than \$250,000 or if the project does not involve structural or mechanical work.

SECTION 10. The second and third paragraphs of section 7K of chapter 29 of the General Laws shall not apply to projects which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

No provider of design services for any building project for which a state agency is the using agency shall be selected by the designer selection board or by the administering agency in accordance with sections 38A½ to 38N, inclusive, of chapter 7 of the General Laws, and no design services shall be performed for or by such administering agency for any building project for which the satisfactory completion of a study program is required before the design or construction of that project, until: (a) the study, program or, where appropriate, both have been satisfactorily completed to such extent that a contract for final design may be awarded in the discretion of the commissioner of capital asset management and maintenance; (b) the using agency certifies in writing to the commissioner of capital asset management and maintenance that the study, program or, where appropriate, both correspond to the current needs of that agency, including its current long-term capital facilities development plan; and (c) the commissioner requests that 1 or more of the directors of the office of programming, office of project management or office of facilities management review the study or program or, where appropriate, both and the directors certify in writing to the commissioner that the study, program or, where appropriate, both reflect the using agency's needs as stated, that they provide an accurate estimate of the project requirements, cost and schedule, that the project can be accomplished within the appropriation or authorization for that project, and recommends proceeding with design, construction or, where appropriate, both.

This section shall not apply to maintenance or repair projects, as defined by section 39A of chapter 7 of the General Laws, estimated to cost less than \$250,000, if the executive head of the agency administering the project certifies in writing that the design work is or shall be such as to specify a project that can be accomplished and that there are funds available to pay for the design services.

SECTION 11. Section 26A of chapter 29 of the General Laws shall not apply to maintenance or repair projects, as defined by section 39A of chapter 7 of the General Laws,

which are funded in whole or in part in the American Recovery and Reinvestment Act of 2009 and are estimated to cost less than \$250,000, if the executive head of the agency administering the project certifies in writing that the design work is or shall be such as to specify a project that can be accomplished, and that there are funds available to pay for the design services.

SECTION 12. Notwithstanding any general or special law to the contrary, the Water Pollution Abatement Trust established in section 2 of chapter 29C of the General Laws may establish such terms and conditions for any loan or other form of financial assistance made under said chapter 29C that is funded in whole or in part by amounts provided under the American Recovery and Reinvestment Act of 2009 as the board of trustees of the trust shall determine to be in the best interests of the commonwealth and as required to comply with federal law including, without limitation, the interest rate, repayment period, number of payments to be made and amount of principal to be repaid on such loan or other form of financial assistance.

SECTION 13. Notwithstanding any general or special law to the contrary, the Water Pollution Abatement Trust established in section 2 of chapter 29C of the General Laws may transfer amounts held in the Drinking Water Revolving Fund to the Water Pollution Abatement Revolving Fund for application by the trust to the purposes specified in section 5 of said chapter 29C, and may transfer amounts held in the Water Pollution Abatement Revolving Fund to the Drinking Water Revolving Fund for application by the trust to the purposes specified in section 18 of said chapter 29C, in each case to the extent authorized by the federal Clean Water Act and the federal Safe Drinking Water Act.

SECTION 14. For contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, section 39M of chapter 30 of the General Laws shall only apply if the contract is estimated to cost more than \$50,000 but not more than \$100,000.

SECTION 15. Notwithstanding the first sentence of subsection (a) of section 39M of chapter 30 of the General Laws, a transportation or public works project subject to award under said section 39M of said chapter 30 by a department, agency or authority of the commonwealth that is funded in whole or in part through the American Recovery and Reinvestment Act of 2009 and that is expected to interfere with the movement of traffic or the traveling public may, in the discretion of the awarding authority, be procured through a bidding method that awards the project to the responsible and eligible bidder with the lowest bid value after taking into account the amount of time that the bidder has identified in the bid for completion of the project, hereinafter referred to as cost-plus-time bidding; provided, however, that such awarding authority may reject any bid if it is in the public interest to do so.

In utilizing a cost-plus-time bidding procurement method, the awarding authority shall use a cost parameter A and a time parameter B to determine a bid value. The cost parameter A shall be the traditional bid for the contract items and shall be the dollar amount

for the work to be performed under the contract. The time parameter B shall be the total number of calendar days required to complete the project, as estimated by the bidder, multiplied by an agency-determined daily road user cost hereinafter referred to as RUC to translate time into dollars. The total bid value, which shall be clearly detailed in the bid documents, shall equal the A + B (RUC). The total bid value shall be used only to evaluate bids. The winning bid, which shall be calculated at a public bid opening at a time and location designated in the bid documents, shall be the lowest bid value submitted by a responsible and eligible bidder. The contract amount for payment purposes shall be based on the bid price A, not the total bid value. The number of days bid B shall become the contract time. For purposes of this section, “responsible and eligible bidder” shall be defined pursuant to the criteria in subsection (c) of said section 39M of said chapter 30; provided, however, that the reference to “lowest” in said subsection (c) of said section 39M of said chapter 30 shall mean “lowest bid value” as provided in this section.

The provisions of the General Laws generally applicable to public works projects including, but not limited to, sections 26, 27, 27A, 27B, 27C, 27D, 27F and 34A of chapter 149 of the General Laws and sections 39F, 39G, 39H, 39J, 39K, 39M except the first sentence of subsection (a), 39N, 39O, 39P and 39R of said chapter 30 shall apply to all public works projects using the cost-plus-time bidding procurement method provided in this section.

SECTION 16. Notwithstanding section 29 of chapter 149 of the General Laws, contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009 shall only be subject to the requirements of said section 29 of said chapter 149 if the amount of the contract is more than \$25,000.

SECTION 17. (a) Subsection (2) of section 44A of chapter 149 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) A contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost less than \$10,000 and where the overall project is also estimated to cost less than \$10,000 shall be obtained through the exercise of sound business practices. The public agency shall make and keep a record of each such contract solicitation. At a minimum, the record shall include a written description of how the services were procured and the name and address of the person from whom the services were procured. Written price quotations submitted in accordance with this subsection shall not require certificates of eligibility, update statements or bid deposits. In no event shall public agencies solicit price quotations from persons if to do so would violate chapter 268A of the General Laws.

(c) A contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost not less than \$10,000, but not more than \$50,000 and where the overall project is also estimated to cost not more than \$50,000, shall be awarded to the responsible person offering to perform the

contract at the lowest price quotation; provided, however, that the public agency shall seek written price quotations from at least 3 persons customarily providing the work for which the contract is being made available. When seeking written quotations, the public agency shall make and keep a record of the names and addresses of all persons from whom price quotations were sought, the names of the persons submitting price quotations and the date and amount of each price quotation. Written price quotations submitted in accordance with this subsection shall not require certificates of eligibility, update statements or bid deposits. In no event shall public agencies solicit price quotations from persons if to do so would violate chapter 268A of the General Laws.

(d) A contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost more than \$50,000 but not more than \$100,000, except for a pumping station to be constructed as an integral part of a sewer construction or water construction project bid under section 39M of chapter 30 of the General Laws, shall be awarded to the lowest responsible and eligible bidder on the basis of competitive bids publicly opened and read in accordance with the procedure set forth in said section 39M of said chapter 30. As used in this section, the "pumping station" shall mean a building or other structure which houses only pumps and appurtenant electrical and plumbing fixtures.

(e) A contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost more than \$100,000, except for a pumping station to be constructed as an integral part of a sewer construction or water construction project bid under section 39M of chapter 30 of the General Laws, shall be awarded to the lowest responsible and eligible general bidder on the basis of competitive bids in accordance with the procedure set forth in sections 44A to 44H, inclusive of chapter 149 of the General Laws.

(f) When the general court has approved the use of an alternative mode of procurement of construction for a project under section 7E of chapter 29 of the General Laws, the awarding authority responsible for procuring construction services for the project shall follow the policies and procedures of this section and of sections 44B to 44H, inclusive of chapter 149 of the General Laws, to the extent compatible with the mode of construction procurement selected.

(g) Notwithstanding subsection (f), a public agency may undertake the procurement of modular buildings in accordance with section 44E of chapter 149 of the General Laws. A public agency may procure site work for modular buildings including, but not limited to, construction of foundations, installations and attachment to external utilities, or any portion of site work, either in combination with the procurement of modular buildings pursuant to said section 44E of said chapter 149 or on the basis of competitive bids pursuant to subsection (e). Notwithstanding said subsection (f), a public agency may procure energy management services in accordance with sections 11C or 11I of chapter 25A of the General Laws and regulations promulgated thereunder.

SECTION 18. (a) For contracts subject to the prequalification requirements set forth in section 44D½ of chapter 149 of the General Laws which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, an awarding authority shall have the option to use the condensed prequalification process for general contractors described in this section in lieu of the full prequalification process set forth in said section 44D½ of said chapter 149. The purpose of the condensed prequalification process shall be to allow awarding authorities an opportunity to expedite the prequalification process provided in section 44D½ of said chapter 149 in order to most efficiently meet the specified goals and time parameters set forth in the American Recovery and Investment Act. All of the requirements of the full prequalification process set forth in said section 44D½ of said chapter 149 shall be required under the condensed prequalification process unless specifically modified in this section.

(b) Where an awarding authority opts to use the condensed prequalification process, the requirements for public notice of the building project and solicitation of responses to the request for qualifications from interested general contractors shall include all items set forth in paragraphs (1) to (8), inclusive, of subsection (d) of said section 44D½ of said chapter 149 but shall also include the following statements:

(1) a statement that the project is funded in whole or in part under the American Recovery and Investment Act and shall use the condensed prequalification process; and

(2) a statement that the evaluation procedure and the criteria for the prequalification of interested general contractors shall include an evaluation of all the criteria set forth in subsection (e) of said section 44D½ of said chapter 149 but, in order to avoid duplication and promote the expeditious commencement of projects under the American Recovery and Investment Act and without sacrificing the importance of the prequalification process, for certain evaluation categories and subcategories specifically identified in said subsection (e) of said chapter 44D½ of said chapter 149, the prequalification committee shall evaluate interested general contractors based on a review of the information contained in the division of capital asset management and maintenance certification files including, but not limited to, the project evaluations required by subsection (7) of section 44D of said chapter 149 and the update statements required by subclause (ii) of clause (4) of said subsection (e) of section 44D½ of said chapter 149 to be submitted by interested general contractors. The prequalification committee shall exercise due diligence in checking appropriate references.

(c) The request for qualifications and evaluation criteria for the condensed prequalification process shall include all criteria set forth in said subsection (e) of said section 44D½ of said chapter 149 but shall not include the total or minimum point allocations for the evaluation categories and subcategories designated therein. In addition, in the interest of expediting the prequalification of general contractors for contracts funded in whole or in part under the American Recovery and Investment Act but not sacrificing the prequalification process, where certain of the evaluation subcategories specifically identified in this section require similar reporting by contractors in connection with the certification process set forth in said section 44D of said chapter 149 and the information contained in the

required update statements submitted by interested general contractors, an awarding authority issuing a request for qualifications under this condensed prequalification process shall maintain as part of the project record the written certification by the prequalification committee that it has evaluated interested general contractors based on a review of both the information contained in the certification files including, but not limited to, the project evaluations required by subsection (7) of said section 44D of said chapter 149, and the current update statements submitted by interested general contractors, and that it has exercised due diligence in checking appropriate references.

(d) Where an awarding authority opts to use the condensed prequalification process, the review of the terminations, legal proceedings, safety record and compliance record provided in subclauses (iv) to (vii), inclusive, of clause (1) of subsection (e) of said section 44D½ of said chapter 149 and the review of credit references and public project record under subclauses (ii) and (iii) of clause (2) of said subsection (e) of said section 44D½ of said chapter 149 and the review of audited financial statements under subclause (i) of clause (3) of said subsection (e) of said section 44D½ of said chapter 149 shall be satisfied by a requirement that the prequalification committee evaluate both the information contained in the division of capital asset management and maintenance certification files including, but not limited to, the project evaluations required by subsection (7) of section 44D of said chapter 149 and the current update statements submitted by interested general contractors, and by a requirement that the prequalification committee exercise due diligence in checking appropriate references. The prequalification committee shall further be required to certify in writing that it has met these requirements, and the certification shall be maintained by the awarding authority in the project record.

(e) Notwithstanding subsection (f) of said section 44D½ of said chapter 149, the public notice requirements for the condensed prequalification process shall be for the request for qualifications to be advertised in the central register established by section 20A of chapter 9 of the General Laws and in the COMPASS system for not less than 2 weeks. In addition, these projects shall be advertised on the central website to be established for all projects in the commonwealth funded in whole or in part under the American Recovery and Investment Act and in accordance with any requirements contained in the American Recovery and Investment Act.

(f) Where an awarding authority opts to use the condensed prequalification process in lieu of the evaluation requirements set forth in subsection (h) of said section 44D½ of said chapter 149, the prequalification committee shall evaluate each statement of qualifications based on the criteria provided in the request for qualifications, the information contained in the division of capital asset management and maintenance certification files including, but not limited to, the project evaluations required by subsection (7) of said section 44D of said chapter 149 and the current update statements submitted by interested general contractors. The prequalification committee shall exercise due diligence in checking appropriate references. As provided in subsection (c), the total and minimum point allocations designated in subsection (e) of said section 44D½ of said chapter 149 shall not be included

in the request for qualifications and shall not be used in the evaluation of interested general contractors where the condensed prequalification process is utilized. The evaluation of interested general contractors shall be based on the evaluation criteria set forth in this subsection and conducted within the discretion of the prequalification committee; provided, however, that the prequalification committee shall evaluate each interested general contractor on the same fair and equitable basis. A general contractor's score shall be made available to the general contractor upon request. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of arbitrariness, capriciousness, fraud or collusion.

(g) Where an awarding authority opts to use the condensed prequalification process, in lieu of the requirements for the re-issuance of the request for qualifications set forth in subsection (i) of said section 44D½ of said chapter 149, if the awarding authority prequalifies fewer than 3 general contractors to submit bids, the awarding authority may invite general bids under sections 44B to 44E, inclusive, of said chapter 149 or, if the awarding authority prequalifies at least 2 general contractors, then the awarding authority may invite bids from the 2 prequalified general contractors.

(h) Procedures shall be adopted by the commissioner of capital asset management and maintenance to implement this section and to ensure that the condensed prequalification process is sufficient, fair and consistent.

SECTION 19. (a) Subsection (f) of section 44D½ of chapter 149 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) The public notice and solicitation required in subsection (d) of said section 44D½ of said chapter 149 shall be advertised in the central register pursuant to section 20A of chapter 9 of the General Laws and within the COMPASS system. The public notice and solicitation shall be given within the COMPASS system and the central register not less than 2 weeks before the deadline for submitting responses to the request for qualifications.

SECTION 20. (a) For contracts subject to the prequalification requirements set forth in section 44D¾ of chapter 149 of the General Laws which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, an awarding authority shall have the option to use the condensed prequalification process for subcontractors described in this section in lieu of the full prequalification process set forth in said section 44D¾ of said chapter 149. The purpose of the condensed prequalification process shall be to allow awarding authorities an opportunity to expedite the prequalification process provided in said section 44D¾ of said chapter 149 in order to most efficiently meet the specified goals and time parameters set forth in the federal act. All of the requirements of the full prequalification process set forth in said section 44D¾ of said chapter 149 shall be required under the condensed prequalification process unless specifically modified in this section.

(b) Where an awarding authority opts to use the condensed prequalification process, the requirements for public notice of the building project and solicitation of responses to the request for qualifications from interested subcontractors shall include all items set forth in

paragraphs (1) to (8), inclusive, of subsection (d) of said section 44D¾ of said chapter 149 but shall also include the following statements:

(1) a statement that the project is funded in whole or in part under the American Recovery and Investment Act and shall use the condensed prequalification process; and

(2) a statement that the evaluation procedure and the criteria for the prequalification of interested subcontractors shall include an evaluation of all the criteria set forth in subsection (e) of said section 44D¾ of said chapter 149 but, in order to avoid duplication and promote the expeditious commencement of projects under the federal act and without sacrificing the importance of the prequalification process, for certain evaluation categories and subcategories specifically identified in said subsection (e) of said section 44D¾ of said chapter 149, the prequalification committee shall evaluate interested subcontractors based on a review of the information contained both in the division of capital asset management and maintenance certification files including, but not limited to, the project evaluations required by subsection (7) of section 44D of said chapter 149 and the update statements required by paragraph (e) herein to be submitted by interested subcontractors. The prequalification committee shall exercise due diligence in checking appropriate references.

(c) The request for qualifications and evaluation criteria for the condensed prequalification process shall include all criteria set forth in subsection (e) of said section 44D¾ of said chapter 149 but shall not include the total or minimum point allocations for the evaluation categories and subcategories designated therein. In addition, in the interest of expediting the prequalification of subcontractors for contracts funded in whole or in part under the American Recovery and Investment Act of 2009 but not sacrificing the prequalification process, where certain of the evaluation subcategories specifically identified in this section require similar reporting by contractors in connection with the certification process set forth in said section 44D of said chapter 149 and the information contained in the required update statements submitted by interested subcontractors, an awarding authority issuing an request for qualifications under this condensed prequalification process shall maintain as part of the project record the written certification by the prequalification committee that it has evaluated interested subcontractors based on a review of both the information contained in the certification files including, but not limited to, the project evaluations required by subsection (16) of said section 44D of said chapter 149, and the current update statements submitted by interested subcontractors, and that it has exercised due diligence in checking appropriate references.

(d) Where an awarding authority opts to use the condensed prequalification process, the review of the terminations, legal proceedings and safety record provided in subclauses (iv) to (vi), inclusive, of clause (1) of subsection (e) of said section 44D¾ of said chapter 149, and the review of credit references and public project record under subclauses (ii) and (iii) of clause (2) of said subsection (e) of said section 44D¾ of said chapter 149 and the review of annual revenue under subclause (i) of clause (3) of said subsection (e) of said section 44D¾ of said chapter 149 shall be satisfied by a requirement that the prequalification

committee evaluate both the information contained in the division of capital asset management and maintenance certification files, including but not limited to the project evaluations required by said subsection (16) of said section 44D of said chapter 149 and the current update statements submitted by interested subcontractors, and by a requirement that the prequalification committee exercise due diligence in checking appropriate references. The prequalification committee shall further be required to certify in writing that it has met these requirements, and the certification shall be maintained by the awarding authority in the project record.

(e) Where an awarding authority opts to use the condensed prequalification process, the mandatory requirements for the solicitation and submission of a commitment letter for payment and performance bonds at 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570 shall be as set forth in clause (4) of said subsection (e) of said section 44D½ of said chapter 149. In addition, it shall be mandatory for the awarding authority to solicit in the request for qualifications, and an interested subcontractor to submit with its statement of qualifications, a certificate of eligibility for the subcontractor trade for which it is seeking to be prequalified, issued by the division of capital asset management and maintenance under said section 44D of said chapter 149.

(f) Notwithstanding subsection (f) of said section 44D¾ of said chapter 149, the public notice requirements for the condensed prequalification process shall be for the request for qualifications to be advertised on the central register established pursuant to section 20A of chapter 9 and in the COMPASS system for not less than 2 weeks. In addition, these projects shall be advertised in the central website to be established for all projects in the commonwealth funded in whole or in part under the American Recovery and Investment Act and in accordance with any requirements contained in the American Recovery and Investment Act.

(g) Where an awarding authority opts to use the condensed prequalification process in lieu of the evaluation requirements set forth in subsection (h) of said section 44D¾ of said chapter 149, the prequalification committee shall evaluate each statement of qualifications based on the criteria provided in the request for qualifications, the information contained in the division of capital asset management and maintenance certification files including, but not limited, to the project evaluations required by subsection (16) of said section 44D of said chapter 149 and the current update statement submitted by interested subcontractors. The prequalification committee shall exercise due diligence in checking appropriate references. As provided in subsection (c) the total and minimum point allocations designated in subsection (e) of said section 44D¾ shall not be included in the request for qualifications and shall not be used in the evaluation of interested subcontractors where the condensed prequalification process is utilized. The evaluations of interested subcontractors shall be based on the evaluation criteria set forth in this subsection and conducted within the discretion of the prequalification committee; provided, however, that the prequalification committee shall evaluate each interested subcontractor on the same fair and equitable basis.

A subcontractor's score shall be made available to the subcontractor upon request. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of arbitrariness, capriciousness, fraud or collusion.

(h) Where an awarding authority opts to use the condensed prequalification process in lieu of the requirements for the re-issuance of the request for qualifications set forth in subsection (i) of said section 44D¾ of said chapter 149, if the awarding authority prequalifies fewer than 3 subcontractors to submit bids, the awarding authority may invite general bids under sections 44B to 44E, inclusive, of said chapter 149 or, if the awarding authority prequalifies at least 2 subcontractors, then the awarding authority may invite bids from the 2 prequalified subcontractors.

(i) Procedures shall be adopted by the commissioner of capital asset management and maintenance to implement this section and to ensure that the condensed prequalification process set forth in this section is sufficient, fair and consistent.

SECTION 21. (a) Subsection (f) of section 44D¾ of chapter 149 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) The public notice and solicitation required in subsection (d) of said section 44D¾ of said chapter 149 shall be advertised in the central register under section 20A of chapter 9 of the General Laws and within the COMPASS system. The public notice and solicitation shall be given within the COMPASS system and the central register not less than 2 weeks before the deadline for submitting responses to the request for qualifications.

SECTION 22. (a) Paragraph (a) of subsection 4 of section 44F of chapter 149 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) In inviting general bids and sub-bids, the awarding authority shall reserve the right to reject any bid if it is in the public interest to do so. In inviting sub-bids in connection with a contract, the awarding authority shall reserve the right to reject any sub-bid on any subtrade if it determines that the sub-bidder is not a person competent to perform the work as specified or if less than 3 sub-bids were received, which are not restricted to the use of 1 or more general bidders and the prices are not reasonable for acceptance without further competition.

(c) If no sub-bid is filed for a subtrade designated in the general bid form or if the only sub-bids which are filed are restricted to the use of 1 or more general bidders, the awarding authority may state, in an addendum issued with the list of sub-bidders required by subsection (d), that the general bidder shall include in the cost of his own work an amount to cover all of the work required for any such subtrade. The general contractor shall cause the work covered by the subtrade to be done by a qualified and responsible subcontractor, subject to the written approval of the awarding authority. If the awarding authority determines that a subcontractor chosen by the general contractor under this section is not qualified or responsible, the general contractor shall obtain another subcontractor who is sat-

isfactory to the awarding authority with no adjustment in the general contractor's price.

(d) If a rejection of all sub-bids for such a subtrade occurs under this section, the awarding authority shall state, in an addendum issued with the list of sub-bidders, the amount to be included by a general bidder on the general bid form for such subtrade and, without in any way affecting other sub-bidders in other subtrades who have conformed to the prescribed bidding procedure, new sub-bids for such subtrade shall be requested by written invitation to 3 or more qualified sub-bidders, including any that had previously submitted bids, and the sub-bids shall be publicly opened and read by the awarding authority at a time and place to be specified in the invitation. The general contractor shall cause the work covered by the subtrade to be done by the lowest responsible and eligible sub-bidder against whose standing and ability the general contractor makes no objection or, if there is no sub-bidder, by the subcontractor against whose standing and ability the general contractor and awarding authority make no objection and for a sum upon which the general contractor and the awarding authority may agree. The contract price shall be adjusted by the difference between the subcontract sum and the amount stated in the addendum. The general bidder shall include in the cost of his own work on the general bid form all expenses and profits on account of such adjustments.

(e) If after new sub-bids for a subtrade are requested by written invitation under subsection (d) the awarding authority still does not receive any sub-bids that are unrestricted to the use of 1 or more general bidders and are reasonable for acceptance based upon the estimated cost for the work of that subtrade, the awarding authority may assign the work to the general contractor if the awarding authority first confirms that its estimate for the cost of the work of that subtrade is accurate. The general contractor shall cause the work covered by the subtrade to be done by the subcontractor against whose standing and ability the general contractor and awarding authority make no objection, and for a sum upon which the general contractor and the awarding authority shall agree. The contract price shall be adjusted by the difference between the sub-contract sum and the amount stated in the addendum. The general bidder shall include in the cost of his own work on the general bid form all expenses and profits on account of such adjustments.

SECTION 23. (a) Subsection (1) of section 44J of chapter 149 of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) No public agency or authority of the commonwealth or any political subdivision thereof shall award any contract for which competitive bids are required under section 44A of said chapter 149 or section 39M of chapter 30 of the General Laws or for which competitive proposals are required under subsection (4) of section 44E of said chapter 149 or section 11C of chapter 25A of the General Laws unless a notice inviting bids or proposals therefor shall have been posted not less than 1 week before the time specified in the notice for the receipt of the bids or proposals in a conspicuous place in or near the offices of the awarding authority and shall have remained posted until the time so specified, and unless the notice shall also have been advertised either within the COMPASS system and in the central

register published by the state secretary under section 20A of chapter 9 of the General Laws not less than 2 weeks before the time specified for the receipt of the bids or proposals, or if the notice is not advertised within the COMPASS system, the notice shall be advertised in the central register at least 2 weeks before the time specified. The notice shall also be published at such other times and in such other newspapers or trade periodicals as the commissioner of capital asset management and maintenance may require, having regard to the locality of the work involved.

SECTION 24. (a) Subsection (e) of section 5 of chapter 149A of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) The public notice and solicitation required in subsection (c) of said section 5 of said chapter 149A shall be advertised in the central register under section 20A of chapter 9 of the General Laws and within the COMPASS system not less than 2 weeks before the deadline for submitting responses to the request for qualifications.

SECTION 25. (a) Notwithstanding section 5 of chapter 149A of the General Laws, for contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, the procedure in this section shall apply.

(b) (1) The division of capital asset management and maintenance shall annually undertake a prequalification process set forth in this section to provide a standing list of prequalified construction management at-risk firms to be used by the division in requesting proposals pursuant to subsection (c) for construction management at risk services for specific projects to be determined at a later date. Public awarding authorities other than the division shall have the option to use the standing list and related procedures upon application to, and approval by, the inspector general. A contract between a construction management at-risk firm and the division or other public awarding authority shall be secured by a performance and payment bond in the full sum of the guaranteed maximum price by a surety company licensed to do business in the commonwealth and whose name appears on the United States Treasury Department Circular 570.

(2) Firms included on the division's standing list of prequalified construction management at-risk firms shall be prequalified for a period of 1 year from the date of issuance of the standing list by the division. Upon issuance of the standing list, the division shall publish the standing list of prequalified construction manager at-risk firms in the central register, the COMPASS system and the division's website. The division shall re-advertise and solicit applications quarterly through the request for qualifications process provided for in this section to keep the statewide standing list current.

(3) Before issuing a request for qualifications, in this section hereinafter referred to as the RFQ, the division shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted to the RFQ issued pursuant to paragraph (4). The prequalification committee shall be comprised of at least 1 registered architect or 1 registered professional engineer on the division's staff who has at least 5 years experience

in the construction and supervision of construction of buildings or, if not registered as an architect or professional engineer, who has at least 7 years experience in the construction and supervision of construction of buildings and at least 2 other representatives from the division as designated by the commissioner.

(4) The selection process for the annual prequalification of the division's standing list of construction manager at-risk firms shall begin once the division gives public notice of the solicitation and requests responses to an RFQ from construction management at-risk firms. The public notice and RFQ shall include: (i) a statement indicating that the RFQ is not for a specific project, but will be used to prequalify construction management at-risk firms for inclusion on the division's annual standing list and that only those construction manager at-risk firms included on the standing list shall be invited to submit proposals in response to requests for proposals issued pursuant to subsection (c); (ii) the time and date for receipt of responses to the RFQ, the address of the office to which the responses are to be delivered and the timeframe in which the public agency shall respond to the responses; (iii) a description of the experience that will be required for construction manager at-risk firms to be included on the division's standing list, which shall include a minimum of 3 public or private construction manager at-risk projects during the past 10 years; (iv) the evaluation procedure and criteria under paragraph (7), including any rating system; (v) a general description of the scope of services that would be expected of a prequalified construction manager firm during the predesign, preconstruction and construction phases of a construction manager at-risk project; (vi) the anticipated schedule for the selection process of construction manager at-risk firms to be included on the division's standing list; and (vii) a prohibition against any unauthorized communication or contact with the public agency outside of official preproposal meetings.

(5) The division shall require interested construction management at-risk firms to submit a statement of qualifications in response to the RFQ issued pursuant to paragraph (4). The statement of qualifications shall include, at a minimum, the following: (i) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other responders; (ii) completion of a qualifications application similar in form to the American Institute of Architects Document A305, 1986 edition, listing general business information and financial capacity; (iii) a list of lawsuits and arbitrations to which the firm is a party in regard to construction contracts within the last 3 years, including a list of all convictions or fines for violations of state or federal law; (iv) submission of an organization chart with specific information on key project personnel or consultants; (v) submission of an audited financial statement for the most recent fiscal year and a letter from the surety company of the firm confirming the ability to provide performance and payment bonds for the building project under consideration, but the financial information submitted shall remain confidential and shall be exempt from chapter 66 of the General Laws; (vi) submission of information on the firm's safety record, including its workers' compensation experience modifier for the prior 3 years; (vii) submission of information on and evidence of the firm's

compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable; (viii) submission of information regarding the firm's experience on construction manager at-risk projects, including references from the owners and architects of the building projects; (ix) submission of information on any projects where the firm was terminated, failed to complete the work or paid liquidated damages; (x) a certificate of eligibility issued by the division pursuant to section 44D of chapter 149 of the General Laws showing the construction manager at-risk firm's capacity rating and an update statement; and (xi) any other relevant information that the division determines desirable. The statement of qualifications shall be signed under pains and penalties of perjury.

(6) The public notice and solicitation required in paragraph (4) shall be advertised in the central register pursuant to section 20A of chapter 9 of the General Laws, and within the COMPASS system not less than 2 weeks before the deadline for submitting responses to the RFQ.

(7) Upon receipt of the statement of qualifications submitted by construction management at-risk firms, the prequalification committee established pursuant to paragraph (3) shall evaluate each statement of qualifications using the criteria provided in the RFQ. Only construction management at risk firms achieving an acceptable rating as provided in clause (iv) of paragraph (4) will be selected for inclusion on the standing list.

(c) (1) Before issuing an RFP, the division or other public awarding authority authorized under subsection (b) shall establish a selection committee for the purpose of reviewing and evaluating responses submitted to the RFP issued pursuant to paragraph (2) of this subsection. The selection committee shall be comprised of 1 representative of the designer, the owner's project manager and at least 2 representatives of the division or other public awarding authority authorized under said subsection (b).

(2) The division or any other public awarding authority authorized in subsection (b), shall issue an RFP to all construction management at-risk firms that have been prequalified by the division in accordance with said subsection (b) and who have a division certificate of eligibility indicating sufficient single project and aggregate limits for the project. RFPs issued under this section shall follow the procedure set forth in subsections (b) to (e), inclusive, of section 6 of chapter 149A of the General Laws.

SECTION 26. Notwithstanding section 7 of chapter 149A of the General Laws, under special circumstances, when unique project requirements and circumstances warrant, public agencies may include an additional incentive clause with the contract providing for payment of an increased incentive of up to an additional $\frac{1}{2}$ of 1 per cent; provided, however, that even under special circumstances, the total incentive payments to the construction management at-risk firm shall not exceed 1 and $\frac{1}{2}$ per cent of the estimated construction cost; provided, further, that the only contracts eligible for such additional incentive payments shall be contracts that are funded in whole or in part through the American Recovery and Reinvestment Act of 2009.

SECTION 27. (a) Subsection (d) of section 8 of chapter 149A of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) The public notice and solicitation required in subsection (c) of said section 8 of said chapter 149A shall be advertised in the central register under section 20A of chapter 9 of the General Laws and within the COMPASS system not less than 2 weeks before the deadline for submitting responses to the request for qualifications.

SECTION 28. (a) Subsection (b) of section 17 of chapter 149A of the General Laws shall not apply to contracts which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009; provided, however, that this section shall apply.

(b) The public notice and solicitation required in subsection (a) of said section 17 of said chapter 149 shall be advertised either within the COMPASS system and in the central register established pursuant to section 20A of chapter 9 of the General Laws not less than 2 weeks before the deadline for submitting the letters of interest or, if the public notice and solicitation are not given within the COMPASS system, the public notice and solicitation shall be advertised in the central register not less than 2 weeks before the deadline for submitting the letters of interest.

SECTION 29. Notwithstanding section 53A of chapter 151A of the General Laws, moneys credited with respect to the special transfer made pursuant to section 903(g) of the Social Security Act shall be used solely for the purposes specified in said section 903(g) and shall not be subject to appropriation.

SECTION 30. Notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of revenues and related expenditures, a department may receive funds from the federal government related to the American Recovery and Reinvestment Act of 2009. The comptroller may authorize encumbrances and expenditures by a department in anticipation of the department's receipt of those funds; provided, however, that the department head shall certify that accounts will not be in deficit at the end of a fiscal year. The comptroller may establish accounts based on the provisions of section 6B of chapter 29 of the General Laws.

SECTION 31. Notwithstanding any general or special law to the contrary, should a matching funds requirement exist with respect to the receipt of any funds from the federal government related to the American Recovery and Reinvestment Act of 2009, the department that is applying for such funds shall notify the secretary of administration and finance of the matching fund requirement. The secretary shall direct the state comptroller to establish matching accounts and to allow expenditure of funds in the accounts without further appropriation. The secretary shall also notify the joint committee on veterans and federal affairs and the house and senate committees on ways and means of such action. The accounts shall be established in the General Federal Grants Fund established in section 2C of chapter 29 of the General Laws, the Federal Highway Construction Program Fund established in section 2E of said chapter 29 or any other fund as the state comptroller deems

necessary to fulfill the terms and conditions of the American Recovery and Reinvestment Act of 2009.

SECTION 32. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may authorize accounts to receive federal funds from the American Recovery and Reinvestment Act of 2009. To the extent allowed by federal law, the secretary may transfer such funds to other central service agencies charged with implementation of the American Recovery and Reinvestment Act of 2009 and incur expenditures for charges related to the administrative costs of the American Recovery and Reinvestment Act of 2009 and to ensure that the commonwealth meets the efficient administration and statewide accountability requirements in the American Recovery and Reinvestment Act of 2009. 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 secretary may incur expenses and the state comptroller shall certify for payments amounts not to exceed the lesser of $\frac{1}{2}$ of the authorization or the most recent revenue estimate therefor or as otherwise authorized by the secretary. The accounts may receive federal funds recovered from the American Recovery and Reinvestment Act of 2009 in accordance with section 6B of chapter 29 of the General Laws or any other general or special law. The recoveries shall be based on rates approved in accordance with the federal Office of Management and Budget circular A-87 or any other guidance issued by the office of management and budget applicable to federal funds provided under the American Recovery and Reinvestment Act of 2009.

SECTION 33. (a) Notwithstanding any general or special law to the contrary, the following requirements shall apply to any public works project funded by the American Recovery and Reinvestment Act of 2009 where the amount of construction costs under any contract awarded is likely to exceed \$1,000,000. For the purposes of this section, "public works" shall mean building or work the construction of which is carried on by authority of the commonwealth, or by a county, town, authority or district, or with funds of a federal agency or the commonwealth or a county, city, town, authority or district to serve the interest of the general public, regardless of whether title thereof is in the commonwealth or in a county, city, town, authority or district; provided, however, that for the purposes of this definition, "construction" shall have the meaning provided in section 27D of chapter 149 of the General Laws.

(b) For any public works project subject to subsection (a), the specifications set forth in any request for responses shall include a requirement that, on a per project basis, not less than 20 per cent of the total hours of employees receiving an hourly wage who are directly employed on the site of the project, employed by the contractor or a subcontractor and subject to the prevailing wage, shall be performed by apprentices in bona fide apprentice training programs as provided in sections 11H and 11I of chapter 23 of the General Laws which are approved by the division of apprentice training in the executive office of labor and workforce development.

(c) During the performance of a public works project subject to subsections (a) and (b), the contractor shall submit periodic reports to the awarding authority with records indicating the total hours worked by all journeymen and apprentices in positions subject to the apprentice requirement. In any instance in which the apprentice hours do not constitute 5 per cent of the total hours of employees subject to the apprentice requirement, the contractor shall submit a plan to the awarding authority describing how the contractor shall comply with the apprentice requirement.

(d) The attorney general shall have all the necessary powers to require compliance with the requirements of subsections (a), (b) and (c) therewith, including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts. Prior to award of the contract, an awarding authority may petition the attorney general for approval to adjust the requirements set forth in said subsections (a), (b) and (c). The attorney general may adjust these requirements only if he determines that compliance with these requirements is not feasible or if application of the requirements would be preempted by federal law.

(e) An awarding authority serving a low-income population may require additional specifications that address the needs of its clients including, but not limited to, preferential hiring for residents of public housing authorities for available apprenticeship positions.

(f) Subject to appropriation, the division of apprentice training shall enhance its outreach efforts to underserved populations in order to increase and diversify the number of apprentices in the commonwealth.

SECTION 34. Notwithstanding any general or special law to the contrary, employees who are hired to perform work related to the American Recovery and Reinvestment Act of 2009 funded by the federal government shall be scheduled in accounts set up solely for the purpose of the American Recovery and Reinvestment Act of 2009. No expenditures of an employee scheduled in an item of appropriation established by the American Recovery and Reinvestment Act of 2009 shall be charged to any other item of appropriation and no expenditures of employees in any other item of appropriation shall be charged to an account under the American Recovery and Reinvestment Act of 2009 and the state comptroller shall not permit the transfers or charges unless otherwise approved by the secretary of administration and finance. Positions funded by the American Recovery and Reinvestment Act of 2009 shall be eliminated once the funding ends.

SECTION 35. Notwithstanding any general or special law to the contrary, an employee hired by the commonwealth and paid from federal funds provided pursuant to the American Recovery and Reinvestment Act of 2009 shall not be subject to chapters 30 and 31 of the General Laws.

SECTION 36. (a) As used in this section, the following terms shall, unless the context indicates otherwise, have the following meaning:

“Disadvantaged business enterprise”, shall have the same meaning as the term is defined in 49 CFR 26.5.

“Minority business enterprise”, shall have the same meaning as the term is defined in section 40 of chapter 23A of the General Laws.

“Secretary”, the secretary of administration and finance.

“Women business enterprise”, shall have the same meaning as the term is defined in said section 40 of said chapter 23A.

(b) Notwithstanding any general or special law to the contrary, the secretary may implement a technical assistance and capacity building pilot program applicable solely to projects funded in whole or in part by the American Recovery and Reinvestment Act of 2009. The purpose of the technical assistance and capacity building program shall be to promote, encourage and otherwise facilitate full participation of minority and women business enterprises and disadvantaged business enterprises and other small businesses in public construction and public works projects undertaken as part of the federal economic recovery effort and funded in whole or in part by the American Recovery and Reinvestment Act of 2009.

(c) The secretary shall promulgate rules, regulations or guidelines relative to the implementation and administration of the technical assistance and capacity building pilot program established in subsection (b).

(d) No later than 6 months after the conclusion of the provision of technical assistance and capacity building services provided pursuant to subsection (b), the secretary shall provide a written report to the governor and to the joint committee on community development and small business on the provision of the services and performance outcomes relative thereto. The report shall include recommendations as to how the commonwealth may best facilitate the continued inclusion of minority and women business enterprises, disadvantaged business enterprises and small businesses in future public construction and public works projects.

SECTION 37. Notwithstanding any general or special law to the contrary, the assistant secretary for access and opportunity shall undertake a comprehensive study regarding the challenges and barriers faced by owners of small businesses, including owners of minority and women business enterprises, in accessing and obtaining working capital and debt financing. The comprehensive study shall include, but not limited to, investigating the viability of implementing a short-term loan program similar to that administered by the United States Department of Transportation’s Office of Small and Disadvantaged Business Utilization. In undertaking the comprehensive study, the assistant secretary for access and opportunity shall consult the director of small business and entrepreneurship, the director of minority and women business assistance and any other state agency or program whose mission is to assist small businesses and minority or women business enterprises. The assistant secretary for access and opportunity shall report the results of his investigation and study and his recommendations, if any, together with drafts of legislation necessary to carry his recommendations into effect to the governor and to the secretary of administration and finance and 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 community development and small business on or before October 1, 2009.

SECTION 38. (a) Notwithstanding any general or special law to the contrary and solely for the purposes of implementing public building and public works projects funded in whole or in part by the American Recovery and Reinvestment Act of 2009 while facilitating the involvement of small contractors, including minority and women contractors, the Massachusetts Community Development Finance Corporation may establish a contractor surety bond guarantee program pursuant to this section.

(b) As used in this section the following words shall have the following meanings unless the context clearly requires otherwise:-

“Bid bond”, a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

“Corporation”, the Massachusetts Community Development Finance Corporation.

“Eligible contractor”, a small contractor, a minority contractor or a woman contractor.

“Minority contractor”, a person who performs as a prime contractor or general contractor or as a subcontractor on a contract funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and is a minority business enterprise as such term is defined in section 40 of chapter 23A of the General Laws.

“Obligee”, (i) in the case of a bid bond, the public agency requesting bids for the performance of a contract; or (ii) in the case of a payment bond or performance bond, the public agency that has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

“Payment bond”, a bond conditioned upon the payment by the principal of money to persons under contract with him.

“Performance bond”, a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

“Person”, a natural person, business, partnership, corporation or other legal form.

“Prime contractor” or “general contractor”, the person with whom the obligee has contracted to perform a contract funded in whole or in part by the American Recovery and Reinvestment Act of 2009.

“Principal”, (i) in the case of a bid bond, a person bidding for the award of a contract; or (ii) the person primarily liable to complete a contract for the obligee or to make payments to other persons in respect of such contract and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond; provided, however, that a principal may be a prime contractor, general contractor or a subcontractor.

“Small contractor”, a person who performs as a prime contractor, general contractor or subcontractor on a contract funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and whose average annual gross revenue is \$5,000,000 or less per year for the most recent 2 fiscal years.

“Subcontractor”, a person who has contracted with a prime contractor, general contractor or another subcontractor to perform a contract funded in whole or in part by the American Recovery and Reinvestment Act of 2009.

“Surety”, a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570 and who: (i) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond; (ii) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract; (iii) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment; or (iv) is an agent, independent agent, underwriter or any other company or individual empowered to act on behalf of such company.

“Woman contractor”, a person who performs as a prime contractor, general contractor or as a subcontractor on a contract funded in whole or in part by the American Recovery and Reinvestment Act of 2009 and is a woman business enterprise as that term is defined in section 40 of chapter 23A of the General Laws.

(c) The corporation may establish a contractor surety bond guarantee program and may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee a surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed \$250,000. No such guarantee shall be issued, unless:

- (i) the person who would be principal under the bond is an eligible contractor;
- (ii) the bond is required in order for such person to bid on a contract or to serve as a prime contractor, general contractor or subcontractor on a contract;
- (iii) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and
- (iv) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.

The corporation shall administer the contractor surety bond guarantee program on a prudent and economically-justifiable basis and establish such fees for eligible contractors and premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the corporation.

The corporation, as guarantor, may exercise all of the rights and powers of a company authorized by the division of insurance to guarantee bonds pursuant to chapter 175 of the General Laws, but shall not otherwise be subject to any laws related to a guaranty company under said chapter 175 nor to any rules of the division of insurance.

(d) For purposes of this section, the corporation shall establish and maintain accounts, identified individually or collectively as the Contractor Surety Bond Guarantee Fund which shall be kept separate from other corporate funds. The fund shall consist of all monies deposited, credited or otherwise obtained pursuant to an appropriation or other allocation or assignment or grant of funds from the commonwealth; any grants, gifts and contributions received pursuant to section 3 of chapter 40F of the General Laws; all monies recovered following defaults; and any interest earned on monies within the accounts.

(e) The corporation may guarantee up to 90 per cent of the loss incurred and paid by a surety on bonds guaranteed under this section. Additionally, and subject to the provisions of this section, in connection with the issuance by the corporation of a guarantee to a surety as provided in subsection (c), the corporation may agree to indemnify the surety against a loss sustained by such surety in avoiding or attempting to avoid a breach of the terms of a bond guaranteed by the corporation pursuant to said subsection (c); provided, however, that prior to making a payment under this subsection, the corporation shall first determine that a breach of the terms of the bond was imminent and the surety shall obtain written approval from the corporation prior to making any payments pursuant to this subsection.

(f) Pursuant to any such guarantee, the corporation shall reimburse the surety, as provided in subsection (e), except that the corporation shall be relieved of all liability if:

(i) the surety obtained such guarantee or agreement or applied for such reimbursement by fraud or material misrepresentation;

(ii) the total contract amount at the time of execution of the bond exceeds \$250,000;
or

(iii) the surety has breached a material term or condition of such guarantee in the agreement.

SECTION 39. Any entity located in the commonwealth that receives federal funds through the American Recovery and Reinvestment Act of 2009 shall provide information as directed by the secretary of administration and finance regarding the use of the funds. The required information shall include, but not be limited to, the reporting information required by the federal government and any other information deemed necessary by the secretary to administer the American Recovery and Reinvestment Act of 2009 responsibly, efficiently and transparently. To the extent possible, the secretary shall work to streamline the reporting of this information, minimize duplication of data entry by recipients and ensure data consistency. The secretary may issue regulations to effectuate this reporting requirement.

SECTION 40. Employers and hiring agents on all projects funded in whole or in part by the American Recovery and Reinvestment Act of 2009 shall post notices of available employment opportunities to the commonwealth's job bank or the one-stop career centers closest to where the projects shall be located. The postings shall contain such information as directed by the secretary of labor and workforce development. The secretary may issue regulations to effectuate this job posting requirement.

SECTION 41. Notwithstanding any general or special law to the contrary, a carrier

offering continuation coverage under a health benefit plan issued pursuant to chapter 176J of the General Laws to a qualified beneficiary eligible for the COBRA premium assistance benefit set forth in section 3001 of the American Recovery and Reinvestment Act of 2009 shall offer the extended election period available therein to each qualified beneficiary who does not have an election of continuation coverage under a health benefit plan issued under said chapter 176J on the effective date of this act, but who would be an assistance-eligible individual under the American Recovery and Reinvestment Act of 2009 if such election were in effect. Any such qualified beneficiary may elect such continuation coverage under said chapter 176J during the period beginning on the effective date of this act and ending 60 days after the date on which the notification required under this section is provided to such qualified beneficiary. Coverage elected in this extended election period shall commence with the first period of coverage beginning on or after the effective date of this act. For the purposes of this section, carriers or their designees shall comply with paragraph (5) of subsection (j) of section 9 of said chapter 176J and any applicable notice requirements under American Recovery and Retirement act of 2009, except that such notice shall be made within 60 days after the effective date of this act.

SECTION 42. The secretary of administration and finance, in consultation with the state comptroller, shall submit comprehensive bi-monthly reports for 3 years after the effective date of this act to the clerks of the senate and house of representatives who shall forward the same to the joint committee on federal stimulus oversight and the house and senate committees on ways and means on the programs, aid, grants and projects funded in whole or in part by the American Recovery and Reinvestment Act of 2009, in this section referred to as ARRA. The reports shall be posted on the commonwealth's official website. The reports shall include, but not be limited to:

(1) an accounting of all known or anticipated federal funding from ARRA that will be available for use by any public entity in fiscal years 2009, 2010 and 2011; provided, however, that the report shall delineate federal funding that may be used to supplant or supplement general state appropriations in each fiscal year, with a further delineation between funding received as federal grants under section 6B of chapter 29 of the General Laws, funding received for public entities other than the commonwealth and funding received that is subject to further appropriation;

(2) an accounting of any funds collected or anticipated to be collected in fiscal years 2009, 2010 and 2011 pursuant to an increase in the federal Medicaid assistance percentage rate pursuant to ARRA and the assumptions used in any future projections;

(3) a listing of grants of waiver issued under ARRA;

(4) a listing of all competitive federal grants available under ARRA for which a state agency has filed an application; provided, however, that the report shall state the number of applications that have been accepted, the number that are still pending and the number that have been rejected and shall compare the number of accepted applications with not less than at least 10 other states; and

(5) an accounting of the progress of all expenditures related to capital projects funded in whole or in part by ARRA; provided, however, that the report shall include, but not be limited to, the total amount allocated 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 such de-authorization.

SECTION 43. The secretary of administration and finance or the applicable state agency applying for funds through the American Recovery and Reinvestment Act of 2009 shall file with the house and senate committees on ways and means and the joint committee on federal stimulus oversight copies of all state applications requesting funding concurrently with submission of the application to the federal government. The secretary or the applicable state agency shall also inform the house and senate committees on ways and means and the joint committee on federal stimulus oversight in writing of the amount of funds to be allocated and the location of where funds shall be deposited as soon as notification from the federal government on each award is received.

SECTION 44. Notwithstanding any general or special law to the contrary, for projects which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009, the awarding authority shall deem “Eligible” to be defined as follows:

“Eligible”, a bidder or offeror who is able to meet all requirements for bidders or offerors set forth in sections 44A to 44H, inclusive of chapter 149 of the General Laws and who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.; provided, however, that eligible shall not include a bidders or offeror that, at the time of procurement, is: (1) debarred from bidding under section 44C of said chapter 149 or any other applicable law; (2) debarred by any other state or by any agency of the United States, as determined by the Commonwealth after diligent efforts; or (3) otherwise excluded from public contracting or subcontracting for the reasons set forth in subsection (c) of section 29F of chapter 29 of the General Laws; and provided, further, that notwithstanding any general or special law to the contrary, the Attorney General may waive or adjust the preceding requirements if he determines in writing that special circumstances exist which justify such waiver or adjustment.

SECTION 45. (a) The provisions and definitions of terms in the Federal-State Extended Unemployment Compensation Act of 1970 shall apply to this section; provided, however, that to the extend such definitions are in conflict with or supplement the provisions and definitions of terms in the American Recovery and Reinvestment Act of 2009, the provisions and definitions of the American Recovery and Reinvestment Act of 2009 shall apply to this section.

(b) With respect to weeks of unemployment beginning on or after February 22, 2009,

and continuing until the week ending prior to the last week for which 100 per cent federal sharing is authorized by subsection (a) of Section 2005 the American Recovery and Reinvestment Act of 2009 for all claims except for entities described in Section 3306(c)(7) of the Internal Revenue Code, the following shall apply:

(1) In addition to the “state ‘on’ indicator” set forth in paragraph (d) of subsection (1) of section 30A of chapter 151A of the General Laws, there shall be a “state ‘on’ indicator” for the commonwealth for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that:

(A) the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks equaled or exceeded 6 per cent, regardless of the rate of insured unemployment in the 2 previous years; or

(B) (i) the average rate of total unemployment, seasonally adjusted, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week equals or exceeds 6.5 per cent; and

(ii) the average rate of total unemployment (seasonally adjusted) for the three-month period referred to in clause (i) equals or exceeds 110 per cent of such average rate for either or both of the corresponding 3-month periods ending in the 2 preceding calendar years.

(2) There shall be a state “off” indicator for the commonwealth for any week if none of the requirements specified in paragraph (1) of this section and in paragraph (d) of subsection (1) of said section 30A of said chapter 151A are satisfied.

(3) (A) For purposes of this subparagraph, the term “high unemployment period” shall mean any period during which an extended benefit period would be in effect if clause (i) of subparagraph (B) of paragraph (1) were applied by substituting 8 per cent for 6.5 per cent.

(B) Effective with respect to weeks beginning in a high unemployment period, subsection (5) of said section 30A of said chapter 151A shall be applied by substituting: (i) 80 per cent for fifty per cent in paragraph (a); (ii) 20 times for thirteen times in paragraph (b); and (3) 46 times for thirty-nine times in paragraph (c).

(c) The indicators specified in subsection (b) shall be operative only if mandated or permitted by federal law.

(d) Notwithstanding any other provision of this section, the governor may, if permitted by federal law, suspend the payment of extended unemployment benefits under this section, to the extent necessary to ensure that otherwise eligible individuals are not denied, in whole or in part, the receipt of emergency unemployment compensation benefits authorized by the federal Supplemental Appropriations Act of 2008, the Unemployment Compensation Extension Act of 2008 and the American Recovery and Reinvestment Act of 2009 and that the state receives maximum reimbursement from the federal government for the payment of those emergency benefits.

(e) This section shall not be implemented unless the director of workforce development determines that these provisions have been approved by the United States Department of Labor. The director shall immediately provide a copy of this section to the

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United States Department of Labor for review.

SECTION 46. Sections 4 to 11, inclusive, sections 14 to 28, inclusive and section 33 shall apply only to contracts advertised after the effective date of this act.

Approved July 2 , 2009.

Chapter 31. AN ACT RELATIVE TO EMPLOYEES OF THE TOWN OF WESTBOROUGH.

Be it enacted, etc., as follows:

Section 7-8 of Article 7 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 first paragraph and inserting in place thereof the following paragraph:-

Any town employee, except the town manager, involved in administrative or technical operation of the town, not subject to chapter 31 of the General Laws, whether appointed for a fixed or an indefinite term, may be suspended or removed from office by the appointing authority for good cause. The term "good cause" shall include, but not be limited to, the following: incapacity other than temporary illness; inefficiency; insubordination; and conduct unbecoming the office. In the case of appointed members of town boards, commissions and committees, the term "good cause" shall include, but not be limited to, failure to attend 4 or more consecutive meetings of the member's board, commission or committee.

Approved July 2 , 2009.

Chapter 32. AN ACT RELATIVE TO CERTAIN APPROPRIATIONS BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purposes, which is to make certain changes in law, each of which is immediately necessary 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 35MM of chapter 10 of the General Laws is hereby repealed.

SECTION 2. The fourth sentence of subsection (a) of section 138 of chapter 27 of the acts of 2009 is hereby amended by adding the following words:- ; provided, however, that in making any such pledge of said contract and of the right to receive amounts thereunder for

the payment of bonds, the authority shall seek to effect such pledge in a manner that maximizes the security for the bondholders and increases the likelihood of improving the credit rating for the outstanding metropolitan highway system bonds; and provided further, that in the event of such pledge, the Massachusetts Department of Transportation shall be subject to subsection (c) of section 13 of chapter 6C of the General Laws and shall be deemed to be in compliance with said subsection (c) of said section 13 of said chapter 6C by demonstrating that the aggregate revenues received from all tolled facilities are equal to or less than the aggregate costs of all tolled facilities as described in clauses (i) and (ii) of said subsection (c) of said section 13 of said chapter 6C.

Approved July 15, 2009.

Chapter 33. AN ACT PROVIDING FOR ECONOMIC RECOVERY THROUGH BROADBAND INITIATIVES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to access forthwith available federal funds and ensure Massachusetts' immediate economic recovery by increasing broadband access and infrastructure, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 40A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 49 and 57, the word "energy" and inserting in place thereof, in each instance, the following words:- cable or the department of public utilities.

SECTION 2. The second paragraph of said section 3 of said chapter 40A, as so appearing, is hereby amended by adding the following 2 sentences:- For the purpose of this section, the petition of a public service corporation relating to siting of a communications or cable television facility shall be filed with the department of telecommunications and cable. All other petitions shall be filed with the department of public utilities.

SECTION 3. Section 6B of chapter 40J of the General Laws, as so appearing, is hereby amended by inserting after the word "financed", in line 58, the following words:- or acquired.

SECTION 4. Said section 6B of said chapter 40J, as so appearing, is hereby further amended by inserting after the word "entities", in lines 61, the following words:- ; provided, however, that acquisition of (i) an indefeasible right of use of facilities used for the transmission of intelligence by electricity for a period of not less than 20 years or for such lesser term and subject to such other conditions as the board may determine to be appropriate to protect the public interest; or (ii) a license or other agreement to use electromagnetic spec-

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trum licensed by the federal government shall be considered to be acquisition of an ownership interest in broadband infrastructure.

SECTION 5. Subsection (d) of said section 6B of said chapter 40J, as so appearing, is hereby amended by adding the following two paragraphs:-

Notwithstanding any general or special law or rule or regulation to the contrary, the department of highways may lease or license for a term not to exceed 25 years any interest in real property deemed appropriate by the corporation and the commissioner of highways to promote the objectives of this chapter. The nature and extent of such interest shall be transferred on such terms and conditions as the commissioner of highways may determine. The terms and conditions of any conveyance executed pursuant to this subsection shall be approved by the commissioner of capital asset management, in consultation with the inspector general and the secretary of transportation. Any interest acquired by the corporation may be transferred, leased or licensed by the corporation for use by public entities or nonprofit or for-profit private sector entities subject to the approval of the commissioner of highways and subject to this section including, without limitation, such right of reverter at the expiration of the term. The corporation shall lease or license any such interest using such competitive processes and procedures as may be reviewed and approved by the inspector general. Notice that such interest is available for lease or license shall be publicly advertised in 2 daily newspapers of general circulation published in the city of Boston and, if such real property is located in any other city or town, in a newspaper of general circulation published in such other city or town, once a week for 2 successive weeks. Such advertisements shall state the availability of such interest, the nature of the competitive process and other information deemed relevant, including the time and place where all pertinent information relative to the interest to be leased or licensed may be obtained, the criteria for selection of a successful proponent, and the time, place and manner for the submission of bids, proposals and the opening thereof. The consideration for any such interest shall be within the estimated range of the fair market value of the interest as determined by the corporation based upon an independent professional appraisal. Any such interest conveyed by the department of highways shall revert to the commonwealth at the expiration of any such term.

The corporation may exercise any of its powers to assist or enable the institute to fulfill its purposes as set forth in this section, including without limitation the powers set forth in clause (e) of section 4, and such purposes are hereby deemed and held to be purposes of the corporation. Without limiting the generality of the foregoing, the corporation shall have the power to develop, lease or otherwise acquire, own, hold, dispose of and encumber conduit, fiber, towers and other real and personal property related to broadband infrastructure that shall be necessary or convenient to the fulfillment of such purposes. The exercise by the corporation of any such powers shall be deemed and held to be an essential governmental function.

Approved July 16, 2009.

Chapter 34. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ANGELA N. WILSON, AN EMPLOYEE OF THE DEPARTMENT OF YOUTH SERVICES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of youth services shall establish a sick leave bank for Angela N. Wilson, 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 Angela N. Wilson. 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. Whenever Angela N. Wilson terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved July 17, 2009.

Chapter 35. AN ACT ESTABLISHING A COMMONWEALTH TRANSPORTATION FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a fund solely for transportation needs and re-affirm security of certain bonds, 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 29 of the General Laws is hereby amended by striking out section 2ZZZ, inserted by section 35 of chapter 25 of the acts of 2009, and inserting in place thereof the following section:-

Section 2ZZZ. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Commonwealth Transportation Fund, which shall be used exclusively for financing transportation-related purposes. There shall be credited to the fund all fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90, all receipts paid into the treasury of the commonwealth and directed to be credited to the Commonwealth Transportation Fund pursuant to chapters 64A, 64E, 64F and

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any other applicable general or special law and all amounts appropriated into the fund by the general court. The fund shall be subject to appropriation and shall be used for transportation related expenses of the executive office of transportation or any successor agency or authority, including to pay or reimburse the General Fund for payment of debt service on bonds issued by, or otherwise payable pursuant to a lease or other contract assistance agreement by, the commonwealth for transportation purposes.

(b) Notwithstanding subsection (a), the crediting of receipts from the tax imposed pursuant to chapter 64A to the fund shall not affect the obligations of the commonwealth relating to notes issued pursuant to sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the pledge of receipts from the portion of the tax per gallon imposed pursuant to said chapter 64A equal to 10 cents per gallon, to secure the payment of such bonds under the circumstances described in the trust agreements relating to such notes is hereby ratified and confirmed in all respects and shall remain in full force and effect as long as any such notes issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by funds in the fund.

(c) In addition to those revenues credited to the fund pursuant to subsection (a) there shall be credited to the fund all monies received by the commonwealth equal to .385 percent of the receipts from sales, as defined by chapter 64H, and .385 per cent of the sales price of purchases, as defined by chapter 64I, from that portion of the taxes imposed under said chapters 64H and 64I as excises upon the sale and use at retail of tangible property or of services, and upon the storage, use or other consumption of tangible property, or of services, including interest thereon or penalties, but not including any portion of the taxes that constitute special receipts within the meaning of subsection (b½) of section 10 of chapter 152 of the acts of 1997 or within the meaning of said subsection (b½); provided, however, that if in a fiscal year the amount credited to the fund under this subsection is less than \$275,000,000, then the comptroller shall transfer an amount from the General Fund to make up the difference between the amount credited to the fund and \$275,000,000, not later than September 1 of the following fiscal year.

(d) Not less than the following amounts shall annually be distributed from the fund to the Massachusetts Bay Transportation Authority and regional transit authorities:

(1) \$160,000,000 to the Massachusetts Bay Transportation Authority or any fund controlled by the authority in each fiscal year; and

(2) \$15,000,000 to regional transit authorities organized under chapter 161B or predecessor statutes in each fiscal year.

SECTION 2. Subsections (c) and (d) of section 2ZZZ of chapter 29 of the General Laws, as appearing in section 1, shall take effect on July 1, 2010.

SECTION 3. Subsection (b) of section 27 of chapter 304 of the acts of 2008, as amended by section 6 of chapter 10 of the acts of 2009, is hereby further amended by striking out, in line 1, the words “Within 15 days of the date of the written certification” and inserting in place thereof the following words:- Prior to the date of execution of the guaranty.

SECTION 4. Section 32 of said chapter 304 is hereby further amended by striking out the words "June 30", inserted by section 8 of said chapter 10 of the acts of 2009, and inserting in place thereof the following words:- November 1.

SECTION 5. Sections 1 and 2 shall take effect as of July 1, 2009.

SECTION 6. Sections 3 and 4 shall take effect as of June 30, 2009.

Approved July 20, 2009.

Chapter 36. AN ACT AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS OF LAND IN THE CITY OF WOBURN.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the city of Woburn may transfer the care, custody and control of the parcels of land shown as "Proposed Tank Parcel, Area = 95,601 SF (2.195 Ac.) CC-3" and "Existing Access Easements" on a plan entitled "Preliminary Subdivision Land Owned by the City of Woburn, Location Hillside Avenue Woburn, Massachusetts", dated June, 2007, prepared by City of Woburn Engineering Department, which parcels are a portion of the premises conveyed by deed and recorded in the Middlesex south district registry of deeds, book 13986, page 198 and used for conservation and passive recreational purposes, to the superintendent of public works to be used for water supply purposes.

SECTION 2. In consideration for the transfer of land authorized in section 1, the superintendent of public works in the city of Woburn shall transfer the care, custody and control of the parcel shown as "Existing Tank Parcel CC-2" on the plan entitled "Preliminary Subdivision Land Owned by the City of Woburn, Location Hillside Avenue Woburn, Massachusetts", dated June, 2007, which parcel is described in an order of taking recorded with the Middlesex south district registry of deeds in book 9609, page 591, which is currently used for water supply purposes to the conservation commission to be used for conservation and passive recreation purposes. In further consideration for the transfer authorized in section 1, the superintendent of public works shall transfer the care, custody and control of the parcel of land shown as "Parcel CC-1, Area = 3.0±Ac." on a plan entitled "Preliminary Subdivision Plan Land Transfer Plan to Woburn Conservation Commission location Woburn Parkway Woburn, Massachusetts", dated January, 2009, prepared by the Woburn Engineering Department, which parcel of land is a portion of the premises described in the Order of Taking recorded with the Middlesex south district registry of deeds in book 1258, page 2, from the superintendent of public works which is currently used for water supply purposes to the conservation commission to be used for conservation and passive recreation purposes, except that the city of Woburn may continue to use the portion of the land shown

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on said plan as "Proposed 2 Rod Wide Access Easement over Gravel Roadway" for access to the remaining city-owned land shown on the plan as "City of Woburn Remaining Area = 27 Ac.±."

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

Approved July 23, 2009.

Chapter 37. AN ACT RELATIVE TO THE CHARLESTOWN NAVY YARD.

Be it enacted, etc., as follows:

SECTION 1. For the purposes of enabling the United States of America to extend the present limits of the Charlestown Navy Yard within the Boston National Historical Park and to administer and manage the areas hereby ceded as a part of the national historical park, an exemption from the harbor line established by chapter 64 of the acts of 1899, chapter 490 of the acts of 1938 and chapter 475 of the acts of 1948 is hereby authorized so that nothing in sections 14 or 34 of chapter 91 of the General Laws or any other general or special law to the contrary shall restrict the placement of a structure beyond the current harbor line but within the area described as follows:

Beginning at a point with a NAD 1927 coordinate of N500128.25, E720497.13 on the existing State Harbor Line (1948 Pier & Bulkhead Line) that is S 77°07'27"E, a distance of 156.64 feet along the existing State Harbor Line from a point located at NAD 1927 coordinate N500163.15, E720344.43;

The boundary of the State Harbor Line Exemption Area shall turn and run S 79°12'22"W, a distance of 449.63 feet to NAD 1927 coordinate N500044.04, E720055.46;

Thence said boundary of the State Harbor Line Exemption Area shall turn and run N57°39'39"W, a distance of 33.92 feet to a point on the existing State Harbor Line which is S 65°32'54"W, a distance of 165.40 feet from a point located at NAD 1927 coordinate N500130.65, E720177.36.

The above described State Harbor Line Exemption Area is shown on a plan titled "Proposed State Harbor Line Exemption Area & Boundary Line, Charlestown Navy Yard, Boston National Historical Park, Boston, Massachusetts" numbered 457/62,360, dated 1/23/08, prepared for the United States Department of the Interior, National Park Service, Denver Service Center by Nitsch Engineering, Inc.

SECTION 2. The lands lying between the prior wharf or harbor line as described in the cessions of land referred to in section 1 between the commonwealth and the United States of America for the United States Navy Yard, and the line now established under section 1, shall be referred to as "the newly-ceded lands and waters" and are described as follows:

A certain parcel of land located along the southerly boundary of the Boston National

Historical Park south of Cheisea Street in Boston (Charlestown District), Massachusetts, bounded and described as follows:

Beginning at a point on the Pier and Bulkhead Line of 1948, said point being the southwest property corner of the United States Department of the Interior;

Thence running N 65°32'54"E, a distance of 165.40 feet along said Pier and Bulkhead Line of 1948;

Thence turning and running N 78°59'28"E, a distance of 170.20 feet along said Pier and Bulkhead Line of 1948;

Thence turning and running S 77°07'27"E, a distance of 156.64 feet along said Pier and Bulkhead Line of 1948;

Thence turning and running S 79°12'22"W, a distance of 449.63 feet along the boundary of the State Harbor Line Exemption Area;

Thence turning and running N 57°39'39"W, a distance of 33.92 feet along said boundary of the State Harbor Line Exemption Area to the point of beginning.

Said Parcel contains an area of 21,738 square feet and is shown as "Proposed State Harbor Line Exemption Area" on a plan titled "Proposed State Harbor Line Exemption Area & Boundary Line, Charlestown Navy Yard, Boston National Historical Park, Boston, Massachusetts" numbered 457/62,360, dated 1/23/08, prepared for the United States Department of the Interior, National Park Service, Denver Service Center by Nitsch Engineering, Inc.

SECTION 3. For the purposes of administering and managing the Charlestown Navy Yard within the Boston National Historical Park, the newly-ceded lands and waters are hereby ceded to the United States of America including jurisdiction over and all right and claim of the commonwealth to those portions of land covered by navigable waters, subject to the following conditions: (i) a copy of the plan of the harbor line exemption area and a copy of the document whereby the Secretary of the Army shall have approved the revised park property line where it diverges from the 1948 Pier and Bulkhead Line as a revised pierhead and bulkhead line shall be filed with the office of the state secretary; (ii) said jurisdiction is vested and ceded upon the express condition that the commonwealth shall retain concurrent jurisdiction with the United States of America in and over the newly-ceded lands and waters, so far that all civil and criminal processes as may be issued by the authority of the commonwealth may be executed on the newly-ceded lands and waters and in or on any structure erected thereon, in the same way and manner as though this cession had not been made; (iii) title to and jurisdiction over the newly-ceded land shall revert to and re-vest in the commonwealth whenever said land ceases to be used by the United States of America as a unit of the National Park System; and (iv) that concurrent jurisdiction shall be vested upon acceptance by the United States of America when the Director of the National Park Service files a notice of such acceptance with the governor and the state secretary.

SECTION 4. Notwithstanding sections 14 and 34 of chapter 91 of the General Laws the United States of America may construct, maintain, and repair pile supported and floating public structures including related utilities, in or over the newly-ceded lands and waters in

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accordance with plans to be filed with and approved in accordance with all other substantive and procedural requirements of said chapter 91 and regulations promulgated thereunder other than the exemption permitted in this act from the harbor line requirements of said sections 14 and 34 of said chapter 91.

Approved July 23, 2009.

Chapter 38. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARGARET FREDDIE PURCELL, AN EMPLOYEE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of developmental services shall establish a sick leave bank for Margaret Freddie Purcell, 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 Margaret Freddie Purcell. 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. Whenever Margaret Freddie Purcell terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank.

Approved July 23, 2009.

Chapter 39. AN ACT RELATIVE TO THE TOWN OF NORTON WATER AND SEWER COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 16 of chapter 83 of the General Laws or any other general or special law to the contrary, the water and sewer commissioners of the town of Norton, or other board or officer of the town acting as sewer commissioners, may from time to time establish just and equitable annual charges for the use or availability of common sewers, which shall be paid by every person who enters, or has an entitlement to enter by means of an allocation of wastewater treatment facility capacity, his particular sewer therein.

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The money so received may be applied to the payment of the costs of maintenance and repairs of the sewers, of any debt contracted for sewer purposes or of any payment, including capital cost payments, due to another municipality under an inter municipal agreement to provide wastewater disposal and treatment or due to a regional wastewater authority. The water and sewer commissioners may promulgate regulations to implement this act.

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

Approved July 23, 2009.

Chapter 40. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TANYA M. DUBOIS, 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 Tanya M. Dubois, 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 Tanya M. Dubois. Whenever Tanya M. Dubois 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 July 29, 2009.

Chapter 41. AN ACT RELATIVE TO THE FALMOUTH HISTORIC DISTRICT COMMISSION.

Be it enacted, etc., as follows:

Chapter 654 of the acts of 1975 is hereby amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. (a) Before issuing a certificate of appropriateness, the commission may require that construction or other authorized site activities be secured by one of the following

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methods, which method may be selected and from time to time varied by the applicant upon receiving written approval from the commission:

(1) by a proper bond or deposit of money sufficient in the opinion of the commission to secure performance of the conditions of its decision as noted in the certificate of appropriateness or accompanying plans; or

(2) by a covenant executed and duly recorded by the owner of record, running with the land, whereby the conditions of its decision as noted in the certificate of appropriateness or accompanying plans shall be accomplished prior to the issuance of occupancy permits or any conveyance, sale, rental or similar disposition of the property.

(b) In addition to the remedies provided in section 11 herein, the building commissioner is hereby authorized to enforce the provisions of this chapter, subject to a vote of the commission that determines the construction, alteration, demolition or moving of any building or structure would be in violation of this chapter. Notwithstanding the provisions of the state building code, the building commissioner is authorized to withhold any permit for construction, alteration, demolition or the moving, use or occupancy of any building or structure until such time as the commission issues a determination that compliance with its certificate of appropriateness has been accomplished or that the commission has received surety for the completion of construction or other authorized site activities pursuant to clause (1) or (2) of subsection (a) above.

(c) Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction, fined not more than \$500 for each offense. Each day that such violation continues shall constitute a separate offense.

Approved July 29, 2009.

Chapter 42. AN ACT ESTABLISHING THE ARLINGTON REDEVELOPMENT BOARD AS THE BOARD OF SURVEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 41 of the General Laws, chapter 249 of the acts of 1897, chapter 503 of the acts of 1952, chapter 738 of the acts of 1971 or any other general or special law to the contrary, there is hereby established a board of survey for the town of Arlington. The Arlington redevelopment board shall constitute the board of survey. The responsibility of the board of survey shall be to protect the safety, convenience and welfare of the inhabitants of the town, in regard to the laying out and construction of private ways. The process of the board's review will be initiated by the filing of a plan of the proposed development.

SECTION 2. The following words, unless the context clearly requires otherwise, shall have the following meanings:-

"Applicant", an owner or his agent, representative or assign.

"Board", the Arlington redevelopment board, acting in its capacity as the board of survey.

"Commission", the historic district commission having jurisdiction over a district in which a way is proposed.

"Day", a calendar day.

"Development", the division of a tract of land into 2 or more lots, where such division shall require the construction of one or more ways to ensure the development's compliance with the access and frontage requirements of the town's zoning by-law; provided, however, that a deed evidencing such division has not been recorded at the registry of deeds prior to the effective date of this act.

"Lot", an area of land in 1 ownership with definite boundaries used, or available for use, as the site of 1 or more buildings.

"Notice", publication in a newspaper of general circulation in the town of Arlington once in each of 2 successive weeks, the first publication to be not less than 14 days before the day of the hearing; provided, however, that such notice shall be posted in a conspicuous place in the town hall for a period of not less than 14 days before the day of the hearing.

"Plan", a plan of the private way or ways and the development that such ways will serve, including all utilities, drainage systems and other site improvements, together with such elements of an application as the board may require and submitted to the board for its approval in accordance with the provisions of the law and the board's rules and regulations.

"Registered mail", registered or certified mail.

"Registry of deeds", the Middlesex county southern district registry of deeds, or, for registered land, the Middlesex county southern district registry district of the land court.

"Utility", public or private utilities serving a development, including water, sewerage, gas and electricity.

"Way", a private way that provides access to 1 or more lots, the construction of which is required to ensure the compliance of a development with the access and frontage requirements of the town's zoning by-law.

SECTION 3. The board shall require that a plan for the laying out of ways, utilities, drainage and other site improvements shall be drawn with due consideration of the following factors:

- (a) To mitigate congestion in such ways and adjacent private or public ways;
- (b) To secure the public safety in the case of fire, flood, or other public emergencies and to ensure adequate emergency vehicle access for police, fire, and other municipal services;
- (c) To ensure compliance with the zoning by-law;
- (d) To secure adequate provision for access to the town's water supply;
- (e) To secure adequate provision of sanitary sewer service, utility services and street lighting;
- (f) To provide for adequate curbs, sidewalks and side slopes as appropriate;

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(g) To apply design standards for the grade, width, direction and location of such roadways;

(h) To ensure adequate protection of environmental resources, including open spaces, vegetation, and wildlife habitat, along with provisions for storm water management and drainage to prevent flooding and protect water quality; and

(i) To advance the goals of the town's comprehensive plan, its open space plan, and any special or district plan or policy.

SECTION 4. The board shall adopt and from time to time thereafter amend, after notice and a public hearing, rules and regulations in furtherance of the purposes stated in section 3. Such rules and regulations may prescribe the size, form, contents, style and number of copies of plans and the standards and procedures for the submission and approval thereof. The rules and regulations may permit the board to impose a fee in an amount calculated to pay the cost of any engineering, inspection or other services directly related to the proposed development.

A true copy of the rules and regulations, with their most recent amendments, shall be kept on file available for inspection in the office of the board, and in the office of the town clerk. Once a plan has been submitted to the board and written notice has been given to the town clerk and until final action has been taken thereon by the board or the time for such action has elapsed, the rules and regulations governing such plan shall be those in effect at the time of the submission of such plan.

SECTION 5. No person shall construct any way on a development unless he has first submitted to the board for its approval a plan of such ways and development and the board has approved such plan in the manner hereinafter provided. After the approval of a plan, the location and configuration of ways, utilities, drainage systems and other site improvements shown thereon shall not be changed unless the plan is amended accordingly as provided herein.

A plan shall be submitted under this section when delivered by hand to the board, with a copy to the town clerk. The clerk shall, if requested, give a written receipt therefore to the person who delivered the plan. Before approval, modification and approval, or disapproval of the plan is given, notice shall be given and a public hearing shall be held by the board. In addition to the notice requirements of section 2, the applicant shall mail, at their own expense, notice to all owners of land abutting the parcel of land being developed and to abutters to the abutters within 300 feet of the property line of the parcel, as such owners appear on the most recent tax list and to such other persons as the board shall identify in its sole discretion.

After the hearing, the board shall approve by a vote of the majority of the board's members, or, if such plan does not comply with the law or the rules and regulations of the board, shall modify and approve or shall disapprove such plan. In the event of disapproval, the board shall state in detail wherein the plan does not conform to the rules and regulations of the board. Within less than 15 days of a disapproval, the applicant may resubmit an amended plan and the board shall revoke its disapproval without prejudice and approve with-

in 60 days of such resubmission a plan which, as amended, conforms to such rules and regulations or recommendations. The board shall file a certified copy of its action with the town clerk within 15 days of its decision, and it shall send notice of such action by registered mail, postage prepaid, to the applicant at his address stated on the application. The failure of the board either to take final action regarding a complete plan submitted by an applicant within 60 days after such submission or such further time extension as may be agreed upon at the written request of the applicant, or to file with the town clerk a certified copy of such action within a further 15 days, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the board with the town clerk.

The board's approval of a plan, or any modification, amendment, or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the town clerk that 20 days have elapsed after the decision has been filed in the office of the town clerk and that no appeal has been filed, or if it is a plan which has been approved by reason of the failure of the board to act thereon within the time prescribed, a copy of the application accompanied by the certification of the town clerk stating the fact that the board failed to act within the time prescribed, and that no appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

SECTION 6. The board may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the law, waive strict compliance with its rules and regulations, upon such conditions as it may reasonably impose.

SECTION 7. The board may on its own motion, or on the petition of any person interested, have the power to modify, amend or rescind its approval of any plan or to require a change in a plan as a condition of its retaining the status of an approved plan, in accordance with the standards and procedures set forth in section 5 and subject to all other provisions of the law. No such modification, amendment or rescission of the approval of a plan or change in such plans shall affect lots in such development which have been sold or mortgaged for valuable consideration without the approval of the owner of such lots and the mortgagee in question. The board may identify, in its rules and regulations or as a condition of a plan approval, categories of minor modifications that may be reviewed and approved administratively, without the requirements for notice and public hearing set forth in section 5. A minor modification shall not affect the vested rights of a plan accruing under section 11.

SECTION 8. If a development is otherwise subject to review by the board under the special permit or other provisions of the zoning by-law, then the review of the development for the purposes of this law shall be consolidated with such zoning review into a single hearing, and the time periods and other procedures of such zoning review shall govern; provided, however, the board's decision in such zoning review shall incorporate all of its powers of review set forth in this act and the board's rules and regulations.

If the development is located in whole or in part within a local historic district, the

applicant shall submit a copy of the plan to the commission, along with such other materials as the commission may require for an application pursuant to its by-law. If the commission determines within 14 days, in accordance with section 11 of chapter 40C of the General Laws, that the development involves any features which are subject to its approval, then the review of the development for the purposes of this law shall be consolidated with such historic district review into a single hearing, and the time periods and other procedures of such historic district review shall govern. The commission and the board shall alternate the chair from 1 hearing to the next. Notwithstanding the consolidated review procedure, nothing in this section shall expand or limit the powers of the board and the commission each to render a decision pursuant to its own rules or by-law respectively; provided, however, that no decision of approval by the board shall be deemed final until and unless a certificate of appropriateness has been issued by the commission, nor shall anything in this section limit the power of the commission to subsequently review any building or structure, the design of which had not yet been determined as of the time of the consolidated review.

SECTION 9. As a condition of its approval of a plan, the board may require such security as it deems necessary to guarantee the completion of proposed ways and other site improvements and the time within which such improvements shall be completed, which shall not exceed 3 years from the date of filing approval of the plan with the town clerk or from the date of final judgment in any legal appeal in which the approval is upheld. Such security may include 1 or all of the following methods: (1) a proper bond; (2) a deposit of money, letter of credit, or negotiable securities; (3) a covenant, executed and duly recorded by the owner of record, running with the land; or (4) an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the board and otherwise due the applicant, to secure the completion of proposed improvements. All work shall be subject to the approval of the town engineer. Such security shall from time to time be reduced or increased by the board so that the amount bonded, deposited or retained continues to reflect the actual expected cost of work remaining to be completed.

Upon the completion of the improvements in accordance with the rules and regulations of the board and the conditions of the board's approval of the plan, and subject to the approval of the town engineer, the board shall, upon written request by the applicant, agree to release the security. If the town engineer determines that the improvements have not been completed, the board shall so specify in a notice sent by registered mail to the applicant and to the town clerk. Upon failure to issue such agreement or notice within 45 days after the receipt by the board of the applicant's request, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned, any such covenant or agreement shall become void and the town clerk shall issue a certificate to such effect, duly-acknowledged. Any such security may be applied by the board for the benefit of the town, upon failure, following reasonable notice and opportunity to cure, of the performance for which any such bond or deposit was given to the extent of the reasonable

cost to the town of completing such construction and installation.

SECTION 10. The town's inspector of buildings shall not issue any permit for the erection of a building until first satisfied that the lot on which the building is to be erected is not within a development or that a way furnishing the access to such lot as required by the law is shown on a duly approved plan and that any condition of a plan approval limiting the right to erect or maintain buildings on such lot have been satisfied or waived by the board.

The Middlesex county superior court and the land court shall have jurisdiction in equity on petition of the board or of 10 taxable inhabitants of the town to review any action of any municipal board or officer in disregard of the provisions of this section and to annul and enjoin such action, to enjoin the erection of a building in violation of this section and otherwise to enforce the provisions of the law and any rules or regulations lawfully adopted and conditions on the approval of a plan lawfully imposed thereunder and may restrain by injunction violations thereof or make such decrees as justice and equity may require. No proceeding under this paragraph shall be instituted more than 1 year after the act or failure to act upon which such petition is based.

SECTION 11. When a plan has been submitted to the board and is subsequently approved under section 5, any zoning amendment for which the first notice of public hearing was published after the date of the plan's submission shall not apply to the development shown on such plan for a period of 3 years from the date of filing approval of the plan with the town clerk or from the date of final judgment in any legal appeal in which the approval is upheld.

SECTION 12. Any person, whether or not previously a party to the proceedings, or any municipal officer or board, aggrieved by any decision of the board concerning a plan, or by the failure of the board to take final action concerning a plan within the required time, may appeal to the Middlesex county superior court or to the land court; provided, however, that such appeal is entered within 20 days after such decision has been recorded in the office of the town clerk or within 20 days after the expiration of the required time as aforesaid, as the case may be, and notice of such appeal is given to such town clerk so as to be received within such 20 days. The court shall hear all pertinent evidence and shall annul such decision if found to be unsupported by the evidence or to exceed the authority of the board, remand the case for further action by the board or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exceptions as in other equity cases.

Costs shall not be allowed against the board unless it shall appear that the board acted with gross negligence or in bad faith. The court may require nonmunicipal appellants to post a surety or cash bond in a sum of not less than \$2,000 nor more than \$15,000 to secure the payment of any costs incurred by the appellee as a result of the appeal of a decision approving a plan, if it appears to the court that the appellant acted in bad faith or with malice in making the appeal to the court. All issues in any proceeding under this section may be advanced for speedy trial over other civil actions and proceedings.

SECTION 13. This act shall not abridge the powers of the selectmen or any other municipal officer, in regard to public ways in any manner except as herein provided, and shall not authorize the taking of land nor authorize the town to layout or construct any way which may be indicated on any plan until such way has been laid out as a public way in the manner prescribed by law, nor shall action under this act render the town liable for damages. The modification, amendment or rescission of the approval of a plan shall not entitle any person to damages, unless and to the extent that he shall have changed his position or made expenditures in reliance upon such approval.

No damages shall be awarded for the modification, amendment or rescission of the approval of a plan obtained as a result of material misrepresentation of facts, whether willful or otherwise, by the persons submitting the plan.

The board and its officers and agents may, as far as they deem it necessary in carrying out this act, enter upon any lands and there make examinations and surveys and place and maintain monuments and marks.

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

Approved July 29, 2009.

Chapter 43. AN ACT PROVIDING STANDARDS ALLOWING CAMPS TO CONDUCT CRIMINAL HISTORY RECORD CHECKS OF CLIMBING WALL INSTRUCTORS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure the safety of children in camp programs and certain activities, 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 6 of the General Laws is hereby amended by inserting after section 172J the following section:-

Section 172K. Notwithstanding section 172 or any other general or special law to the contrary, any children's camp or school that plans to employ or accept as a volunteer for a climbing wall or challenge course program, a person who is or has previously been the subject of a record check pursuant to sections 172G, 172H, 172I or section 38R of chapter 71, shall not be required to conduct a second record check by reason of such person's employment or volunteering for a climbing wall or challenge course program, within 12 months of the previous record check. Such camp or school may either simultaneously submit to the criminal history systems board applications for a record check under sections 172G, 172H, 172I or section 38R of chapter 71 and this section, or use the information obtained within the prior 12 months under sections 172G, 172H, 172I or section 38R of chapter 71 for

the purpose of the climbing wall or challenge course program. If the camp or school submits simultaneous applications, the criminal history systems board shall conduct the most comprehensive record check required by either application, and the results of such record check shall satisfy the camp or school's obligations to request record information with respect to both job functions. The camp or school may also disseminate information obtained under this section to the department of public safety. The criminal history systems board shall only assess the camp or school 1 fee for simultaneous requests filed pursuant to this section.

Information obtained pursuant to this section shall not be disseminated for any purpose other than to further the protection of children.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved July 29, 2009.

Chapter 44. AN ACT ADOPTING THE FEDERAL SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to regulate mortgage loan originators, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by striking out chapter 255F and inserting in place thereof the following chapter:-

CHAPTER 255F. LICENSING OF MORTGAGE LOAN ORIGINATORS.

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

“Clerical or support duties”, may include subsequent to the receipt of an application:

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and (ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

“Commissioner”, the commissioner of the division of banks.

“Depository institution”, shall have the same meaning as in section 3 of the Federal Deposit Insurance Act, and shall include credit unions.

“Division”, the division of banks.

“Entity”, a person or entity that is a licensee under chapter 255E.

“Federal banking agencies”, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

“Immediate family member”, a spouse, child, step child, adopted child, sibling, step sibling, adopted sibling, parent, step parent, adopted parent, grandparent, or grandchild.

“Individual”, a natural person.

“Loan processor or underwriter”, an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing under this chapter; provided, however, that said person shall not represent to the public, through advertising or other means of communicating or providing information including, but not limited to, the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such individual is licensed or otherwise authorized by law to perform any of the activities of a mortgage loan originator or that such person intends to perform any of the activities of a mortgage loan originator.

“Mortgage loan originator”, a person who for compensation or gain or in the expectation of compensation or gain: (i) takes a residential mortgage loan application; or (ii) offers or negotiates terms of a residential mortgage loan.

“Nationwide mortgage licensing system and registry”, a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

“Nontraditional mortgage product”, any mortgage product other than a 30-year fixed rate mortgage.

“Person”, a natural person, corporation, company, limited liability company, partnership, or association.

“Real estate brokerage activity”, any activity involving offering or providing real estate brokerage services to the public, including without limitation: (i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; (ii) facilitating the sale, purchase, lease, rental, or exchange of real property; (iii) negotiating, on behalf of any person, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property other than in connection with providing financing with respect to any such transaction; (iv) engaging in any activity for which a registration or license as a real estate agent or real estate broker is required; and (v) offering to engage in any activity, or act in any capacity, described in clauses (i) to (iv), inclusive.

“Registered mortgage loan originator”, any individual who: (a) meets the definition of mortgage loan originator and is an employee of: (i) a depository institution; (ii) a subsidiary that is (A) owned and controlled by a depository institution; and (B) regulated by a federal banking agency; or (iii) an institution regulated by the Farm Credit Administration;

and (b) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

“Residential mortgage loan”, any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in section 103(v) of the Truth in Lending Act, 15 U.S.C. section 1602(v) or residential real estate upon which is constructed or intended to be constructed a dwelling as so defined.

“Residential real estate”, any real property located in the commonwealth upon which is constructed or intended to be constructed a dwelling.

“Unique identifier”, a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Section 2. (a) No individual shall act as a mortgage loan originator with respect to any dwelling unless such person has first obtained a mortgage loan originator license from the commissioner or is exempt from the licensure requirement under subsection (b). No person shall knowingly employ or retain a mortgage loan originator unless the mortgage loan originator is licensed under this chapter or is exempt from the licensure requirement under subsection (b). Each licensed mortgage loan originator shall register with the Nationwide Mortgage Licensing System and Registry and shall maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(b) The following shall not be required to obtain a license pursuant to subsection (a): (i) registered mortgage loan originators; (ii) any person offering or negotiating a residential mortgage loan with or on behalf of an immediate family member; (iii) any person offering or negotiating a residential mortgage loan secured by a dwelling that served as the individual’s primary residence; (iv) any person admitted to practice law in the commonwealth negotiating the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the person’s representation of the client, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; (v) any person engaged solely as a loan processor or underwriter unless said person is acting as an independent contractor; (vi) any person that performs only real estate brokerage activities and is licensed or registered pursuant to sections 87PP to 87DDD½, inclusive, of chapter 112, unless the person is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; and (vii) any person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. section 101(53D).

(c) The commissioner may promulgate rules and regulations for the administration and enforcement of this chapter.

Section 3. (a) Any person seeking a mortgage loan originator’s license pursuant to this chapter shall file an application, accompanied by the appropriate fee, with the division. Said application shall be made on a form to be furnished by the division, and shall require the applicant to state his name, the name and address of his employer, if any, and such other

information as the division may require. The applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including: (i) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and (ii) personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain: (1) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and (2) information related to any administrative, civil or criminal findings by any governmental entity.

(b) The commissioner may enter into agreements with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(c) The commissioner may, for the purpose of participating in the Nationwide Mortgage Licensing System and Registry, waive or modify any requirement of this chapter and may establish new requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing System and Registry.

(d) The commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from the Federal Bureau of Investigation for the purposes of clause (i) and subclause (2) of clause (ii) of subsection (a) and distributing information to the Department of Justice or any governmental agency.

(e) The commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source for the purposes of subclauses (1) and (2) of clause (ii) of subsection (a) as so directed by the commissioner.

Section 4. (a) The commissioner shall issue a mortgage loan originator license to an applicant therefore unless the applicant: (i) has had a mortgage loan originator license revoked in any governmental jurisdiction; provided, however, that a subsequent formal vacation of such revocation shall not be deemed a revocation; (ii) has been convicted of, or pled guilty, admitted to sufficient facts or nolo contendere to, a felony in a domestic, foreign, or military court: (a) during the 7-year period preceding the date of the application for licensing and registration; (b) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or (c) has other convictions or admissions to sufficient facts involving fraud, dishonesty, or a breach of trust, or that the applicant has had any adverse civil judgments involving fraudulent dealings; provided, however, that a pardon of a conviction shall not be a conviction for purposes of this subsection; (iii) has failed to demonstrate financial responsibility, character, reputation, integrity and general fitness such as to command the confidence of the community and to warrant a determination that such applicant will operate honestly, fairly,

soundly and efficiently in the public interest, consistent with the purposes of this chapter if the applicant is granted a license; provided, however, that for purposes of this clause a person shall have shown that he or she is not financially responsible when he or she has shown a disregard in the management of his or her own financial condition; and provided further, that a determination that an individual has not shown financial responsibility may include, but shall not be limited to: (a) current outstanding judgments, except judgments solely as a result of medical expenses; (b) current outstanding tax liens or other government liens and filings; (c) foreclosure within the past 3 years; or (d) a pattern of seriously delinquent accounts within the past 3 years; (iv) failure to complete the pre-licensing education requirement described in section 5; (v) failure to pass a written test that meets the test requirement described in section 6; or (vi) has failed to meet the surety bond requirement as required pursuant to section 12. The commissioner shall either grant or deny an application within a reasonable period of such filing. If the commissioner denies an application for licensure, he shall notify the applicant of the denial, in writing, within 10 days of such denial. Within 20 days thereafter, the commissioner shall enter upon the division's records a written decision and findings containing the reasons supporting the denial and shall forthwith give written notice thereof by registered mail to the applicant. Within 30 days after receipt of such notice, the applicant may seek judicial review of the denial in accordance with section 14 of chapter 30A.

(b) A mortgage loan originator may be employed by no more than 1 entity. Each license issued to a mortgage loan originator shall be provided to, and maintained by, the employing entity at the employing entity's main office. If the employment of a mortgage loan originator is terminated, the employing entity shall return the mortgage loan originator's license to the division within 5 business days after termination. The reason for termination shall be provided to the commissioner. For a period of 1 year after the termination of employment, the mortgage loan originator may request the re-assignment of the license to another employing entity by submitting an application, together with a re-assignment fee as established by the commissioner, to the division. The return of the license of any mortgage loan originator to the division that is not re-assigned to another employing entity shall terminate the right of the mortgage loan originator to engage in any residential mortgage loan origination activity until reactivation of said license. The license of any mortgage loan originator that has been returned to the division and not re-assigned to another employing entity within 1 year of termination of employment shall be cancelled; provided, however, that the person holding the license may reapply to the division for licensure pursuant to this chapter. Each license shall state the name of the mortgage loan originator licensee and the name and main office address of the entity employing such mortgage loan originator.

Section 5. (a) An applicant for a mortgage loan originator's license shall complete a minimum of 20 hours of pre-licensing education approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards which shall include, without limitation: (i) 3 hours of federal law and regulations; (ii) 3 hours of ethics, which shall in-

clude instruction on fraud, consumer protection, and fair lending issues; (iii) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace; and (iv) state law and regulation, which shall include instruction on state consumer protection laws and other related statutes.

Section 6. (a) An applicant for a mortgage loan originator's license shall pass, in accordance with the standards established under this section, a qualified written examination developed by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards.

(b) A written examination shall not be considered a qualified written examination for purposes of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including, but not limited to: (i) ethics; (ii) federal law and regulation pertaining to mortgage origination; (iii) state law and regulation pertaining to mortgage origination; and (iv) federal and state law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(c) No person shall be considered to have passed the qualified written examination unless the person achieves a test score of not less than 75 per cent correct answers to questions. A person may retake the qualified written examination 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding examination. Upon failing 3 consecutive written examinations, a person shall not be eligible to sit for another written examination for a period of at least 6 months. A licensed mortgage loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

Section 7. (a) A mortgage loan originator's license issued pursuant to this chapter shall be valid for a period of not more than 1 year. The division may renew a mortgage loan originator's license upon the submission of documents showing that: (i) the mortgage loan originator remains in compliance with this chapter; (ii) the mortgage loan originator has satisfied the annual continuing education requirements pursuant to section 8; and (iii) the mortgage loan originator has paid all required fees for renewal of the license. The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire.

(b) The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry. A mortgage loan originator licensed pursuant to this chapter who subsequently becomes unlicensed shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

Section 8. (a) A mortgage loan originator licensed pursuant to this chapter shall, annually, complete a minimum of 8 hours of continuing education approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards, which shall

include, without limitation: (i) 3 hours of federal law and regulation; (ii) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; (iii) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace; and (iv) state law and regulation, which shall include instruction on state consumer protection laws and other related statutes. A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit to satisfy such licensed mortgage loan originator's annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(b) A mortgage loan originator licensed pursuant to this chapter shall: (i) only receive credit for a continuing education course in the year in which the course is taken; and (ii) not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

Section 9. The commissioner may participate in the Nationwide Mortgage Licensing System and Registry and shall require mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. The commissioner may establish by regulation requirements including, but not limited to: (i) background checks for: (1) criminal history through a database that utilizes the fingerprint of the subject or other databases; (2) civil or administrative records; (3) credit history; or (4) any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry; (ii) the payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry; provided, however, that each application for a license shall be accompanied by an investigation fee and license fee provided, that investigation and license fees shall be determined annually by the secretary of administration under section 3B of chapter 7; provided, further, that such investigation and license fees shall not apply to any community development corporation as defined in section 1 of chapter 40F and organized under the General Laws; and provided further, that classifications or adjustments as deemed necessary may be made relative to fees for any nonprofit agency or corporation incorporated under the laws of the commonwealth for the purpose of assisting low to moderate income households in the purchase or rehabilitation of family residences of 4 units or less and which holds tax-exempt status granted under the provisions of section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or as otherwise determined by the commissioner; (iii) the setting or resetting as necessary of renewal or reporting dates; and (iv) requirements for amending or surrendering a license or any other such activities as the commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

Section 10. The commissioner shall establish a process whereby mortgage loan originators may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the commissioner; provided, however, that anyone aggrieved by a decision of the commissioner may appeal said decision in accordance with chapter 30A.

Section 11. (a) The commissioner may for the administration and enforcement of this chapter, pursuant to chapter 30A: (i) deny, suspend, revoke, condition or decline to renew a license for a violation of this chapter, or of any rule or regulation issued under this chapter

or of any order or directive entered under this chapter; (ii) deny, suspend, revoke, condition or decline to renew a license if an applicant or licensee fails at any time to meet the requirements of section 4 or section 7, or withholds information or makes a material misstatement in an application for a license or renewal of a license; (iii) order restitution against persons subject to this chapter for violations of this chapter; (iv) impose fines on persons subject to this chapter pursuant to subsections (b) and (c); (v) order or direct persons subject to this chapter to cease and desist from conducting business, including immediate temporary orders to cease and desist; (vi) order or direct persons subject to this chapter to cease any activities inconsistent with or in violation of this chapter, including immediate temporary orders to cease and desist; (vii) enter immediate temporary orders to cease business under a license if the commissioner determines that such license was erroneously granted or the licensee is currently in violation of this chapter; or (viii) order or direct such other affirmative action as the commissioner deems necessary.

(b) The commissioner may impose a civil assessment on a person subject to this chapter, if the commissioner finds, on the record after notice and opportunity for hearing, that such person has violated or failed to comply with any requirement of this chapter or any regulation promulgated or order issued by the commissioner.

(c) The maximum amount of a civil assessment imposed by the commissioner for violation of this chapter shall not exceed \$25,000; provided, however, that each violation or failure to comply with any directive or order of the commissioner shall constitute separate and distinct violations or failures for purposes of imposing civil assessments.

(d)(i) Whenever the commissioner determines that any person has, directly or indirectly, violated this chapter or any rule or regulation promulgated hereunder or any order issued by the commissioner pursuant to this chapter or any written agreement entered between the licensee and the commissioner, the commissioner may serve upon that person a written notice of intent to: (1) prohibit the person from performing in the capacity of a principal employee on behalf of any licensee for a period of time that the commissioner considers necessary; (2) prohibit the person from obtaining a license from the commissioner for a period up to 36 months following the effective date of an order issued under clause (ii) or (iii); or (3) prohibit the person from any further actions, in any manner, as a mortgage loan originator or to prohibit the person from being employed by, as agent of, or operating on behalf of a licensee under this chapter or any other business which requires a license from the commissioner.

(ii) A written notice issued under clause (i) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. The hearing shall occur not more than 30 days after the date of service upon the commissioner requesting a hearing. If the person fails to submit a request for a hearing within 20 days of service of notice under clause (i), or otherwise fails to appear in person or by a duly authorized representative, the party shall be considered to have consented to the issuance of an order of prohibition in accordance with the notice.

(iii) In the event that consent is granted by operation of clause (ii), or if after a hearing the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of prohibition in accordance with clause (i) as the commissioner finds appropriate.

(iv) An order issued under clauses (ii) or (iii) shall be effective upon service upon the person who is the subject of the order. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee or on whose behalf the person is performing. The order shall remain in effect and enforceable until it is modified, terminated, suspended or set aside by the commissioner or a court of competent jurisdiction.

(v) Except as consented to in writing by the commissioner, any person who, pursuant to an order issued under clauses (ii) or (iii) has been prohibited from participating in whole or in part as a mortgage loan originator shall not, while the order is in effect, continue or commence to perform in the capacity of a mortgage loan originator, or otherwise participate in any manner, if so prohibited by order of the commissioner, in the conduct of the affairs of: (1) a mortgage loan originator licensed under this chapter; (2) any other business which requires a license from the commissioner; or (3) any bank as defined under section 1 of chapter 167 or any subsidiary thereof.

(e) The commissioner may suspend, revoke or refuse to renew the license of the entity employing any licensed mortgage originator upon finding that: (i) the entity knew or reasonably should have known that the mortgage loan originator violated this chapter or any rule or regulation promulgated hereunder, or any other law applicable to the conduct of its business; (ii) the entity knew of any fact or condition which, if it had existed at the time of the original application for such license, would have warranted the commissioner in refusing to issue such license; or (iii) the mortgage loan originator committed any fraud, misappropriated funds or misrepresented any of the material particulars of a mortgage loan transaction approved by the entity.

(f) Nothing in this chapter shall preclude the prosecution of a criminal action arising from an act or omission for which a civil assessment has been imposed.

Section 12. (a) Each mortgage loan originator shall be covered by a surety bond in accordance with this section. The surety bond shall provide coverage for each mortgage loan originator in an amount as prescribed in subsection (b) and shall be in a form prescribed by the commissioner. If a mortgage loan originator is an employee or exclusive agent of an entity, the surety bond of said entity may be used to satisfy the mortgage loan originator's surety bond requirement.

(b) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of loans originated as determined by the commissioner.

(c) Upon commencement of an action on a licensee's bond the commissioner may require the filing of a new bond. The commissioner shall, immediately upon recovery upon any action on the bond, require that the licensee file a new bond.

Section 13. (a) Except as otherwise provided in Public Law 110-289, section 1512, the requirements under any federal law or section 10 of chapter 66 regarding the privacy or

confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or said section 10 of chapter 66.

(b) For the purposes described in subsection (a), the commissioner may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies as established by rule, regulation or order of the commissioner.

(c) Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to: (i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective State; or (ii) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(d) Section 10 of chapter 66 relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with said subsection (a) shall be superseded by the requirements of this section.

(e) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Section 14. (a) The commissioner shall have the authority to conduct investigations and examinations for: (i) purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this chapter, the commissioner shall have the authority to access, receive and use any books, accounts, records, files, documents, information or evidence including, but not limited to: (1) criminal, civil and administrative history information, including non-conviction data as specified in applicable provisions of the General Laws; (2) personal history and experience information including independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and (3) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence; and (ii) the purposes of investigating violations or complaints arising under this chapter, or for the purposes

of examination, the commissioner may review, investigate, or examine any licensee, individual or person subject to this chapter, in order to carry out the purposes of this chapter.

(b) Each licensee or person subject to this chapter shall make available to the commissioner upon request the books and records relating to the operations of such licensee, individual or person. The commissioner shall have access to such books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual or person subject to this chapter concerning their business.

(c) Each licensee or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section including, but not limited to: (i) accounting compilations; (ii) information lists and data concerning loan transactions in a format prescribed by the commissioner; or (iii) such other information deemed necessary to carry out the purposes of this section.

(d) In making any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

The commissioner shall preserve a full record of each such examination of a licensee. All records of investigation and reports of examination by the commissioner including, but not limited to, work papers, information derived from such reports or in response to such reports, and any copies thereof in the possession of any licensee under the supervision of the commissioner, shall be confidential and privileged communications, shall not be subject to subpoena and shall not be a public record under clause Twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of investigation and reports of examinations shall include records of investigation and reports of examinations conducted by any bank regulatory agency of the federal government and any other state, and of any foreign government which are considered confidential by such agency or foreign government and which are in possession of the commissioner. In any proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of any such record, other than any such record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of a proceeding at which any such record may be disclosed. Copies of such reports of examination shall be furnished to a licensee for its use only and shall not be exhibited to any other person, organization or agency without prior written approval by the commissioner. The commissioner may furnish

to regulatory agencies of the federal government, of other states, or of foreign countries and any law enforcement agency, such information, reports, inspections and statements relating to the licensees under his supervision.

(e) In order to carry out the purposes of this section, the commissioner may: (i) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations; (ii) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section; (iii) use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the licensee, individual or person subject to this chapter; (iv) accept and rely on examination or investigation reports made by other government officials, within or without the commonwealth; or (v) accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

(f) No person subject to this chapter shall knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information unless otherwise authorized by law or regulation.

Section 15. It shall be a violation of this chapter for any person to: (a) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person; (b) engage in any unfair or deceptive practice toward any person; (c) obtain property by fraud or misrepresentation; (d) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this chapter may earn a fee or commission through best efforts to obtain a loan even though no loan is actually obtained for the borrower; (e) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting; (f) conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter; (g) fail to make disclosures as required by this chapter and any other applicable state or federal law including regulations thereunder; (h) fail to comply with this chapter or rules or regulations promulgated under this chapter, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this chapter; (i) make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising; (j) make any false statement or knowingly and willfully make any omission of material fact

in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the commissioner or another governmental agency; (k) make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property; (l) collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by this chapter; (m) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or (n) fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

Section 16. Each licensed mortgage loan originator shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

Section 17. The commissioner shall report violations of this chapter, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry subject to the provisions contained in section 13, in conformance with Pub. Law 110-289, section 1512.

Section 18. The unique identifier of any person originating a residential mortgage loan shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including business cards or websites, and any other documents as established by rule, regulation or order of the commissioner.

Section 19. The commissioner may adopt, amend or repeal rules and regulations which may include an adequate net worth requirement for mortgage loan originators to aid in the administration and enforcement of this chapter.

SECTION 2. Section 17 and section 18 of chapter 206 of the acts of 2007 are hereby repealed.

SECTION 3. Notwithstanding any general or special law to the contrary, a person licensed under chapter 255F of the General Laws prior to the effective date of this act shall prove that they have completed all of the continuing education requirements to the satisfaction of the commissioner.

SECTION 4. Section 19 of chapter 255F of the General Laws, inserted by section 1, shall take effect upon its passage. The remainder of section 1 shall take effect on July 31, 2009; provided, however, that subsection (a) of section 2 of chapter 255F of the General Laws, as appearing in section 1, shall apply on January 1, 2011 or such later date, as approved by the Secretary of the United States Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, section 1508, to persons who are licensed mortgage loan originators on July 31, 2009; and provided further,

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that said subsection (a) of said section 2 of said chapter 255F of the General Laws, as appearing in section 1, shall apply to all other persons on July 31, 2010 or such later date, as approved by the said Secretary, pursuant to the authority granted under said Public Law 110-289, section 1508.

Approved July 31, 2009

Chapter 45. AN ACT RELATIVE TO PAYROLL DEDUCTIONS FOR CHARITABLE PURPOSES BY PUBLIC EMPLOYEES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for charitable deductions by public employees by collective bargaining, 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 17G of chapter 180 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "employed", in line 5, the following words:- or which may be specified by a collective bargaining agreement with the PCA quality home care workforce council.

SECTION 2. This act shall take effect as of July 1, 2009.

The foregoing was laid before the Governor on the twenty first day of July, 2009 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 46. AN ACT ESTABLISH A SICK LEAVE BANK FOR MICHELLE NOCERA, 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 Michelle Nocera, an employee of the sheriff's office. Any employee of the sheriff's office may voluntarily contribute 1 or

more sick, personal or vacation days to the sick leave bank for use by Michelle Nocera. 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 sheriff's office. Whenever Michelle Nocera terminates employment with the sheriff's office 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 4, 2009.

Chapter 47. AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO CONVEY OR OTHERWISE DISPOSE OF A PARCEL OF LAND ON MUSKEGET ISLAND IN THE TOWN OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Nantucket, acting by and through its board of selectmen, may convey to the Nantucket Islands Land Bank the fee, a conservation restriction or lesser interests in all or any portion of parkland being that part of Nantucket known as Muskeget Island described in an instrument of taking authorized by chapter 442 of the acts of 1895 dated November 25, 1895 and recorded at the Nantucket registry of deeds in book 79 page 266.

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

Approved August 4, 2009.

Chapter 48. AN ACT PROVIDING FOR THE ISSUANCE OF CERTAIN VETERANS' PLATE BY THE REGISTRAR OF MOTOR VEHICLES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the issuance of certain veterans' plates by the Registrar of Motor Vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fifteenth paragraph and inserting in place thereof the following paragraph:-

The registrar shall furnish, upon application, to owners of private passenger motor vehicles and motorcycles who are veterans, as defined in clause Forty-third of section 7 of chapter 4 and upon presentation of evidence deemed satisfactory by the registrar, distinctive

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registration plates bearing on the left side the word "VETERAN". These plates shall also include a distinctive emblem or decal for those individuals who have been awarded the Iraqi Freedom Campaign Ribbon or who served in Operation Enduring Freedom. There shall be an annual \$20 fee for such "VETERAN" plates in addition to the established registration fee for private passenger motor vehicles and motorcycles. For the purposes of this paragraph, the word "motorcycles" shall not include motorized bicycles.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved August 4, 2009.

Chapter 49. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KATHLEEN GINN, AN EMPLOYEE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of developmental services shall establish a sick leave bank for Kathleen Ginn, 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 Kathleen Ginn. 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. Whenever Kathleen Ginn 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 4, 2009.

Chapter 50. AN ACT RELATIVE TO THE NAMING OF THE JOSEPH P. O'LOUGHLIN POND.

Be it enacted, etc., as follows:

The pond, located at Gate 31 in the Quabbin Reservoir, also known as the Robert D. Wetmore Fishing Area, in the town of New Salem, shall be designated and known as the Joseph P. O'Loughlin Pond, in memory of Joseph P. O'Loughlin, a former dedicated employ-

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ee of the department of conservation and recreation in the town of New Salem. The department of conservation and recreation shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department

Approved August 4, 2009.

Chapter 51. AN ACT AUTHORIZING THE TRANSFER OF CERTAIN FUNDS WITHIN THE TRIAL COURT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the transfer of certain Trial Court funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2010, transfer funds from any item of appropriation within the trial court, except items 0339-1001 and 0339-1003, to any other item of appropriation within the trial court, except items 0339-1001 and 0339-1003. These transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. The schedule shall include the following: (1) the amount of money transferred from any item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved August 4, 2009.

Chapter 52. AN ACT ESTABLISHING A SICK LEAVE BANK FOR GAYLE TICKEL, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

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Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Gayle Tickel, 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 Gayle Tickel. 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. Whenever Gayle Tickel 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 4, 2009.

Chapter 53. AN ACT VALIDATING A CERTAIN VOTE TAKEN BY THE TOWN OF FOXBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or by-law to the contrary, the vote taken by the voters of the town of Foxborough at the election held on May 4, 2009 to exempt the town from section 21C of chapter 59 of the General Laws relative to the amounts required to pay for the bonds to be issued for construction costs in order to complete the repair and renovation of Foxborough high school, including the hiring of engineers, architects and consultants for the purpose of preparing design plans and specifications, to include contract documents and estimates of construction costs relating thereto, is hereby ratified, validated and confirmed notwithstanding any defect or omission in the calling of the election.

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

Approved August 4, 2009.

Chapter 54. AN ACT AUTHORIZING THE CITY OF ATTLEBORO TO CONTINUE THE EMPLOYMENT OF RONALD M. CHURCHILL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 32 of the General Laws or any other general or special law or rule or regulation to the contrary, Ronald M. Churchill, chief of the fire department of the city of Attleboro may continue in that position until June 30, 2010, notwithstanding the fact that he has attained the maximum age for that position, provided

that he is physically and mentally capable of performing the duties of his office.

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

Approved August 4, 2009.

Chapter 55. AN ACT RELATIVE TO THE DISPOSITION OF PROPERTY IN THE TOWN OF WESTBOROUGH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the release of a use restriction on certain land 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:

SECTION 1. The first paragraph of section 5 of chapter 660 of the acts of 1987 is hereby amended by striking out, in lines 11 to 13, inclusive, the words “, and the condition that the property shall revert to the commonwealth if it is no longer used for the aforementioned purposes”.

SECTION 2. Notwithstanding said section 5 of said chapter 660 of the acts of 1987 or any other general or special law to the contrary, the Massachusetts historical commission shall release any preservation restriction held by the commission on the parcel designated as Parcel E in said section 5 of said chapter 660, including any improvements and which was conveyed to the town of Westborough by the commonwealth on November 16, 1990 and recorded in the Worcester county registry of deeds in book 13114, page 166. The property is located on the northern side of route 9, or Turnpike road, and is more commonly known as the “Nathan Fisher House Property”.

SECTION 2A. The first sentence of section 6 of said chapter 660 is hereby amended by striking out, in line 6, the words “nursery and” and inserting in place, thereof the following words:- nursery, a municipal firing range or.

SECTION 2B. The commissioner of capital asset management and maintenance may execute and deliver to the town of Westborough such amended deed, in accordance with section 6 of chapter 660 of the acts of 1987, or other document as the commissioner deems reasonable and appropriate to effect the purposes of section 2A.

SECTION 3. Notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance shall release any restriction on use and any reversionary interest held by the commonwealth in the portion of that parcel designated as Parcel L in section 12 of said chapter 660 which portion was conveyed to the town of Westborough on March 8, 2002 and recorded in the Worcester county registry of deeds in book 26273, page 391.

SECTION 4. The town of Westborough may dispose of said Parcels E and L in a manner consistent with public bidding laws, and, notwithstanding any general or special law to the contrary, subject to section 4, may use the proceeds of any such disposition in any manner.

SECTION 5. In consideration for the releases set forth in sections 2 and 3, upon any disposition of said Parcels E and L, or either of them, by the town of Westborough, the town shall pay to the commonwealth 50 per cent of the net cash proceeds from the sale, lease or other disposition of said parcels; said payment to the commonwealth shall include \$22,000 to the Massachusetts historical commission as repayment of the Massachusetts Preservation Projects Fund grant received by the town of Westborough from the Massachusetts historical commission.

For the purposes of this section, "net cash proceeds" shall mean all payments paid to the town of Westborough as and when paid, less any transaction-related expenses incurred by the town of Westborough for which it is not otherwise reimbursed. The town of Westborough shall be entitled to reimbursement from the gross proceeds for expenses reasonably incurred by the town in connection with the custody, preparation of the parcels for sale, lease or other disposition, and reasonable transaction costs relating to the sale, lease or other disposition of said parcels.

Approved August 4, 2009.

Chapter 56. AN ACT RELATIVE TO THE MASSACHUSETTS LIFE SCIENCES INVESTMENT FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the transfer of consolidated net surplus funds, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. (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 2009 as follows: (i) the comptroller shall transfer \$10,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 23I of the General Laws; and (ii) the remaining balance shall be transferred from the General Fund to the Stabilization Fund.

(b) Notwithstanding any general or special law to the contrary, the total administrative and operational expenses of the Massachusetts Life Sciences Center established in section 3 of said chapter 23I shall not exceed \$3,000,000 for fiscal year 2010;

provided, however, that said center shall report on the center's annual operating expenses including, but not limited to: payroll costs, contracted personnel costs, consultant costs, travel costs, pension and insurance costs, office related expenses, lease costs, facility operating expenses, energy costs and costs of equipment leases and maintenance. Said center shall file a report with the clerks of the house of representatives and the senate, who shall forward the same to the house and senate committees on ways and means and the joint committee on economic development and emerging technologies on or before February 28, 2010.

(c) All transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from the undesignated fund balances, provided that no such transfer shall cause a deficit in any of the funds.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved August 4, 2009.

Chapter 57. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARY F. KEELER, 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 Mary F. Keeler, an employee of the Springfield division of the probate and family 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 Mary F. Keeler. 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. Whenever Mary F. Keeler terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved August 4, 2009.

Chapter 58. AN ACT PROHIBITING HEALTH CARE FACILITIES FROM CHARGING FOR CERTAIN SERVICES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prohibit forthwith health care facilities from charging for certain services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 27 of the acts of 2009 is hereby amended by inserting after section 76 the following section:-

Section 76A. Said section 51H of said chapter 111 is hereby further amended by striking out subsection (d), as appearing in section 9 of chapter 305 of the acts of 2008, and inserting in place thereof the following subsection:-

(d) The department shall adopt regulations prohibiting a health care facility from charging or seeking reimbursement for services provided as a result of the occurrence of a health-care associated infection or serious reportable event. A health care facility shall not charge or seek reimbursement for a health-care associated infection or serious reportable event that the facility has determined, through a documented review process, and under regulations adopted 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 2. This act shall take effect as of July 1, 2009.

Approved August 4, 2009.

Chapter 59. AN ACT RELATIVE TO DEVELOPMENT IN THE TOWNS OF MONSON AND TEMPLETON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for certain development in the towns of Monson and Templeton, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

"Commissioner", the commissioner of capital asset management and maintenance.

"Department", the department of developmental services.

"Developer", a person, entity or governmental body that acquires an ownership or leasehold interest in the site or any portion thereof pursuant to this section.

"Division", the division of capital asset management and maintenance.

"MDC committee", the Monson Developmental Center Reuse Committee, which shall include 3 representatives of the town of Monson, 1 of whom shall be a member of the Monson board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Monson planning board or his designee, and 1 of whom shall be chosen by the Monson board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; and 1 representative of Parents and Friend. Such members, other than the representatives of the state agencies, shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.

"MDC site", the area of state-owned land located in the town of Monson known as the Monson Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

"Plan", a reuse plan prepared by the division in consultation with the MDC committee and the TDC committee which shall be approved by the commissioner and filed in accordance with section 2; provided, however, that the plan may be enhanced, refined or amended from time to time as provided in this section and shall include uses for department programs, uses that promote environmental preservation, open space and any other use found to be appropriate by the commissioner, town and committee.

"Selection committee", the proposal selection committee established to review proposals and make recommendations to the commissioner, which shall include 1 representative of the respective town chosen by the board of selectmen to be appointed annually; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; 1 representative from the MDC committee; and 1 representative from the TDC committee.

"TDC committee", the Templeton Developmental Center Reuse Committee, which shall include 3 representatives of the town of Templeton, 1 of whom shall be a member of the Templeton board of selectmen or his designee who shall serve as chairperson, 1 of whom shall be a member of the Templeton planning board or his designee, and 1 of whom shall be chosen by the Templeton board of selectmen; 1 representative of the community preservation committee; 1 representative of the division of capital asset management and maintenance; 1 representative of the department of developmental services; and 1 representative of the legal guardians of the clients currently housed at Templeton Developmental Center. Such members, other than the representatives of the state agencies, shall be appointed annually by the local governing authority. The senator and representative who represent the town shall serve as ex-officio members.

"TDC site", the area of state-owned land located in the town of Templeton known as the Templeton Developmental Center, together with the buildings and improvements thereon and the rights, easements and other interests appurtenant thereto.

SECTION 2. The commissioner shall undertake planning, studies and preparation of plans and specifications necessary to carry out the provisions of this section consistent with the plan. The TDC committee and MDC committee shall submit their recommendations for the reuse plans with the commissioner within 180 days after the effective date of this act. The commissioner shall consult with the TDC committee and the MDC committee on any amendment to the plan and shall develop, issue and advertise requests for proposals consistent with the plan within 90 days of receipt of the plan. Upon receipt of proposals the commissioner shall convene the selection committees for the purpose of reviewing and making recommendations regarding selection to the commissioner. The respective town's governing authority shall be encouraged to submit proposals for uses consistent with the plan for some or all of the property. Should proposals from the municipalities be among those recommended to the commissioner, the commissioner shall reasonably accommodate the schedule required for town meeting votes, should said vote be required to complete or approve a proposal, prior to making any final decisions on the proposals. In regard to TDC, any re-use must be consistent with chapter 504 of the acts of 2002 which limits some uses on the TDC site. Further, any reuse shall be consistent with restrictions resulting from the TDC and MDC sites being listed on the National Historic Register.

SECTION 3. The commissioner may, subject to sections 40E to section 40J, inclusive, of chapter 7 of the General Laws, and in accordance with this act and the plan and subject to such terms and conditions as the commissioner may, from time to time, prescribe, solicit, evaluate and select development proposals, enter into land disposition agreements, enter into agricultural leases for up to 5 years, sell, lease for terms of up to 99 years including extensions or otherwise grant, convey or transfer to a developer, any interest in the site or portions thereof and any facilities, associated improvements or appurtenances thereon, on such terms and conditions as the commissioner deems appropriate provided the end use meets the guidelines developed by the MDC committee and the TDC committee as set forth in the reuse plan. The amount of consideration for the sale, lease or other disposition of any interest in the sites or portion thereof shall be the full and fair market value for the highest and best value of the property determined by independent appraisal. Additionally, the respective towns may collect property taxes or payments in lieu of taxes if land is leased or sold for taxable uses. The inspector general shall review and comment on 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 said report with the commissioner for submission to the house and senate committees on ways and means and the joint committee on state administration. No less than 2 public comment sessions shall take place. The developer shall be responsible for any costs of appraisals, surveys and other expenses relating to the transfer of the parcel or for any costs, liabilities and expenses of any nature and kind for the development, maintenance or operation of the parcel. The commissioner shall ensure that any deed, lease or other disposition agreement conveying surplus real

property provides for effective remedies on behalf of the commonwealth as deemed appropriate by the commissioner, which remedies may include, without limitation, that the title or lesser interest conveyed may revert to the commonwealth upon the recording of a notice in the appropriate registry of deeds, in the event of a failure to comply with any use restrictions established by the commissioner. The commissioner shall, 30 days before the execution of any agreement or amendment thereto authorized by this act, submit the agreement or amendment and a report thereon to the inspector general for review and comment. No less than 2 public comment sessions shall take place. The inspector general shall issue his review and comment within 30 days after receipt of any agreement or amendment. The commissioner shall submit the agreement and any subsequent amendments thereof, the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration at least 30 days before execution.

SECTION 4. The affected town's board of selectmen shall have the right of first refusal before any decision is made as to the reuse or sale of either the land or facilities in each town. This right of first refusal must be exercised, if at all, by the affected town giving written notice of the town's intention to acquire the property to the division within 180 days after the effective date of this act. If the affected town does give such written notice, the affected town shall have until the date which is 180 days after the later of (i) the town's written notice to the commissioner or (ii) written notice from the commissioner to the town that some or all of the land and facilities in such town is available for disposition, to close on the purchase or lease of the property on such terms, conditions and restrictions as offered by the commissioner; provided, however, that the commissioner may grant an affected town additional time to close on the purchase or lease of the property. If an affected town has held a vote for debt exclusion under section 21C of chapter 59 to finance the surplus real property purchase, the date by which the affected town shall exercise its option to purchase shall be extended until 7 days after the vote, but the vote shall take place at the next municipal election after the affected town voted to put the debt exclusion on the ballot. If the affected town fails to close on the purchase of the property within the allowed time, the sole remedy of the commonwealth against the affected town for such failure is to proceed with the disposition of the property without further right of purchase by the affected town.

SECTION 5. Notwithstanding any general or special law to the contrary, the commissioner may, subject to appropriation, and subject to sections 40E to 40G, inclusive, 40I and 40J of chapter 7 of the General Laws retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of the General Laws, or otherwise, grant by deed, transfer, lease, eminent domain, pursuant to said chapter 79, or otherwise, or grant by deed, transfer, lease or otherwise, any rights-of-way or easements, in, over and beneath the site or portions thereof or other property in the commonwealth contiguous to the site for drainage, access, egress, utilities and other purposes, as the commissioner deems necessary and appropriate to carry out the purposes of this section. The commissioner shall seek advice from the appropriate reuse committee prior to the implementation of any action.

SECTION 6. The department of developmental services, with the approval of the commissioner, may enter into contracts for the provision of building management services for buildings and facilities located on the site as deemed by the commissioner and the reuse committee.

SECTION 7. Notwithstanding any general or special law to the contrary, the commissioner may employ designers who prepare studies or programs or other design services for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion or repair of buildings on the MDC site and the TDC site to prepare plans and specifications and provide any other design services deemed necessary by the commissioner for such projects.

SECTION 8. This act shall take effect as of July 1, 2009.

Approved August 6, 2009.

Chapter 60. AN ACT ESTABLISHING A REGIONALIZATION ADVISORY COMMISSION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a regionalization advisory commission, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be a 19 member Massachusetts regionalization advisory commission consisting of the following members: the secretary of the executive office for administration and finance, or his designee, who shall serve as chair of the commission; the secretary of the executive office of health and human services or his designee; the secretary of the executive office of energy and environmental affairs or his designee; the secretary of the executive office of public safety or his designee; the secretary of the executive office of transportation and public works or his designee; the secretary of the executive office of elder affairs or his designee; the secretary of the executive office of veterans' affairs or his designee; the secretary of the executive office of labor and workforce development or his designee; the secretary of the executive office of education or his designee; the secretary of the executive office of housing and economic development or his designee; the president of the senate or his designee; the speaker of the house of representatives or his designee; the minority leader of the senate or his designee; the minority leader of the house of representatives or his designee; a representative from the metropolitan area planning council; a representative from the Massachusetts Municipal Association; and 3 members to be appointed by the governor all of whom shall have knowledge and experience in 1 or more of the following areas: municipal

government and services, municipal agreements, shared services or regionalization. Each member shall serve without compensation.

The commission shall review all aspects of regionalization including possible opportunities, benefits and challenges to regionalizing services within the commonwealth. The commission shall consider the costs and effects of regionalizing all services including, but not limited to: education, public safety, public health, public works, housing, veterans' services, workforce development, municipal finance and structure, elder services and transportation.

The commission shall submit its finding and recommendations for regionalizing services, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on municipalities and regional government not later than April 30, 2010.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved August 6, 2009.

Chapter 61. AN ACT TRANSFERRING COUNTY SHERIFFS TO THE COMMONWEALTH.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to transfer forthwith county sheriffs to 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 17 of chapter 37 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

The sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and Worcester shall each receive a salary of \$123,209. The sheriff of the county of Dukes shall receive a salary of \$97,271. The sheriff of the county of Nantucket shall receive a salary of \$71,332.

SECTION 2. Chapter 64D of the General Laws is hereby amended by striking out sections 11 to 13, inclusive, as so appearing, and inserting in place thereof the following 2 sections:-

Section 11. Except for Barnstable and Suffolk counties, there shall be established upon the books of each county of a transferred sheriff, the government of which county has not been abolished by chapter 34B or other law, a fund, maintained separate and apart from all other funds and accounts of each county, to be known as the Deeds Excise Fund.

Notwithstanding any general or special law to the contrary, except for Barnstable and Suffolk counties, on the first day of each month, 10.625 per cent of the taxes collected in the county of a transferred sheriff under this chapter shall be transmitted to the Deeds Excise Fund for each county; provided, however, that in any county in which its minimum obligation, established by the secretary of administration and finance in 2009, is insufficient in any given fiscal year to satisfy the unfunded county pension liabilities and other benefit liabilities of retired employees of the sheriff's office as determined by the secretary of administration and finance in consultation with appropriate county officials and county treasurers, beginning in fiscal year 2011, the county shall retain 13.625 per cent of the taxes collected in such county and transferred to the Deeds Excise Fund to satisfy the unfunded county pension liabilities and other benefit liabilities of retired employees of the sheriff's office until the minimum obligation is sufficient or until such county has paid such unfunded pension liability in full; and provided further, that once such liabilities are satisfied, the following month and each month thereafter, 10.625 per cent of such taxes collected shall be retained by such county; provided, however, that an additional 30.552 per cent of said taxes collected in Nantucket county shall be transmitted to the Deeds Excise Fund on the first day of each month for said county through June 1, 2029; and provided further that if in a fiscal year the dollar amount that equals 30.552 per cent of said taxes collected in Nantucket county exceeds \$250,000, the amount in excess shall be transmitted to the General Fund. The remaining percentage of taxes collected under this chapter, including all taxes collected under this chapter in Barnstable and Suffolk counties and all counties the government of which has been abolished by chapter 34B or other law, but not including the additional excise authorized in section 2 of chapter 163 of the acts of 1988, shall be transmitted to and retained by the General Fund in accordance with section 10.

Section 12. (a) Notwithstanding any general or special law to the contrary, of the amounts deposited in the Deeds Excise Fund for each county from revenues collected pursuant to this chapter: (1) not more than 60 per cent of the deposits shall be disbursed and expended for meeting the costs of the operation and maintenance of the county; and (2) not less than 40 per cent shall be disbursed and expended for the automation, modernization and operation of the registries of deeds.

(b) Notwithstanding any general or special law to the contrary, with respect to funds appropriated for the purposes designated in clause (2) of subsection (a) and which are not dedicated to the Deeds Excise Fund in each county under section 11, the county budget shall provide a continuing amount of expenditure of not less than 102.5 per cent of the amount expended for that purpose in the preceding fiscal year.

SECTION 3. Notwithstanding any general or special law to the contrary, the offices of the Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk county sheriffs are hereby transferred to the commonwealth as provided in this act.

SECTION 4. Notwithstanding any general or special law to the contrary, all functions, duties and responsibilities of the office of a transferred sheriff pursuant to this act including, but not limited to, the operation and management of the county jail and house of

correction and any other statutorily authorized functions of that office, are hereby transferred from the county to the commonwealth.

SECTION 5. Notwithstanding any general or special law to the contrary, the government of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk counties, except the office of county sheriff, shall retain all existing authority, functions and activities for all purposes including, but not limited to, the purposes established in chapters 34, 34A, 35 and 36 of the General Laws or as otherwise authorized by this act. This act shall not affect the existing county boundaries.

SECTION 6. Notwithstanding any general or special law to the contrary, all valid liabilities and debts of the office of a transferred sheriff, which are in force on the effective date of this act, shall be obligations of the commonwealth as of that date, except as may be otherwise provided in this act. All assets of the office of a transferred sheriff on the effective date of this act shall become assets of the commonwealth, except as otherwise provided in this act.

SECTION 7. (a) Notwithstanding any general or special law to the contrary, all rights, title and interest in real and personal property, including those real properties improved upon through construction overseen by the division of capital asset management and maintenance and paid with commonwealth funds and which are controlled by the office of a transferred sheriff on the effective date of this act including, without limitation, all correctional facilities and other buildings and improvements, the land on which they are situated and any fixtures, wind turbines, antennae, communication towers and associated structures and other communication devices located thereon or appurtenant thereto shall be transferred to the commonwealth, except as otherwise provided in this act. This transfer of all buildings, lands, facilities, fixtures and improvements shall be subject to chapter 7 of the General Laws and the jurisdiction of the commissioner of capital asset management and maintenance as provided therein, except as otherwise provided in this act. The commonwealth shall take all necessary steps to ensure continued access, availability and service to any assets transferred to the commonwealth under this subsection to a local or regional organization that currently uses such assets.

(b) Notwithstanding any general or special law to the contrary, if a transferred sheriff occupies part of a building or structure owned by a county, the county shall lease that part of the building or structure to the commonwealth under reasonable terms determined by the commissioner of capital asset management and maintenance.

(c) Notwithstanding any general or special law to the contrary, the transfer under this section shall be effective and shall bind all persons, with or without notice, without any further action or documentation. Without derogating from the foregoing, the commissioner of capital asset management and maintenance may, from time to time, execute and record and file for registration with any registry of deeds or the land court, a certificate confirming the commonwealth's ownership of any interest in real property formerly controlled by the office of a transferred sheriff pursuant to this section.

(d) This section shall not apply to the land and buildings shown as Parcel C on a Plan of Land in Braintree, Mass, dated October 2, 1997, prepared by County of Norfolk Engineering Dept., 649 High Street, Dedham, filed at the Norfolk county registry of deeds in plan book 454, page 128.

(e) Notwithstanding any provision of this section or sections 40E to 40I, inclusive, of chapter 7 of the General Laws to the contrary, in the event that the Dukes County jail and house of correction located at 149 Main Street in the town of Edgartown ceases to be used for public safety purposes and the commissioner of capital asset management and maintenance intends to sell said property, Dukes County shall hold the right of first refusal to purchase said property for nominal consideration, and shall hold such first refusal option for the first 60 days after receipt of the commissioner's notice of intent to sell said property, and upon the non-acceptance by Dukes County of any such offer, said property shall then be offered for sale by the commissioner pursuant to the provisions of said sections 40E to 40I, inclusive, of said chapter 7.

(f) This section shall not apply to the former Barnstable county house of correction located at the Barnstable County Complex on state highway route 6A in the town of Barnstable.

(g) This section shall only apply to that portion of the land on which the Plymouth county correctional facility, Plymouth county sheriff's garage and Plymouth county sheriff's offices are situated, including all parking areas, access roads and walkways and any other areas necessary to the use of such buildings, but excluding any open areas, the exact boundaries of which shall be determined by a land survey and plan by the commissioner of capital asset management and maintenance. Such land is part of the premises located at 24 Long Pond road in the town of Plymouth, consisting of 32.747 acres and described in Exhibit A to the lease agreement between Plymouth county and the Plymouth county sheriff which is recorded in the Plymouth county registry of deeds at book 10978, pages 233 and 234. These premises shall continue to be subject to the access easement described in said Exhibit A in said registry of deeds at book 10978, page 232.

SECTION 8. Notwithstanding any general or special law to the contrary, once the commonwealth has refinanced any outstanding bonds of the Plymouth County Correctional Facility Corporation, said corporation shall be dissolved and its assets shall be transferred to the commonwealth; provided, however, that prior to said dissolution, the commonwealth shall transfer from the reserve fund created pursuant to the trust agreement executed on February 16, 1999 between the Plymouth County Correctional Facility Corporation and the State Street Bank and Trust Company to the county any balance remaining in the reserve fund to which the county is entitled pursuant to section 3.5 of said trust agreement. The criminal detention facility constructed pursuant to chapter 425 of the acts of 1991 shall be transferred to the commonwealth. The revenue held by the corporation in the Repair and Replacement and Capital Improvement Accounts shall be transferred to the Plymouth sheriff's Facility Maintenance Trust Account. The Plymouth sheriff shall make expenditures from this account only for the maintenance, repair and replacement of the sheriff's facilities

subject to approval by the commissioner of capital asset management and maintenance.

SECTION 9. Notwithstanding any general or special law to the contrary, all leases and contracts of the office of a transferred sheriff which are in force on the effective date of this act shall be obligations of the commonwealth and the commonwealth may exercise all rights and enjoy all interests conferred upon the county by those leases and contracts except as may be otherwise provided in this act.

SECTION 10. Notwithstanding any general or special law to the contrary, beginning in fiscal year 2010 and thereafter until terminated, Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth counties shall appropriate and pay to their respective county retirement boards, and any other entities due payments, amounts equal to the minimum obligations to fund from their own revenues in fiscal year 2009 the operations of the office of the sheriff for the purpose of covering the unfunded county pension liabilities and other benefit liabilities of the retired sheriff's office employees that remain in the county retirement systems, as determined by the actuary of the public employee retirement administration commission. Pursuant to section 20 of chapter 59 of the General Laws, the state treasurer shall assess the city of Boston and remit to the State-Boston retirement system an amount equal to the minimum obligation of Suffolk county to fund from its own revenues in fiscal year 2009 the operations of the office of the sheriff. The secretary of administration and finance shall establish a plan for county governments to pay off these unfunded county pension liabilities and shall establish an amortization schedule to accomplish this task. These payments shall remain in effect for the duration of that amortization schedule, which shall not exceed the funding schedule established by the respective county retirement board. If the unfunded pension liability of retirees exceeds any county's minimum obligation to fund operations from its own revenues as set forth in this section, the retirement system for such county may extend its pension funding schedule to the extent necessary to eliminate that excess unfunded pension liability. In the case of any such county, when the county has paid such unfunded pension liabilities in full, or the county has completed the amortization schedule as established under this section, whichever occurs first, the county's obligation to make payments of its minimum obligations to fund its sheriff's office operations, as determined under this section, shall terminate.

SECTION 11. Notwithstanding any general or special law to the contrary, any funds including, but not limited to, county correctional funds and other sources of income and revenue, to the credit of the office of a transferred sheriff on June 30, 2009, shall be paid to the state treasurer, but the county treasurer may pay appropriate fiscal year 2009 sheriff's department obligations after June 30, 2009. Payment of obligations to be charged to the sheriff's fiscal year 2009 budget as approved by the county government finance review board shall be within that budget or shall be approved by the secretary of administration and finance.

SECTION 12. (a) Notwithstanding any general or special law to the contrary and except for all counties the governments of which have been abolished by chapter 34B of the General Laws or other law, revenues of the office of sheriff in Barnstable, Bristol, Dukes,

Nantucket, Norfolk, Plymouth and Suffolk counties for civil process, inmate telephone and commissary funds shall remain with the office of sheriff.

(b) Notwithstanding any general or special law to the contrary, in order to encourage innovation and enterprise, each sheriff's office shall annually confer with the house and senate committees on ways and means regarding that sheriff's efforts to maximize and maintain grants, dedicated revenue accounts, revolving accounts, fee for service accounts and fees and payments from the federal, state and local governments and other such accounts and regarding which revenues shall remain with the sheriff's office.

(c) Any sheriff who has developed a revenue source derived apart from the state treasury may retain that funding to address the needs of the citizens within that county.

(d) Any unencumbered carry-forward deeds excise or other funds to the credit of the sheriff on June 30, 2009 shall be paid to the state treasurer.

(e) Notwithstanding any general or special law or county charter to the contrary, regional services and contracts for such services including, but not limited to, regional communications centers and law enforcement support, shall continue until expired, terminated or revoked under the terms of the agreement or contract for such services.

SECTION 13. (a) Notwithstanding any general or special law to the contrary, all employees of the office of a transferred sheriff, including those who, on the effective date of this act, hold permanent appointment in positions classified under chapter 31 of the General Laws or those who have tenure in their positions by reason of section 9A of chapter 30 of the General Laws or do not hold such tenure, are hereby transferred to that transferred sheriff as employees of the commonwealth, without interruption of service within the meaning of said section 9A of said chapter 30 or said chapter 31 and without reduction in compensation or salary grade.

(b) Notwithstanding any general or special law to the contrary, employees of the office of a transferred sheriff shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered sheriff's office employees for the purposes of said chapter 150E.

(c) Notwithstanding any general or special law to the contrary, all petitions, requests, investigations and other proceedings duly brought before the office of a transferred sheriff or duly begun by that sheriff and pending on the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the office of a transferred sheriff.

(d) Notwithstanding any general or special law to the contrary, all orders, rules and regulations duly made and all approvals duly granted by a transferred sheriff which are in force on the effective date of this act shall continue in force and shall thereafter be enforced until superseded, revised, rescinded or canceled in accordance with law by that sheriff.

(e) Notwithstanding any general or special law to the contrary, all books, papers, records, documents and equipment which on the effective date of this act are in the custody of a transferred sheriff shall be transferred to that sheriff.

(f) Notwithstanding any general or special law to the contrary, all duly existing contracts, leases and obligations of a transferred sheriff shall continue in effect. An existing right or remedy of any character shall not be lost or affected by this act.

SECTION 14. The rights of all employees of each office of a transferred sheriff shall continue to be governed by the terms of collective bargaining agreements, as applicable. If a collective bargaining agreement has expired on the transfer date, the terms and conditions of such agreement shall remain in effect until a successor agreement is ratified and funded. Notwithstanding the provisions of chapter 150E of the General Laws or any other general or special law or regulation to the contrary, employees of the office of a transferred sheriff, without a collective bargaining agreement in effect on the transfer date, shall not be transferred to the state retirement system until November 1, 2010 or until a successor agreement is ratified and funded whichever occurs first.

SECTION 15. Notwithstanding any general or special law to the contrary, a transferred sheriff in office on the effective date of this act shall become an employee of the commonwealth with salary to be paid by the commonwealth. The sheriff shall remain an elected official for the purposes of section 159 of chapter 54 of the General Laws. The sheriff shall operate pursuant to chapter 37 of the General Laws. The sheriff shall retain administrative and operational control over the office of the sheriff, the jail, the house of correction and any other occupied buildings controlled by a transferred sheriff upon the effective date of this act. The sheriff and sheriff's office shall retain and operate under all established common law power and authority consistent with chapters 126 and 127 of the General Laws and any other relevant General Laws.

SECTION 16. Notwithstanding any general or special law to the contrary, a transferred sheriff shall be considered an "employer" as defined in section 1 of chapter 150E of the General Laws for the purposes of said chapter 150E. The sheriff shall also have power and authority as employer in all matters including, but not limited to, hiring, firing, promotion, discipline, work-related injuries and internal organization of the department.

SECTION 17. (a) Notwithstanding any general or special law or rule or regulation to the contrary, the sheriff, special sheriff, deputies, jailers, superintendents, deputy superintendents, assistant deputy superintendents, keepers, officers, assistants and other employees of the office of a transferred sheriff, employed on the effective date of this act in the discharge of their responsibilities set forth in section 24 of chapter 37 of the General Laws and section 16 of chapter 126 of the General Laws shall be transferred to the commonwealth with no impairment of employment rights held on the effective date of this act, without interruption of service, without impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation. Any collective bargaining agreement in effect on the effective date of this act shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. Nothing in this section shall confer upon any employee any right not held on the effective date of this act or prohibit any reduction of salary, grade, transfer, reassignment, suspension, discharge, layoff or abolition

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of position not prohibited before the effective date of this act. Such employees shall not be considered new employees for salary, wage, tax, health insurance, Medicare or any other federal or state purposes, but shall retain their existing start and hiring date, seniority and any other relevant employment status through the transfer.

(b) Notwithstanding any general or special law to the contrary, all demands, notices, citations, writs and precepts given by a sheriff, special sheriff, deputy, jailer, superintendent, deputy superintendent, assistant deputy superintendent, keeper, officer, assistant or other employee of the office of a transferred sheriff, as the case may be, on or before the effective date of this act shall be valid and effective for all purposes unless otherwise revoked, suspended, rescinded, canceled or terminated.

(c) Notwithstanding any general or special law to the contrary, any enforcement activity imposed by a sheriff or special sheriff or by any deputies, jailers, superintendents, deputy superintendents, assistant deputy superintendents, keepers, officers, assistants or other employees of the office of a transferred sheriff before the effective date of this act shall be valid, effective and continuing in force according to the terms thereof for all purposes unless superseded, revised, rescinded or canceled.

(d) Notwithstanding any general or special law to the contrary, all petitions, hearings appeals, suits and other proceedings duly brought against and all petitions, hearings, appeals, suits, prosecutions and other legal proceedings begun by a sheriff, special sheriff, deputy, jailer, superintendent, deputy superintendent, assistant deputy superintendent, keeper, officer, assistant or the employee of the office of a transferred sheriff, as the case may be, which are pending on the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act.

(e) Notwithstanding any general or special law to the contrary, all records maintained by a sheriff or special sheriff or by any deputies, jailers, superintendents, deputy superintendents, assistant deputy superintendents, keepers, officers, assistants and other employees of the office of a transferred sheriff on the effective date of this act shall continue to enjoy the same status in a court or administrative proceeding, whether pending on that date or commenced thereafter, as they would have enjoyed in the absence of the passage of this act.

SECTION 18. Notwithstanding any general or special law to the contrary, all officers and employees of the office of a transferred sheriff transferred to the service of the commonwealth shall be transferred with no impairment of seniority, retirement or other rights of employees, without reduction in compensation or salary grade and without change in union representation, except as otherwise provided in this act. Any collective bargaining agreement in effect for transferred employees on the effective date of this act shall continue as if the employees had not been so transferred until the expiration date of the collective bargaining agreement. Nothing in this section shall confer upon any employee any right not held on the effective date of this act prohibit any reduction of salary, grade, transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited before that date.

SECTION 19. (a) Notwithstanding any general or special law to the contrary, employees or retired employees of the office of a transferred sheriff and the surviving spouses of retired employees of the office of a transferred sheriff who are eligible for group insurance coverage as provided in chapter 32B of the General Laws or who are insured under said chapter 32B, shall have that eligibility and coverage transferred to the group insurance commission and those employees shall cease to be eligible or insured under said chapter 32B; provided, however, that, notwithstanding the provisions of chapter 150E of the General Laws or any other law or regulation to the contrary, employees, retired employees and the surviving spouses of retired employees of the office of a transferred sheriff without a collective bargaining agreement in effect shall not be transferred to the group insurance commission until November 1, 2010 or until a successor collective bargaining agreement is ratified and funded whichever occurs first. These employees shall not be considered to be new employees. The group insurance commission shall provide uninterrupted coverage for group life and accidental death and dismemberment insurance and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits to the extent authorized under chapter 32A of the General Laws. Employees who were covered by a collective bargaining agreement on the effective date of this act shall continue to receive the group insurance benefits required by their respective collective bargaining agreements until a successor agreement is ratified and funded.

(b) Notwithstanding any general or special law to the contrary, the human resources division of the executive office for administration and finance shall assume the obligations of the office of a transferred sheriff to employees who become state employees and who are covered under a health and welfare trust fund agreement established under section 15 of chapter 32B of the General Laws pursuant to a collective bargaining agreement until the expiration date of the collective bargaining agreement.

(c) Notwithstanding any general or special law to the contrary, the group insurance commission shall evaluate, in consultation with appropriate county officials and county treasurers, the value of any monies in a claims trust fund established pursuant to section 3A of said chapter 32B that would otherwise have been reserved for claims made by employees of a transferred sheriff. Any monies therein shall be transferred to the group insurance commission on the effective date of this act; provided, however, that no monies shall be transferred if such transfer violates an agreement entered into by a governmental subdivision with an insurance provider pursuant to said chapter 32B.

SECTION 20. Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the retirement system in the county of a transferred sheriff shall continue pursuant to this section and shall be managed by the retirement board as provided in this section. Employees of a transferred sheriff who retired on or before the effective date of this act shall be members of the county retirement system, which shall pay the cost of benefits annually to such retired county employees and their survivors. The annuity savings funds of the employees of transferred sheriffs who become state employees

pursuant to this act shall be transferred from that county retirement system to the state retirement system, which shall thereafter be responsible for those employees, subject to the laws applicable to employees whose transfer from 1 governmental unit to another results in the transfer from 1 retirement system to another, except for paragraph (c) of subdivision (8) of section 3 of said chapter 32. The value of the annuity savings funds shall be determined based on valuations on the effective date of the transfer. All other provisions governing the retirement systems of the counties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk shall remain in effect.

SECTION 21. Notwithstanding any general or special law to the contrary, county commissioners, county sheriffs, county treasurers, county retirement systems, the State-Boston retirement system and all executive branch agencies and officers shall cooperate with the secretary of administration and finance in effecting the orderly transfer of the county sheriffs to the commonwealth. The secretary may establish working groups as considered appropriate to assist in the implementation of the transfer.

SECTION 22. Notwithstanding any general or special law to the contrary, there shall be a special commission to consist of 9 members: 1 of whom shall be a member of the Massachusetts Sheriffs Association; 2 of whom shall be appointed by the speaker of the house of representatives; 1 of whom shall be appointed by the minority leader of the house of representatives; 2 of whom shall be appointed by the president of the senate; 1 of whom shall be appointed by the minority leader of the senate; and 2 of whom shall be appointed by the governor for the purpose of making an investigation and study relative to the reorganization or consolidation of sheriffs' offices, to make formal recommendations regarding such reorganization or consolidation and to recommend legislation, if any, to effectuate such recommendations relating to the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices.

The chairman of the commission shall be selected by its members. Section 2A of chapter 4 of the General Laws shall not apply to the commission. So long as a member of the commission discloses, in writing, to the state ethics commission any financial interest as described in sections 6, 7 or 23 of chapter 268A of the General Laws which may affect the member's work on the commission, the member shall not be deemed to have violated said sections 6, 7 or 23 of said chapter 268A. Five members of the commission shall constitute a quorum and a majority of all members present and voting shall be required for any action voted by the commission including, but not limited to, voting on formal recommendations or recommended legislation.

The commission, as part of its review, analysis and study and in making such recommendations regarding the reorganization, consolidation, operation, administration, regulation, governance and finances of sheriffs' offices, shall focus on and consider the following issues, proposals and impacts:

(1) the possible consolidation, elimination or realignment of certain sheriffs' offices and the potential cost savings and other efficiencies that may be achieved by eliminating, consolidating and realigning certain sheriffs' offices to achieve pay parity;

(2) any constitutional, statutory or regulatory changes or amendments that may be required in order to effectuate any such consolidation or reorganization;

(3) the reallocation of duties and responsibilities of sheriffs' offices as a consequence of any such consolidation or reorganization;

(4) the best management practices including, but not limited to, administrative procedures, payroll systems, software updates, sheriff's ability to negotiate cost effective contracts and the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;

(5) the consideration of any other issues, studies, proposals or impacts that, in the judgment of the commission, may be relevant, pertinent or material to the study, analysis and review of the commission; and

(6) The need for appropriate placements and services for female detainees and prisoners, including pre-release services, job placement services, family connection services, and re-entry opportunities; provided, however, the review shall consider the need and present adequacy of placement of female prisoners and detainees in each country; and provided further, that all departments, divisions, commissions, public bodies, authorities, boards, bureaus or agencies of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the responsibilities of the commission subject to considerations of privilege or the public records law.

The commission shall submit a copy of a final report of its findings resulting from its study, review, analysis and consideration, including legislative recommendations, if any, to the governor, president of the senate, speaker of the house of representatives, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on state administration and regulatory oversight and the clerks of the senate and house of representatives not later than December 31, 2010.

SECTION 23. Not less than 90 days after the effective date of this act, a sheriff transferred under this act shall provide to the secretary of administration and finance a detailed inventory of all property in the sheriff's possession which shall include, but not be limited to, vehicles, weapons, office supplies and other equipment.

SECTION 24. Notwithstanding section 7 of chapter 268A of the General Laws a state employee from the office of a transferred sheriff may have a financial interest in a contract made by a state agency, if such financial interest exists on the effective date of this act.

SECTION 25. Notwithstanding any general or special law to the contrary, the department of the state auditor shall conduct an independent audit of the total assets, liabilities and potential litigation of each sheriff's office transferred under this act; provided, however, that any audit undertaken under this section shall include an audit of any accounts, programs, activities, functions and inventory of all property of a sheriff's office. The state

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auditor shall file a report with the secretary of administration and finance and the chairs of the house and senate committees on ways and means not later than April 30, 2010 which shall include, but not be limited to: (i) a summary of the findings under each audit; and (ii) the cost of each audit.

SECTION 26. Section 19 shall take effect on February 1, 2010. Section 21 shall take effect upon its passage. The remainder of this act shall take effect on January 1, 2010.

Approved August 6, 2009.

Chapter 62. AN ACT FURTHER REGULATING A CERTAIN LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES IN THE TOWN OF DRACUT.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 88 of the acts of 2005 is hereby amended by striking out the last sentence.

SECTION 2. Said section 1 of said chapter 88 is hereby further amended by adding the following 2 paragraphs:-

The licensing authority shall not approve the transfer of the license to any other location. The license may be granted by the licensing authority at the same location if an applicant 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 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. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

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

Approved August 6, 2009.

Chapter 63. AN ACT RELATIVE TO THE DISTRICT LOCAL TECHNICAL ASSISTANCE FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the transfer of funds to the District Local Technical Assistance Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 182 of the acts of 2008 is hereby amended in item 7027-0016 by adding the following words:- prior appropriation continued.

SECTION 1A. Notwithstanding any general or special law to the contrary, not less than 10 days after the effective date of this act, the comptroller shall transfer \$2,000,000 from the General Fund to the District Local Technical Assistance Fund, established by section 2XXX of chapter 29 of the General Laws.

SECTION 2. This act shall take effect as of July 1, 2009.

Approved August 7, 2009.

Chapter 64. AN ACT PROVIDING FOR THE TRANSFER OF CERTAIN FUNDS TO THE GENERAL FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the transfer of certain funds to the General Fund, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

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) \$1,963,761 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established in section 35FF of chapter 10 of the General Laws;

(b) \$7,000,000 from the Smart Growth Housing Trust Fund established in section 35AA of chapter 10 of the General Laws;

(c) \$3,000,000 from the County Registers Technological Fund established in section 2KK of chapter 29 of the General Laws;

(d) \$2,000,000 from the Massachusetts Science, Technology Engineering, and Mathematics Grant Fund established in section 2MMM of chapter 29 of the General Laws;

(e) \$3,392,263 from the Commonwealth Covenant Fund establish in section 35EE of chapter 10 of the General Laws; and

(f) \$1,859,744 from the Massachusetts Board of Higher Education Scholar-Internship Match Fund established in section 2UUU of chapter 29 of the General Laws.

Approved August 7, 2009.

Chapter 65. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2010 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 2010 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2010, 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, 2010. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

JUDICIARY

Board of Bar Examiners

0321-0100 \$75,000

Trial Court

0330-0300 \$3,350,000
0330-3337 \$950,000
0333-0002 \$500,000
0335-0001 \$150,000
0339-1001 \$4,170,000
0339-1003 \$300,000

ATTORNEY GENERAL

Office of the Attorney General

0810-0045 \$200,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Appellate Tax Board

1310-1000 \$300,000

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Agricultural Resources

2511-0105 \$1,000,000

Department of Conservation and Recreation

2800-0501 \$25,000

2810-0100 \$25,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Office of the Secretary

4000-0265 \$250,000

4000-0500 \$160,000

Executive Office of Elder Affairs

4000-0600 \$13,100,000

Executive Office of Health and Human Services

4000-0700 \$5,800,000

4000-0950 \$300,000

Department of Youth Services

4200-0200 \$500,000

Department of Public Health

4510-0715 \$100,000

4510-0810 \$300,000

4512-0202 \$800,000

4512-0203 \$500,000

4513-1000 \$50,000

4513-1111 \$350,000

Department of Children and Families

4800-0038 \$1,000,000

Department of Mental Health

5046-0000 \$275,000

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EXECUTIVE OFFICE OF TRANSPORTATION

Office of the Secretary

6005-0015 \$435,854

BOARD OF LIBRARY COMMISSIONERS

Board of Library Commissioners

7000-9401 \$1,290,000

7002-0500 \$202,534

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Department of Workforce Development

7003-0605 \$350,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Office of the Secretary

7004-9005 \$1,000,000

7004-9316 \$1,000,000

Department of Business Development

7007-0500 \$50,000

7007-0951 \$2,500,000

7007-1000 \$950,000

EXECUTIVE OFFICE OF EDUCATION

Department of Elementary and Secondary Education

7030-1002 \$200,000

7061-0012 \$200,000

7061-9604 \$50,000

7061-9634 \$100,000

Department of Higher Education

7066-0009 \$67,500

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Military Division

8700-0001 \$100,000

Sheriffs

8910-0105 \$1,029,114

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Department of Elder Affairs

9110-1633 \$200,000

LEGISLATURE
Senate

9500-0000 \$568,921

House

9600-0000 \$1,009,726

Joint Legislative Expenses

9700-0000 \$158,808

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, 2010. 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
Reserves

1599-1702 For a reserve for the 75 per cent state share of costs to the department of conservation and recreation as identified for reimbursement by the Federal Emergency Management Agency for Emergency Declaration 3296 relating to the December 2008 severe winter storm, for the counties of Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk and Worcester \$4,700,000

1599-6425 For a reserve to support municipal regionalization; provided, however, that the funds in this item shall be used to provide grants and technical assistance to districts and municipalities, including councils on government, counties and regional planning authorities that are applying on behalf of 2 or more municipal entities, in the areas of planning, feasibility, transitional costs and related subject areas to promote cost effective and efficient delivery of local services by regionalization of services including, but not limited to, equipment,

hardware, facilities, staff and operations; provided further, that the secretary of administration and finance shall promulgate regulations to implement this item not later than September 1, 2009; and provided further, that grants and technical assistance shall only be provided to support regionalization of services that results in cost savings \$500,000

1599-9003 For a reserve for the implementation of transportation reform \$1,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Department of Public Health

4510-0716 For the operation of an evidence-based outreach and education program designed to provide information and education on the therapeutic and cost-effective utilization of prescription drugs to physicians, pharmacists and other health care professionals authorized to prescribe and dispense prescription drugs \$200,000

Department of Children and Families

4800-0016 For the department of children and families which may expend for the operation of the transitional employment program an amount not to exceed \$2,000,000 from revenues collected from various state, county and municipal government entities, as well as state authorities, for the costs related to the provision of services by the participants and the overhead costs and expenses incurred by the not-for-profit managing agent selected by the commissioner for administering the program; provided, however, that notwithstanding any general or special law to the contrary, the commissioner of the department of children and families may enter into a contract with Roca, Inc., a not-for-profit community-based agency, to manage the transitional employment program and to provide services to participants from the aging out population, parolees, probationers, youth service releases or other community residents considered to have employment needs . . \$1,500,000

7061-0011 For a reserve to: (1) meet extraordinary increases in the minimum required local contribution of a municipality pursuant to the requirements of section 3 of chapter 27 of the acts of 2009; provided, however, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to section 114 of said chapter 27; provided

further, that the commissioner shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of elementary and secondary education regarding the merits of such application; (2) assist regional school districts which, prior to fiscal year 2010, have assessed member towns using the provisions of their regional agreement, and which, in fiscal year 2010, will assess member towns using the required contributions calculated pursuant to said section 3 of said chapter 27; (3) assist towns impacted by stresses in the commercial agricultural, fishing or lobster industry whose required local contribution exceeds 75 per cent of their foundation budget; (4) assist towns negatively impacted by shortfalls in federal impact aid for the education of children in families employed by the federal government on military reservations located within the town's limits; provided further, that any grants provided under this item shall be expended by a school committee without further appropriation; (5) assist regional school districts in rural areas which meet each of the following: (a) they have fewer than 30 full-time enrollment students per square mile; and (b) they have experienced more than 7 per cent enrollment decline between fiscal year 2004 and fiscal year 2009; provided further, that preference shall be given to those districts that have joined the group insurance commission before July 1, 2009; (6) meet extraordinary increases of greater than 10 per cent in a municipality's total required contribution in municipalities whose target required local contribution exceeds 70 per cent of their foundation budget; (7) assist towns in which in excess of one-third of the total land mass of the town is owned and controlled by the commonwealth and which receive payment in lieu of taxes on less than 25 per cent of said land; (8) assist operating districts in which the chapter 70 aid, so-called, distributed in fiscal year 2010 is less than the chapter 70 aid distributed in fiscal year 2002; and (9) assist towns which host a campus of the University of Massachusetts, but which have a target aid percentage of only 17.5 per cent; provided further, that any grants provided to school districts from this item shall be expended by a school committee without further appropriation; provided further, that the department shall make not less than 80 per cent of the awards from this item no later than

October 15, 2009; and provided further, that no funds distributed from this item shall be considered prior year chapter 70 aid nor shall they be used in the calculation of the minimum required local contribution for fiscal year 2011 \$2,000,000

7061-9634 For a transfer of this item to the Massachusetts Service Alliance, which shall be responsible for administering a competitive statewide grant program for public and private agencies to start or expand youth mentoring programs according to current best practices and for purposes including advancing academic performance, self-esteem, social competence and workforce development; provided, however, that the department of elementary and secondary education shall transfer the amount appropriated in this item to the Massachusetts Service Alliance for the purpose of these grants; provided further, that in order to be eligible to receive funds from this item, each public or private agency shall provide a matching amount equal to \$1 for every \$1 disbursed from this item; and provided further, that the Massachusetts Service Alliance shall submit a report detailing the impact of grants, expenditure of funds and the amount and source of matching funds raised to the department of elementary and secondary education \$100,000

SECTION 2B. To provide for supplementing certain intragovernmental chargeback authorizations in the general appropriation act and other appropriation acts for fiscal year 2010, to provide for certain unanticipated intragovernmental chargeback authorizations, to provide for an alteration of purpose for current intragovernmental chargeback authorizations and to meet certain requirements of law, the sums set forth in this section are hereby authorized from the Intragovernmental Service Fund for the several purposes specified in this section or in the appropriation acts and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 2010. These sums shall be in addition to any amounts previously authorized and made available for the purposes of those items.

JUDICIARY
Supreme Judicial Court

0321-2215 For the expenses of the social law library located in Suffolk county \$506,704

SECTION 3. The second paragraph of section 196 of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the second sentence the following sentence:- The commission may charge a fee where so required by

the commission's regulations for the cost of maintaining an emergency referral service, but no part of such fee shall be assessed to a hearing-impaired individual.

SECTION 4. Section 29E of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:-

Notwithstanding any general or special law to the contrary, the comptroller may enter into contracts or interdepartmental service agreements for the purpose of identifying and pursuing increased revenue collection, cost avoidance, the maximum reimbursement opportunities for certain federally assisted and other programs of the commonwealth and any other reimbursements of overpayments or other revenues. The contractor payments, or oversight costs or fees related to this section shall be paid from the revenues or reimbursements collected, or as otherwise considered appropriate by the comptroller, without further appropriation, and the comptroller shall establish accounts and procedures within the affected departments as he considers appropriate and necessary to accomplish the revenue generation purposes of this section.

SECTION 5. Section 11C of chapter 85 of the General Laws is hereby repealed.

SECTION 6. Said chapter 85 is hereby further amended by inserting after section 11D the following section:-

Section 11E. 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. Section 1 of chapter 90C of the General Laws is hereby amended by striking out the definition of "Civil Motor Vehicle Infraction", as appearing in the 2008 Official Edition, and inserting in place thereof the following definition:-

“Civil motor vehicle infraction”, an automobile law violation for which the maximum penalty does not provide for imprisonment, excepting: (a) operation of a motor vehicle in violation of the first paragraph of section 10 of chapter 90; (b) a violation of sections 23, 25, or 34J of chapter 90; and (c) any automobile law violation committed by a juvenile who does not hold a valid operator’s license.

SECTION 8. Section 3 of chapter 111M of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:-

The department of revenue and the division of health care finance and policy may conduct data matches for the purposes of administering this section. The division may disclose to the department whether a health care provider has submitted data indicating that it has provided health care services during the relevant tax year to an individual claiming an exemption under this section.

SECTION 9. Subsection (c) of section 6C of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Information that is collected pursuant to subsection (a) or that identifies individual employees by name or health insurance status shall not be a public record, but the information may be exchanged with the department of revenue, the commonwealth health insurance connector authority and the health care access bureau in the division of insurance under an interagency service agreement for the purposes of enforcing this section and sections 6B and 18B and section 3 of chapter 118H.

SECTION 10. Subsection (c) of section 46 of chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(8) to the commonwealth health insurance connector authority, information under an interagency agreement for the administration and enforcement of chapter 118H.

SECTION 11. Section 3 of chapter 176Q of the General Laws, as so appearing, is hereby amended by striking out clause (m) and inserting in place thereof the following clause:-

(m) to enter into interdepartmental agreements with the department of revenue, the executive office of health and human services, the division of insurance, the division of unemployment assistance and any other state agencies the board deems necessary to implement chapters 111M, 118G and 118H.

SECTION 11A. Section 6K of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “justices of the superior court” and inserting in place thereof the following words:- clerk of courts for the county of Hampden.

SECTION 11B. Section 6L of said chapter 221, as so appearing, is hereby amended by striking out, in line 1, the words “justices of the superior court” and inserting in place thereof the following words:- clerk of courts for the county of Hampden.

SECTION 12. Item 7066-0115 of section 2A of chapter 122 of the acts of 2006 is hereby amended by inserting after the word “campuses”, in line 12, the following words:- ; provided, however, that those funds may be expended by the university for the Edward M.

Kennedy Institute to be established at the University of Massachusetts, at Boston.

SECTION 13. The last paragraph of section 22 of chapter 21 of the acts of 2009, as appearing in section 111 of chapter 182 of the acts of 2009, is hereby amended by striking out the word "September" and inserting in place thereof the following word:- November.

SECTION 14. Section 2 of chapter 27 of the acts of 2009 is hereby amended by striking out item 0610-0050 and inserting in place thereof the following item:-

0610-0050 For the administration of the alcoholic beverages control commission in its efforts to regulate and control the conduct and condition of traffic in alcoholic beverages; provided, that said commission shall maintain at least 1 chief investigator and other investigators for the purpose of regulating and controlling the traffic of alcoholic beverages; provided further, that said commission shall work and cooperate with the Alcohol, Tobacco, and Firearms division of the United States Department of Justice and other relevant federal agencies to assist in its efforts to regulate and control the traffic of alcoholic beverages; provided further, that \$100,000 shall be expended for the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs; and provided further, that the commission is directed to seek out matching federal dollars and to apply for federal grants that may be available to assist in the enforcement of laws pertaining to the traffic of alcoholic beverages \$2,157,305

SECTION 14A. Item 1233-2350 of said section 2 of said chapter 27 is hereby amended by striking out the figure "\$936,376,140" and inserting in place thereof the following figure:- \$936,437,803.

SECTION 15. Item 4000-0600 of said section 2 of said chapter 27 is hereby amended by inserting after the word "level" the following words:- ; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$69.68 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income.

SECTION 16. Item 4000-0700 of said section 2 of said chapter 27 is hereby amended by inserting after the word "goals" the following words:- ; provided further, that the executive office shall not, in fiscal year 2010, fund programs relating to case management with the intention of reducing length of stay for neonatal intensive care unit cases; provided further, that the division of health care finance and policy and the executive office of health and human services shall establish a new rate methodology to cover the cost of care provided

by any facility licensed by the department of public health as a chronic disease hospital providing services solely to children and adolescents as follows: (1) the rate of reimbursement for any such facility shall be developed collaboratively through an agreement among the office of Medicaid, the division of health care finance and policy and any such facility; and (2) the reimbursement rate for any such facility shall incorporate the following components: (a) utilization of the reimbursement methodology used by the division and the executive office of health and human services to determine payments for Medicaid disproportionate share pediatric hospitals in effect in 2007 utilizing the most recently filed 403 cost report with the division and the payments received from Medicaid-eligible patients for the base period; (b) a per-diem rate for inpatient and a payment on account factor for outpatient shall be established which reimburses the full unrecovered cost, including capital; and (c) the rates shall be inflated over the base period by the applicable Medicare market basket inflation factors; provided, however, that notwithstanding any general or special law to the contrary, in no event shall the rates of payment be lower than the rates in effect for any such facility in the prior fiscal year.

SECTION 17. Said item 4000-0700 of said section 2 of said chapter 27 is hereby further amended by striking out the figure “\$20,000,000” and inserting in place thereof the following figure:- \$22,500,000.

SECTION 18. Said section 2 of said chapter 27 is hereby further amended by striking out item 4200-0300 and inserting in place thereof the following item:-

4200-0300 For secure facilities, including purchase-of-service and state operated programs incidental to the operations of the facilities; provided, that funds shall be expended to address the needs of the female population; provided further, that funds shall be expended to address suicide prevention; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B; provided further, that no charge or contract shall be made with alternate vendors to provide pharmacy services other than the state office of pharmacy services; provided further, that the commissioner may transfer up to 7 per cent of the amount appropriated in this item to items 4200-0100 and 4200-0200; and provided further, that 30 days before any such transfer is made, the commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer \$99,676,675

SECTION 19. Item 6030-7201 of said section 2 of said chapter 27 is hereby amended by adding the following words:- ; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between

the receipt of supplemental funds and related expenditures for snow and ice control, the department may incur expenses in excess of the appropriation in an amount not to exceed \$50,000,000, after notification to the executive office for administration and finance and the office of the comptroller that a projection of deficiency exists.

SECTION 20. Item 7007-0900 of said section 2 of said chapter 27 is hereby amended by adding the following words:- and the Pioneer Valley Visitors and Tourist Information Center in the town of Greenfield.

SECTION 20A. Item 7070-0065 of said section 2 of said chapter 27 is hereby amended by striking out the words “; provided, that all scholarship programs receiving funding through this item shall follow the same guidelines as detailed in item 7070-0065 in section 2 of chapter 182 of the acts of 2008.

SECTION 21. Item 8000-0125 of said section 2 of said chapter 27 is hereby amended by adding the following words:- ; and provided further, that the \$75 registration fee paid by convicted sex offenders shall be directed from the General Fund to the sex offender registry board.

SECTION 22. Said section 2 of said chapter 27 is hereby further amended by striking out item 8324-0000 and inserting in place thereof the following item:-

8324-0000 For the administration of the department of fire services, including the state fire marshal’s office, the hazardous materials emergency response program, the board of fire prevention regulations, established in section 4 of chapter 22D of the General Laws, the expenses of the fire safety commission and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that not less than \$1,200,000 shall be expended for the SAFE program, which shall include information about the fire risks caused by smoking; provided further, that not less than \$1,750,000 shall be provided for the Boston Fire Department training academy; provided further, that \$100,000 shall be expended to Norfolk county to maintain and improve services of the Norfolk county regional fire and rescue dispatch center; provided further, that \$1,296,000 shall be provided for the commonwealth’s hazardous material response teams; provided further, that \$500,000 shall be provided for the Boston, Cambridge and Everett Fire Department hazardous material response teams; provided further, that not less than \$100,000 shall be expended for critical incident stress intervention for the fire

departments of the cities, towns and the fire districts of the commonwealth, including but not limited to consultant services, training, equipment and supplies; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office, the Massachusetts firefighting academy, the Boston Fire Department training academy and the Norfolk county regional fire and rescue dispatch center shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; and provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program \$16,909,693

SECTION 22A. Said section 2 of said chapter 27 is hereby amended by striking item 8910-2222 and inserting in place thereof the following item:-

8910-2222 For the Hampden sheriff's department which may expend for the operation of the department an amount not to exceed \$1,500,000 from federal inmate reimbursements; provided, that \$312,000 from the reimbursements shall not be available for expenditure and shall be deposited into the General Fund before the retention by the department of any of these reimbursements; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$1,500,000

SECTION 23. Section 2B of said chapter 27 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, the agencies listed in this section may expend the amounts listed in this section for the provision of services to agencies listed in section 2. All expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established by section 2Q of chapter 29 of the General Laws. All revenues and other inflows shall be based on rates published by the seller agency that are developed in accordance with cost principles established by the United States Office of Management and Budget Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*. All rates shall be published within 30 days after the effective date of this section. No expenditures shall be made from the Intragovernmental Service Fund which would cause that fund to be in deficit at the close of fiscal year 2010. All authorizations in this section shall be charged to the Intragovernmental Service Fund and shall not be subject to section 5D of chapter 29 of the General Laws. Any balance remaining in that fund at the close of fiscal year 2010 shall be transferred to the General Fund.

SECTION 24. Section 3 of said chapter 27 is hereby amended by striking out, in the column entitled "Unrestricted General Government Aid", for the town of Northfield the figure "278,906" and inserting in place thereof the following figure:- 318,327.

SECTION 25. Said section 3 of said chapter 27 is hereby further amended by striking out, in the column entitled "Unrestricted General Government Aid", for the town of West Brookfield the figure "418,419" and inserting in place thereof the following figure:- 429,141.

SECTION 26. Said section 3 of said chapter 27 is hereby further amended by striking out, in the column entitled "Unrestricted General Government Aid", for the town of West Tisbury the figure "161,061" and inserting in place thereof the following figure:- 163,654.

SECTION 27. Said section 3 of said chapter 27 is hereby further amended by striking out, in the column entitled "Unrestricted General Government Aid", for the town of Westminster the figure "567,847" and inserting in place thereof the following figure:- 576,774.

SECTION 28. Section 119 of said chapter 27 is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the state treasurer, the secretary of administration and finance and the secretary of health and human services, develop a schedule for transferring funds among the General Fund, the Commonwealth Care Trust Fund established in section 2000 of chapter 29 of the General Laws and the Health Safety Net Trust Fund established in section 57 of chapter 118E of the General Laws. An amount up to \$631,685,136 shall be transferred from

the General Fund to the Commonwealth Care Trust Fund. The hospital fiscal year 2010 payment amount to each hospital shall be funded by the Health Safety Net Trust Fund. Payments may be made either as safety net care payments under the commonwealth's 1115 waiver, or as an adjustment to Title XIX service rate payments, or a combination thereof. The executive office of health and human services and the health safety net office may use other federally permissible funding mechanisms available for public service hospitals, as defined in 114.1 CMR 36.02, to reimburse up to \$70,000,000 of uncompensated care at the hospitals using sources distinct from the funding made available to the Health Safety Net Trust Fund. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of these funds. The transfers shall not begin before July 1, 2009 and shall be completed on or before June 30, 2010. The secretary of administration and finance, in consultation with the secretary of health and human services and the executive director of the commonwealth health insurance connector, shall on a quarterly basis evaluate the revenue needs of the health safety net program funded by the Health Safety Net Trust Fund and the Commonwealth Care subsidized health insurance program funded from the Commonwealth Care Trust Fund, and if necessary, transfer monies between these funds for the purpose of ensuring that sufficient revenues are available to support projected program expenditures. The secretary of health and human services in consultation with the secretary of administration and finance and the executive director of the commonwealth health insurance connector, shall submit a quarterly report to the house and senate committees on ways and means and joint committee on healthcare financing which shall include, but not be limited to, the projected and actual expenditures and revenues for the Commonwealth Care Trust Fund and any transfers made between the Health Safety Net Trust Fund and the Commonwealth Care Trust Fund. Notwithstanding any general or special law to the contrary, if the secretary of administration and finance determines that amounts transferred from the General Fund to the Commonwealth Care Trust Fund under this subsection are not needed to support programs funded through the Commonwealth Care Trust Fund, the secretary of administration and finance shall notify the comptroller of this determination and the comptroller shall transfer such amounts from the Commonwealth Care Trust Fund to the General Fund.

SECTION 29. (a) (1) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement shall establish and implement a retirement program for public employees, in this section called the healthcare contribution program. In order to be considered eligible by the board for the benefit established under this program, an employee: (i) shall be an employee of the commonwealth on the effective date of this section; (ii) shall be a member in active service of the state retirement system on the effective date of this section; (iii) shall be eligible to receive a superannuation retirement under subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in the employee's written application for retirement with the board; (iv) shall have received pay advices via the commonwealth's human resources compensation management system or the

University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts under chapter 29 of the General Laws; and (v) shall have filed a written application with the board in accordance with subsection (b).

(2) Words used in this section shall have the same meaning assigned to them in chapter 32 of the General Laws unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this section shall be considered to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

(3) Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court or a justice of the trial court shall not be eligible to participate in the healthcare contribution program.

(b) An eligible employee shall file an application for retirement with the state board of retirement after the effective date of this section and not later than October 1, 2009. The retirement date requested shall be not later than January 31, 2010. The application filed for retirement under this section may be delivered in person or by mail to the state board of retirement.

(c) Notwithstanding chapter 32 or 32A of the General Laws or any other general or special law to the contrary, the commonwealth's share of the group insurance premium for any state employee who files an application for retirement after the effective date of this section and before October 1, 2009 for a retirement date not later than January 31, 2010 shall be 85 per cent. The commonwealth's share of the group insurance premium for any state employee who files an application for retirement after October 1, 2009 shall be 80 per cent until a different contribution rate is established under section 8 of chapter 32A of the General Laws. The revised contribution rate shall take effect no earlier than the first day of the first month that begins at least 90 days after the effective date of this act.

(d) An executive branch position vacated as a result of an employee's participation in the healthcare contribution program shall only be filled if the secretary of administration and finance determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the executive branch shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the executive branch under the healthcare contribution program had those positions not been vacated, and the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the executive branch shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the executive branch under this program had those positions not been vacated.

(e) The refilling of positions vacated by employees from federal and trust accounts under the healthcare contribution program shall not be subject to the limitations set forth in subsection (d), but agencies with positions vacated from federal and trust accounts shall first fill these positions with qualified persons currently employed by the commonwealth and paid with state funds. If no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to fill those positions vacated from federal and trust accounts.

(f) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee participating in the healthcare contribution program under this section unless the chief justice for administration and management determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the trial court shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the trial court under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the trial court shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the trial court under this program had those positions not been vacated.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee participating in the healthcare contribution program under this section unless the secretary of education determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the state and community colleges shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the state and community colleges under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the state and community colleges shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the state and community colleges under this program had those positions not been vacated.

(h) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to

fill any position made vacant by the retirement of an employee participating in the healthcare contribution program under this section unless the president of the University of Massachusetts determines that the position is critical and essential to the operations of or services provided by the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2010 for refilled positions in the University of Massachusetts shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2010 for the positions vacated in the University of Massachusetts under this program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2011 for refilled positions in the University of Massachusetts shall not exceed 30 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2011 for the positions vacated in the University of Massachusetts under this program had those positions not been vacated.

(i) Notwithstanding any general or special law to the contrary and in consideration of the benefits conferred in this section, an employee who elects to retire under this section and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/4 of such payment on January 31, 2010, 1/4 of such payment on July 1, 2010, 1/4 of such payment on July 1, 2011 and 1/4 of such payment on July 1, 2012. Each such employee shall sign a statement that he has agreed to receive 1/4 of such payment on January 1, 2010, 1/4 of such payment on July 1, 2010, 1/4 of such payment on July 1, 2011 and 1/4 of such payment on July 1, 2012 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and participation in the healthcare contribution program established under this section. The state board of retirement shall deny an application for participation in this program by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with the board and with the secretary of administration and finance a statement waiving any inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this section.

(j) A state authority, as defined in section 1 of chapter 29 of the General Laws, whose employees are not members of the state retirement system may elect to allow its employees to participate in the healthcare contribution program by a majority vote of its board of directors. If the authority makes this election, the program shall be administered by its retirement system. Eligibility for the healthcare contribution program shall not exceed that provided in subsection (a) as applied to the circumstances at the particular authority. Employees of each authority that elects to participate in this program shall only be eligible if they file for retirement as provided in subsection (b), and the contribution ratio received by a retiree shall be the same as that provided in subsection (c).

(k) On or before March 15, 2010, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the number of employees participating in the healthcare contribution program, the estimated salary savings in fiscal years 2010 and 2011 as a result of those employees' participation, the number of positions vacated or expected to be vacated as a result of those employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2010 and 2011 on account of the refilled positions.

SECTION 30. Notwithstanding any general or special law to the contrary, during fiscal year 2010, the comptroller shall transfer from the Health Care Security Trust, established in section 1 of chapter 29D of the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received by the commonwealth in fiscal year 2010 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Philip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378 and 100 per cent of the earnings generated in fiscal year 2010 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of said chapter 29D for certain health care expenditures appropriated in section 2 of chapter 27 of the General Laws.

SECTION 31. (a) Except as provided in subsection (b), notwithstanding any general or special law to the contrary, an eligible individual pursuant to section 3 of chapter 118H of the General Laws shall not include persons who cannot receive federally-funded benefits under sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended, for fiscal year 2010.

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority, in their full discretion and subject only to the terms and conditions in this subsection, may establish or designate a health insurance plan in which a person who cannot receive federally-funded benefits as of July 1, 2009 under said sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended, and who is also an eligible individual pursuant to section 3 of chapter 118H of the General Laws, may enroll effective September 1, 2009 through June 30, 2010. This plan may be contracted for selectively from the health plans that are contracting in fiscal year 2010 to provide insurance coverage to commonwealth care or MassHealth enrollees. Total state costs of providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed \$40,000,000 for fiscal year 2010. To the extent additional federal financial participation becomes available for paying the costs of such coverage, the secretary of administration and finance may direct the comptroller to make such amounts available from the General Fund for the purpose of paying the costs of such coverage. If the secretary of administration and finance, the secretary of health and human services and the

executive director of the commonwealth health insurance connector authority determine that the projected costs of enrolling eligible individuals in such coverage in fiscal year 2010 will exceed net state costs of \$40,000,000, they may limit enrollment in such coverage. If the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority are unable to establish or designate a health insurance plan under this section, the secretary of administration and finance may direct the comptroller to transfer up to \$40,000,000 from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund for the cost of health safety net claims of said individuals.

SECTION 32. Notwithstanding any general or special law to the contrary, in order to meet federal matching fund requirements, the comptroller shall transfer \$251,735 from item 0521-0000 of section 2 of chapter 182 of the acts of 2008 to trust account 0521-0700.

SECTION 32A. The department of correction shall not suspend, terminate, reduce services or otherwise divert clients of the Massachusetts alcohol and substance abuse center until such time as the department files a displacement plan for the center's clients to the house and senate committee on ways and means, the joint committee on public safety and homeland security and the joint committee on mental health and substance abuse; provided, however, that if such a plan shall be filed, the plan shall not take effect sooner than 90 days from the date that such plan has been filed with said committees.

SECTION 33. Section 6 shall take effect on January 1, 2011.

This bill was returned on August 7, 2009, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein:

Items Disapproved:

SECTION 2:	0330-3337	0333-0002	0335-0001	0039-0001	0339-1003
	2800-0501	2810-0100	4000-0265	4000-0500	4000-0700
	4510-0715	4512-0202	4513-1000	4513-1111	4800-0038
	7002-0500	7004-9005	7004-9316	7007-0500	7007-1000
	7061-9604	7061-9634	9110-1633	9500-0000	9600-0000
					9700-0000

SECTIONS 2A: 1599-6425 4510-0716 7061-0011

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
2511-0105	500,000	500,000
4000-0600	6,100,000	7,000,000
4510-0810	150,000	150,000
7000-9401	790,000	500,000
7003-0605	175,000	175,000
7007-0951	1,500,000	1,000,000

Chap. 65

Sections Disapproved:

SECTION: 11A, 11B, 13, 14, 15, 16, 17, 18, 22 and 32A.

The remainder of the bill was approved by the Governor on August 7, 2009 at twelve o'clock and one minute, P.M.

Chapter 66. AN ACT AUTHORIZING THE TOWN OF HANOVER TO ESTABLISH AN OTHER POST EMPLOYMENT BENEFITS TRUST FUND.

Be it enacted, etc., as follows:

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

“GASB 43 and 45”, statements 43 and 45 of the Governmental Accounting Standards Board and its successors.

“Other postemployment benefits” or “OPEB”, postemployment benefits other than pensions as that term is defined in GASB 43 and 45, including postemployment healthcare benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, there shall be in the town of Hanover an OPEB Trust Fund. The town treasurer shall be the custodian of the OPEB Trust Fund and he shall invest and reinvest the amounts in the fund not needed for current disbursement consistent with the prudent investor rule.

(b) Beginning in fiscal year 2009, the OPEB Trust Fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future OPEB costs payable by the town. The appropriation shall not be returned to the treasury except by vote of the town. The OPEB Trust Fund shall be credited with all amounts contributed or otherwise made available by employees of the town for the purpose of meeting future OPEB costs payable by the town.

(c) Beginning in fiscal year 2009, payments for the purposes of meeting the town’s costs of OPEB under this act shall be made from the OPEB Trust Fund.

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

Approved August 12, 2009.

Chapter 67. AN ACT ESTABLISHING A TOWN MANAGER FORM OF GOVERNMENT FOR THE TOWN OF HANOVER.

Be it enacted, etc., as follows:

SECTION 1. CONTINUATION OF EXISTING GOVERNMENT

(A) Continuation of Existing Laws

All laws, by-laws, rules and regulations of or pertaining to the town of Hanover which are in force on the effective date of this act and which are not inconsistent with the provisions of this act, shall continue in full force and effect until amended or repealed. Elected and appointed officers, boards, commissions and committees shall have all of the powers, duties and responsibilities, which are in force on the effective date of this act that are not inconsistent with this act, which are given to the respective officers, boards, commissions and committees by law, this act, town by-law or by vote of town meeting.

If any provision of this act conflicts with any provision of any law, by-law, rule or regulation of the town of Hanover, this act shall govern.

(B) Continuation of Personnel

Any office or position in the administrative service of the town of Hanover and incumbents in such offices, on the effective date of this act shall continue to function as the office, position or incumbent did previously until a change in such office, position or incumbent is effected in accordance with the provisions of this act.

SECTION 2. BOARD OF SELECTMEN

(A) Composition

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

(B) Vacancy in Office

Vacancies in the office of selectmen shall be filled by a special election in accordance with the provisions of the General Laws.

(C) Executive Powers

The executive powers of the town shall be vested in the board of selectmen which shall serve as the chief policy making body of the town.

(1) The board of selectmen shall have all of the executive powers given to boards of selectmen by the General Laws except for those granted to the town manager. The board of selectmen shall be authorized to enter into intergovernmental or public or private agreements on such terms as it deems beneficial to the citizens of the town of Hanover.

(2) The board of selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it, and in conjunction with other elected town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all town agencies into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the board of selectmen, or a majority of such members, to become involved in

the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines, which are to be implemented by officers and employees serving under it.

(3) The board of selectmen shall cause the by-laws, rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

(4) The board of selectmen shall appoint the town manager and town counsel, and approve the hire of the town audit firm, which shall be chosen by the town manager.

(5) The board of selectmen 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 such licenses. The board of selectmen under this act may delegate or reorganize any local licensing authority or process notwithstanding any general laws relating to local governance to the contrary.

(6) The board of selectmen shall be responsible for providing timely audits as required by law. The audits shall be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the town government of the town of Hanover or any of its officers.

SECTION 3. TOWN MANAGER

(A) Appointments, Qualifications, Terms of Office and Employment

(1) Appointment

After the establishment of the 5-member board of selectmen, there shall be established in the town of Hanover the office of town manager, who shall be appointed by the board of selectmen for a term not to exceed 3 years, as the board may determine, and may be appointed for successive terms of office.

(2) Qualifications

The town manager shall be a person of demonstrated ability with administrative experience in public management or business administration and who is qualified by reason of education and experience.

(3) Terms of Office

The town manager shall devote full-time to the duties of said office and shall not engage in any other business or occupation during such employment by the town. The town manager shall hold no elective office in the town while serving as town manager, but the board of selectmen may appoint the town manager to any non-elective office or position consistent with the responsibilities of the town manager. Before entering upon his duties, the town manager shall be sworn to the faithful and impartial performance thereof by the town clerk. The town manager shall not have served in an elected office for the town of Hanover for at least 24 months prior to his appointment.

(4) Terms of Employment

(a) Additional Qualifications

The board of selectmen may, from time to time, establish additional qualifications for the position of town manager. To the extent permitted by law, the terms of the town manager's employment may be the subject of a written agreement between the parties setting forth the length of service, compensation, annual review, vacation, sick leave, benefits and such other matters, excluding tenure, as are customarily included in an employment contract.

(b) Compensation

The board of selectmen shall set the compensation of the town manager, not to exceed the amount appropriated by the town meeting.

SECTION 4. TOWN MANAGER - POWERS AND DUTIES

The town manager shall be the chief executive officer of the town. The town manager shall be responsible to the board of selectmen for the effective management of all town affairs placed in the town manager's charge by this act, the board of selectmen or vote of the town meeting. The town manager shall be responsible for the implementation of town policies established by the board of selectmen. The functions and duties of the town manager shall include, but not be limited to, the functions and duties in subsections (A), (B) and (C).

(A) Powers of Appointment

(1) As provided for in this act, the town manager shall appoint and remove all non-elected department heads, and approve the appointment and removal of all other employees except employees of the school department. The town manager shall consult with the appropriate elected or appointed board, commission, committee or official prior to making such department head appointments or removals. Appointments to such department head positions shall become effective on the twentieth day following the day notice of appointment or removal is filed with the board of selectmen, unless the board of selectmen shall, within that 20-day period, by at least a majority vote of the current elected members, vote to reject said appointment or removal, or sooner, by at least a majority vote of the current elected members, vote to affirm said appointment or removal.

(2) Department heads shall, subject to the consent and approval of the town manager, appoint or remove assistant department heads, officers, subordinates and employees, including employees serving under elected and appointed boards, commissions, committees and officials for whom no other method of selection is provided in this act, except employees of the school department; provided, however, that the department head shall consult with the appropriate elected or appointed board, commission, committee or official prior to making such appointments or removals. The town manager may transfer personnel between departments as needed.

(3) All appointments under this section shall be based on merit and fitness alone.

(4) Copies of notices of job opportunities and appointments shall be posted on the town bulletin board.

(B) Administrative Duties

The town manager shall:

(1) be responsible for the day-to-day supervision of all town departments and direction of the operations of the town; provided, however, that this section shall not apply

to employees of the school department and to the statutory responsibilities and functions of the school committee;

(2) supervise, direct and be responsible for the efficient administration of all officers appointed by the town manager and their representative departments, and of all functions for which the town manager is given responsibility, authority or control by this act, by-law, town meeting vote, or vote of the board of selectmen;

(3) reorganize, consolidate or establish any department or position under the town manager's direction or supervision, at the town manager's discretion and with the board of selectmen's approval. With the approval of both the board of selectmen and advisory committee, the town manager may transfer all or part of any unexpended appropriation of a reorganized or consolidated department, board or office to any other town department, board or office;

(4) administer, either directly or through a person that the town manager appoints, all provisions of general and special laws applicable to the town including federal and Massachusetts emergency management agencies' requirements, by-laws, votes of the town within the scope of the town manager's duty, and all policy rules and regulations made by the board of selectmen;

(5) establish control and data systems appropriate to monitoring expenditures by town boards and departments to enable the town manager to make periodic reports to the board of selectmen and the advisory committee on the status of the town's finances;

(6) develop and administer a personnel system, including, but not limited to, determination of rates of pay, the development and implementation of an ongoing training program, evaluation process, personnel and hiring policies, practices and regulations for town employees;

(7) manage and be responsible for all town buildings, properties and facilities, except those under the control of the school committee, parks and recreation department and conservation commission; provided, however, that the town manager may only maintain and repair school committee, parks and recreation department, open space committee and conservation commission buildings, properties and facilities to the extent the school committee, parks and recreation department or conservation commission may request and authorize same;

(8) attend and participate in all regular and special board of selectmen meetings and town meetings, unless excused therefrom by the board of selectmen;

(9) cause full and complete records of meetings of the board of selectmen to be taken and maintained, and compile reports of the meetings as requested by the board of selectmen;

(10) act as the liaison with, and represent the board of selectmen before, state, federal and regional authorities;

(11) subject to policies established by the board of selectmen, approve all warrants or vouchers, including payroll warrants, for payment of town funds submitted by the town accountant; provided, that any warrants generated by the town manager shall be signed by the board of selectmen;

(12) be responsible for approving all grants submitted on behalf of the town; and

(13) perform any other duties consistent with the office of the town manager as may be required by by-law or vote of the town or by vote of the board of selectmen.

(C) Financial Powers and Duties

(1) Budget

(a) The town manager shall prepare and submit at a public meeting to the board of selectmen and advisory committee, not later than 90 days prior to the annual town meeting, a written proposed balanced budget for town government, including the school department, for the ensuing fiscal year.

(b) The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service for the previous, current and ensuing year.

(c) It shall include proposed expenditures for both current operations and capital during the ensuing year, together with estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts.

(d) The town may, by by-law, establish additional financial reports to be provided by the town manager.

(e) To assist said town manager in preparing the proposed annual budget of revenues and expenditures, all boards, officers, and committees of the town, including the school committee shall, within the time frame requested by the town manager, furnish all relevant information in their possession and submit to the town manager, in writing and in such form as the town manager shall establish, a detailed estimate of the appropriations required and available funds.

(2) Collective Bargaining

(a) The town manager shall negotiate collective bargaining contracts on behalf of the board of selectmen, which contracts shall be subject to approval, ratification and execution by the board. The board of selectmen may authorize use of additional counsel, as requested by the town manager to assist the town manager in the negotiations at its discretion.

(b) The town manager shall administer and enforce collective bargaining agreements, personnel rules and regulations, and by-laws adopted by the town.

(3) Procurement

(a) The town manager shall act as the chief procurement officer under the provisions of chapter 30B of the General Laws, and be responsible for the purchasing of all supplies, materials, and equipment for the town, including the bidding and awarding of all contracts, except for the school department.

SECTION 5. TOWN MANAGER - VACANCY

(A) Permanent Vacancy

The board of selectmen shall fill any permanent vacancy in the office of the town manager as soon as feasible in accordance with section 3 of this act. Pending the appointment of a town manager or filling of a vacancy, the board of selectmen shall, within a reasonable period of time, not to exceed 14 days, appoint some other qualified person to

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temporarily perform the duties of the town manager until a permanent replacement is appointed.

(B) Temporary Absence or Disability

(1) The town manager may designate by letter filed with the town clerk and board of selectmen a qualified officer of the town to perform the duties of town manager during a temporary absence or disability.

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

(3) Powers and Duties - The powers and duties of the acting town manager, under A and B (1) and B (2) above, shall be limited to matters not permitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment, but not to make permanent appointments or designations unless authorized by the board of selectmen.

SECTION 6. TOWN MANAGER – REMOVAL; SUSPENSION

The board of selectmen may terminate and remove or suspend the town manager by a majority vote of the entire board of selectmen. Prior to any termination or removal, or a suspension exceeding 5 days, notice shall be given and reasons for the proposed action shall be provided in writing to the town manager, and an opportunity shall be provided for the town manager to meet with the board of selectmen and respond to those reasons. After such meeting, if any, the board of selectmen may act by majority vote of the entire board of selectmen to terminate, remove or suspend the town manager.

SECTION 7. DEPARTMENT OF PUBLIC WORKS

There shall remain an elected board of public works consisting of 3 members serving 3-year staggered terms.

The superintendent of public works and town manager shall consult with the board of public works for the purpose of receiving advice and assistance in the development of policy guidelines for the operation of the department of public works, and the board of public works shall perform such other advisory functions related to the department of public works as the town manager or superintendent may request.

The authority of the special act, chapter 39 of the acts of 1930 creating the water commissioners, is hereby assumed by the town manager, except that changes in water rates shall be approved by the board of selectmen. The vote of the town of Hanover at the 1972 town election adopting the provisions of sections 69C to 69F, inclusive of chapter 41 of the General Laws, is hereby rescinded.

SECTION 8. TRANSITION PROVISIONS

(A) Addition to Board of Selectmen

At an annual election following the effective date of this act, 2 additional selectmen shall be elected 1 to a term expiring at the town election in the third year following the election at which this act was approved and 1 to a term expiring at the town election in the

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second year following the election at which this act was approved. Thereafter, as the terms of selectmen expire, a successor shall be elected for terms of 3 years.

(B) Town Administrator

The position of town administrator shall be abolished upon the assumption of office by the town manager. Should the position become vacant prior to the town manager assuming the duties of the office, the board of selectmen may appoint an acting town administrator to serve until the assumption of the duties of office by the town manager.

SECTION 9. This act shall take effect upon its passage.

Approved August 20, 2009.

Chapter 68. AN ACT DESIGNATING A CERTAIN FLAGPOLE AT LAWRENCE HERITAGE STATE PARK AS THE MARY L. GIROUARD FLAGPOLE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith a flagpole in the city of Lawrence, 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 flagpole in front of the visitors center at Lawrence heritage state park in the city of Lawrence shall be designated and known as the Mary L. Girouard flagpole, in honor of Mary L. Girouard, an active supporter of the park and founder of the Friends of Lawrence heritage state park. The department of conservation and recreation shall erect and maintain a suitable marker bearing that designation in compliance with the standards of the department.

Approved August 20, 2009.

Chapter 69. AN ACT ESTABLISHING A SICK LEAVE BANK FOR THEODORE S. BIELECKI, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

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Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Theodore S. Bielecki, 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 Theodore S. Bielecki. 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. Whenever Theodore S. Bielecki 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 20, 2009.

Chapter 70. AN ACT RELATIVE TO ORAL HEALTH IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

The third paragraph of section 51 of chapter 112 of the General Laws, inserted by section 7 of chapter 530 of the acts of 2008, is hereby amended by striking out the seventh sentence and inserting in place thereof the following sentence:- Public health dental hygienists shall be directly reimbursed for services administered in a public health setting by Medicaid or the commonwealth care health insurance program but except as required by federal Medicaid law, shall not seek reimbursement from any other insurance or third party payor.

Approved August 26, 2009.

Chapter 71. AN ACT DESIGNATING DISABILITY HISTORY MONTH.

Be it enacted, etc., as follows:

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

Section 15LLLLL. The governor shall annually issue a proclamation setting apart the month of October as Disability History Month to increase awareness and understanding of the contributions made by persons with disabilities. Appropriate state agencies and cities and

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towns and public schools, colleges and universities shall establish programs designed to educate and promote these objectives.

Approved August 26, 2009.

Chapter 72. AN ACT RELATIVE TO THE USE OF CERTAIN BOND PROCEEDS IN THE TOWN OF RUTLAND.

Be it enacted, etc., as follows:

Notwithstanding section 20 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Rutland may appropriate the balance of the proceeds of the bonds sold to build, renovate and equip the Central Tree Middle School and Naquag Elementary School in the amount of \$43,474.30 for the purpose of paying principal and interest on the bonded debt for these school projects.

Approved August 26, 2009.

Chapter 73. AN ACT RELATIVE TO THE LEINO PARK WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 398 of the acts of 1985 is hereby amended by striking out, in line 12, the word "said" and inserting in place thereof the following words:- present and future.

SECTION 2. Said section 2 of said chapter 398 is hereby further amended by inserting after the word "Lands", in line 14, the following words:- , roads, bridges, structures.

SECTION 3. Said section 2 of said chapter 398 is hereby further amended by inserting after the word "water", in line 16, the following words:- , or aiding in the convenient access and operation thereof.

SECTION 4. Said section 2 of said chapter 398 is hereby further amended by inserting after the word "fixtures", in line 26, the following words:-, roads, bridges.

SECTION 5. Said section 2 of said chapter 398 is hereby further amended by inserting after the word "pipes", in line 33, the following words:- , roads, bridges, structures.

SECTION 6. Said section 2 of said chapter 398 is hereby further amended by inserting after the word "highways", in line 40, the following words:-, roads, bridges, structures.

Approved August 26, 2009.

**Chapter 74. AN ACT RELATIVE TO THE RECREATION REVOLVING FUND
IN THE TOWN OF RUTLAND.**

Be it enacted, etc., as follows:

Notwithstanding section 53E½ of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Rutland may increase the limit of the town's Recreation Revolving Fund to \$350,000.

Approved August 26, 2009.

**Chapter 75. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM TO
GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE
PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Bellingham may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises under section 15 of said chapter 138 to Antoine H. Khoury of 3 Mechanic Street in the town of Bellingham. The license shall be subject to all of said chapter 138 except said section 17.

Notwithstanding any general or special law, any rule or regulation to the contrary, the licensing authority shall not approve the transfer of license to any other location but the license may be re-issued to a new applicant at the same location if the applicant 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, such license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location and under the same condition specified in the preceding paragraph.

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

Approved August 26, 2009.

**Chapter 76. AN ACT ESTABLISHING AN ENTERPRISE FUND FOR THE
BROOK SCHOOL APARTMENT IN THE TOWN OF WESTON.**

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Weston a Brook School Apartments Enterprise Fund, to which 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 Brook School Apartments. Such receipts shall be used to pay costs of operation and maintenance, future repairs, renovations and improvements to the Brook School Apartments, principal and interest on any bonds or notes issued therefor and indirect costs as determined by the town. The Weston elderly housing committee 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, reconstruction and additions to the Brook School Apartments. 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, shall remain in the enterprise fund to be used for the purposes provided therefor in this act.

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

Approved August 26, 2009.

Chapter 77. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MICHELE MERENDA, 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, rule or regulation to the contrary, the department of transitional assistance shall establish a sick leave bank for Michele Merenda, 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 Michele Merenda. 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. Whenever Michele Merenda 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 26, 2009.

Chapter 78. AN ACT RELATIVE TO THE DUKES COUNTY LAND BANK.

Be it enacted, etc., as follows:

Clause (m) of section 12 of chapter 736 of the acts of 1985, as amended by section 15 of chapter 673 of the acts of 1987, is hereby further amended by striking out, in line 1, the words “the first one hundred thousand dollars” and inserting in place thereof the following words:- an amount, determined on or before January 1 of each year by the land bank commission after due analysis of the range of real estate prices in the member towns and in no event less than \$300,000.

Approved August 26, 2009.

Chapter 79. AN ACT DESIGNATING A CERTAIN AREA IN THE CITY OF WORCESTER AS A PLACE OF PEACE HEALING GARDEN.

Be it enacted, etc., as follows:

The section of state highway route 20 off of Millbury street in the city of Worcester shall be designated and known as a Place of Peace Healing garden, in memory of those who have lost their lives to the disease of cancer and in support of those currently living with the disease of cancer. The department of conservation and recreation shall, subject to appropriation, erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved August 26, 2009.

Chapter 80. AN ACT RELATIVE TO THE PRELIMINARY ELECTIONS IN THE CITY OF LOWELL IN 2009.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or the charter of the city of Lowell to the contrary, there shall be no preliminary election for either the Lowell city council or the Lowell school committee held in 2009, and all persons whose nomination papers are duly certified shall be deemed to have been nominated for said offices.

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

Approved August 26, 2009.

Chapter 81. AN ACT ELIMINATING THE PRELIMINARY ELECTION IN THE CITY OF REVERE IN 2009.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be no preliminary election in the city of Revere as otherwise required on September 15, 2009 for either the office of school committee for a 2-year term or for the office of city council for a 2-year term. All candidates whose nomination papers have been duly certified shall be deemed to have been nominated, and their names shall appear on the general election ballot.

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

Approved August 26, 2009.

Chapter 82. AN ACT AUTHORIZING THE TOWN OF NAHANT TO ISSUE BOND ANTICIPATION NOTES.

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Nahant may issue temporary loans, including temporary loans issued to refund prior temporary loans, to refund the \$1,866,000 bond anticipation notes outstanding on the effective date of this act and originally issued dated January 11, 2005, in anticipation of the \$2,100,000 bonds authorized by the vote of the town passed August 9, 2004 under Article 1 of the warrant for the August 9, 2004 special town meeting for the acquisition by the town of land and buildings thereon formerly owned by the Coast Guard, for a period of not more than 10 years from the date of January 11, 2005. No part of such temporary loans shall be required to be paid from revenue funds prior to January 11, 2015.

Approved August 31, 2009.

Chapter 83. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JUDITH FITZSIMMONS, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial

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court shall establish a sick leave bank for Judith Fitzsimmons, a probation officer in the Framingham 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 Judith Fitzsimmons. 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. Whenever Judith Fitzsimmons terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved September 11, 2009.

Chapter 84. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CRYSTAL POLLACK, AN EMPLOYEE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of developmental services shall establish a sick leave bank for Crystal Pollack, 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 Crystal Pollack. 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. Whenever Crystal Pollack 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 September 11, 2009.

Chapter 85. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DOLORES TOWER, AN EMPLOYEE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

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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 developmental services shall establish a sick leave bank for Dolores Tower, 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 Dolores Tower. 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. Whenever Dolores Tower 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 September 11, 2009.

Chapter 86. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 3 of the charter of the town of Provincetown, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 3-4-4 and inserting in place thereof the following section:-

Section 3-4-4 An elected member of a town board shall not serve on that board for more than 3 consecutive terms. An appointed member of a town board shall not serve on that town board for more than 4 consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for 1 term if the balance of the term being completed is more than 50 per cent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after 2 years have elapsed from the ending date of his previous service.

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

Approved September 11, 2009.

Chapter 87. AN ACT VALIDATING A CERTAIN ELECTION IN THE TOWN OF ORANGE.

Be it enacted, etc., as follows:

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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 Orange at the annual town election held on March 2, 2009 are hereby ratified, validated and confirmed in all respects, notwithstanding any defects or omissions in the calling of the town election.

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

Approved September 16, 2009.

Chapter 88. AN ACT AUTHORIZING THE TOWN OF NATICK TO ESTABLISH A SEPARATE FUND FOR THE ACQUISITION AND CONSTRUCTION OF NEW PARKING.

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 Natick may establish a 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 all off-site parking construction and acquisition payments received by the town. The town treasurer may invest such funds in the manner prescribed in sections 54 and 55 of said chapter 44. Any interest earned thereon shall be credited to and become part of the fund. The principal and income therefrom shall be available for expenditure by the board of selectmen without further appropriation for the acquisition and construction of new parking in the downtown mixed use and housing overlay option plan zoning districts of the town.

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

Approved September 16, 2009.

Chapter 89. AN ACT RELATIVE TO THE OFFICE OF CHIEF OF THE FIRE DEPARTMENT OF THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 534 of the acts of 1973 is hereby amended by striking out the first, second and third sentences and inserting in place thereof the following sentence:- The board of selectmen shall appoint a chief of the fire department for a term of 1 year, unless a different term is otherwise determined in an employment contract established under section 1080 of chapter 41 of the General Laws.

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

Approved September 16, 2009.

Chapter 90. AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN-OWNED PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline may lease the town-owned property located at 86 Monmouth street and shown as parcel 28 in block 112 on sheet 24 of the town's 2005 Assessors Atlas, to the Brookline Arts Center, Inc., for another period not exceeding 30 years. The term of any lease authorized under this act shall be in addition to the 30-year period previously granted, pursuant to chapter 79 of the acts of 1977. Any such lease shall be upon such terms and conditions as the board of selectmen shall determine to be in the best interest of the town; provided, however, that the lease shall be subject to subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws.

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

Approved September 16, 2009.

Chapter 91. AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO LEASE CERTAIN TOWN-OWNED PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Brookline may lease the town-owned property located at 19-25 Kennard Road, Parcel ID NO. 322/01-00 to the Brookline Music School, a nonprofit Massachusetts corporation, for 20 years, in addition to the current 20-year lease previously authorized by chapter 294 of the acts of 1993. Such lease shall be upon such terms and conditions as the board of selectmen and the school committee of the town of Brookline shall determine to be in the best interest of the town; provided, however, that the lease authorized by this act shall be subject to subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws.

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

Approved September 16, 2009.

Chapter 92. AN ACT RELATIVE TO FILLING A TEMPORARY VACANCY IN THE UNITED STATES SENATE.

Be it enacted, etc., as follows:

Section 140 of chapter 54 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:—

(f) Upon failure to choose a senator in congress or upon a vacancy in that office, the governor shall make a temporary appointment to fill the vacancy; provided, however, that the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy pursuant to subsection (a) or (c).

Emergency letter 9/24/09 at 10:20 A.M.

Approved September 24, 2009.

Chapter 93. AN ACT AUTHORIZING THE TOWN OF NATICK TO SELL OR LEASE CERTAIN PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 40 of the General Laws to the contrary, the board of selectmen of the town of Natick may lease, for a term not to exceed 99 years, including any extension or renewal terms, or convey the town-owned property at 5 Auburn street in the town of Natick, the site of the former Eliot Elementary School; provided, however, that the terms of any such lease or sale shall be approved by a subsequent town meeting. Any request for proposals issued by the board of selectmen for the sale or for the lease of 5 Auburn street shall provide an adequate mechanism for comparing the sale and the lease options.

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

Approved September 24, 2009.

Chapter 94. AN ACT AUTHORIZING AN ODD-NUMBERED BOARD OF LIBRARY TRUSTEES NOT TO EXCEED 9 MEMBERS IN THE TOWN OF BOXFORD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 10 of chapter 78 of the General Laws, or any other general or special law to the contrary, the elected board of library trustees of the town of Boxford may consist of an odd-number of members not to exceed 9. The members shall serve for alternating 3-year terms.

SECTION 2. Upon the effective date of this act, the board of library trustees shall increase from 6 to 7 members and the board of selectmen of Boxford may appoint a single member to serve until election of a 7th member at the next annual election at which the office can appear on the ballot. Any further increase or decrease in the size of the board of library trustees shall be made consistent with section 2 of chapter 41 of the General Laws.

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

Approved September 24, 2009.

Chapter 95. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BETTY GREEN, 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, rule or regulation to the contrary, the department of revenue shall establish a sick leave bank for Betty Green, 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 Betty Green. 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. Whenever Betty Green 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 September 24, 2009.

Chapter 96. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SARA DUBIK-UNRUH, 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.

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Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of transitional assistance shall establish a sick leave bank for Sara Dubik-Unruh, 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 Sara Dubik-Unruh. 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. Whenever Sara Dubik-Unruh 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 September 24, 2009.

Chapter 97. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARIA NATAL, 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, rule or regulation to the contrary, the department of revenue shall establish a sick leave bank for Maria Natal, 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 Maria Natal. 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. Whenever Maria Natal 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 September 24, 2009.

Chapter 98. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ELLEN STARCK, AN EMPLOYEE OF THE PAROLE BOARD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the parole board, there-

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the parole board shall establish a sick leave bank for Ellen Starck, an employee of the board. Any employee of the parole board may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Ellen Starck. 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 board. Whenever Ellen Starck terminates employment with the board 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 September 24, 2009.

Chapter 99. **AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARGARET ANN SHEEHAN, AN EMPLOYEE OF THE TRIAL COURT.**

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Margaret Ann Sheehan, 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 Margaret Ann Sheehan. 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. Whenever Margaret Ann Sheehan terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved September 24, 2009.

Chapter 100. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MICHAEL BELLOLI, 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 Michael Belloli, 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 Belloli. 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. Whenever Michael Belloli 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 September 24, 2009.

Chapter 101. AN ACT PREVENTING OIL SPILLS IN BUZZARDS BAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith Buzzards bay from oil spills, 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 21L of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “meanings.-”, in line 2, the following definition:-

“Buzzards bay”, the waterway bounded and described as follows: from Sakonnet point southward to the north end of the Buzzards bay traffic separation zone, to the southwestern tip of Cuttyhunk island thence through Buzzards bay to the eastern entrance of the Cape Cod canal at the United States Coast Guard “CC” buoy in Cape Cod bay, including Woods Hole passage and Quicks hole.

SECTION 2. Said section 1 of said chapter 21L, as so appearing, is hereby further amended by adding the following definition:-

“Tank vessel”, a ship that is constructed or adapted to carry, or that carries, oil or other petroleum product in bulk as cargo and that operates on the waters of the common-

wealth or transfers oil or other petroleum products in a port or place subject to the jurisdiction of the commonwealth.

SECTION 3. Section 4 of said chapter 21L, as so appearing, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) Whoever owns or operates a tank vessel carrying 6,000 or more barrels of oil within Buzzards bay, from which oil is spilled into Buzzards bay, and who: (i) failed to provide notice in accordance with subsection (a) of section 9 of chapter 21M; (ii) failed to request a state pilot in accordance with subsection (b) of said section 9 of said chapter 21M; or (iii) violates any provision of this chapter shall be assessed triple the fines provided in this section.

SECTION 4. Section 1 of chapter 21M of the General Laws, as so appearing, is hereby amended by striking out the definitions of "Rescue tug" and "Response time".

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

"State-provided tugboat escort", a tugboat escort, the primary purpose of which shall be to serve as an escort tug for unescorted tank vessels carrying 6,000 or more barrels of oil; provided, however, that state-provided tugboat escorts shall provide on-the-water-monitoring of these tank vessels, have the ability to warn vessels of actual or potential threats to navigation, be available to assist immediately to the threat of an accident and shall not be more than $\frac{1}{4}$ of a nautical mile away from a tank vessel during such escort. State-provided tugboat escorts shall be equipped with: (i) twin radar displays equipped with ECDIS or ARPA capable of integrating AIS; (ii) a towing winch and associated wire and gear capable of towing, at minimum, a 470 foot fully loaded tank vessel; and (iii) firefighting equipment as determined adequate by the commissioner.

SECTION 6. Said chapter 21M is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof 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 notice by an owner or operator of a tank vessel intending to enter or operate in Buzzard's bay is given to the department in accordance with subsection (a) and, at the time such notice is provided, the owner or operator requested that a state pilot be dispatched to a towing vessel for the purposes of guiding such tank vessel into or within Buzzard's bay, the commissioner shall dispatch a state pilot to the towing vessel for such owner's or operator's tank vessel if the vessel is unaccompanied by a tugboat escort.

(c) If the requested state pilot does not board the tank vessel or towing vessel, the state pilot may monitor the safe passage of the vessel and provide information to the tank vessel operator on current or anticipated navigational issues from the pilot boat or from the state-provided tugboat escort.

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(d) The commissioner shall dispatch a state-provided tugboat escort to every tank vessel carrying 6,000 or more barrels of oil while entering or operating in Buzzards bay which is otherwise unaccompanied by a tugboat escort.

(e) The state pilot or operator of a state-provided tugboat escort shall report to the commissioner all near and actual navigational incidents that could potentially lead to an oil spill including, but not limited to: any tank vessel traveling outside of the designated vessel route as appearing on the national oceanic and atmospheric administration chart for Buzzards bay; failure to use AIS; any near or actual collision, allision or grounding; steering or engine failure and; towing gear failure. The commissioner shall record, make available to the public and keep on file these reports for not less than 10 years.

(f) The commissioner may waive the requirement of subsection (b) or (d) upon determination 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 oil spill from such tank vessel that occurs while the tank vessel enters or operates in Buzzards bay. The commissioner shall report, annually, not later than January 1, to the joint committee on the environment, natural resources and agriculture, as well as report in the *Environmental Monitor*, the number of occasions that such exemptions were authorized.

(g) The commissioner shall adopt regulations for the implementation, administration and enforcement of this section including, but not limited to, the dispatching of state pilots, manning requirements and the dispatching of state-provided tugboat escorts.

(h) The commissioner may enter into contracts with companies to dispatch and provide state-provided tugboat escorts, which meet or exceed the standards required under this section.

SECTION 7. 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 120 days after the effective date of this act.

Approved September 24, 2009.

Chapter 102. AN ACT RELATIVE TO SHERIFFS.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2010 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2010, 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, 2010. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Barnstable Sheriff's Department

- 8910-8200 For the operation of the Barnstable sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$10,588,350
- 8910-8210 For the Barnstable sheriff's department which may expend for the operation of the department an amount not to exceed \$250,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$250,000

Bristol Sheriff's Department

- 8910-8300 For the operation of the Bristol sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate popu-

lation in the county starting not later than January 1, 2010; and provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009 \$13,628,167

8910-8310 For the Bristol sheriff's department which may expend for the operation of the department an amount not to exceed \$6,500,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$6,500,000

Dukes Sheriff's Department

8910-8400 For the operation of the Dukes sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$1,283,882

Nantucket Sheriff's Department

8910-8500 For the operation of the Nantucket sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009 \$391,296

Norfolk Sheriff's Department

8910-8600	For the operation of the Norfolk sheriff's department provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services	\$11,435,979
8910-8610	For the Norfolk sheriff's department which may expend for the operation of the department an amount not to exceed \$2,500,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$2,500,000

Plymouth Sheriff's Department

8910-8700	For the operation of the Plymouth sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009	\$11,971,689
8910-8710	For the Plymouth sheriff's department which may expend for the operation of the department an amount not to exceed \$16,000,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of	

retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$16,000,000

Suffolk Sheriff's Department

8910-8800 For the operation of the Suffolk sheriff's department; provided, that the sheriff shall report to the house and senate committees on ways and means on the average monthly inmate population in the county starting not later than January 1, 2010; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services \$42,721,367

8910-8810 For the Suffolk sheriff's department which may expend for the operation of the department an amount not to exceed \$8,000,000 from revenues received from federal inmate reimbursements; provided, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$8,000,000

SECTION 3. Section 2 of chapter 27 of the acts of 2009 is hereby amended by striking out item 8910-0000 and inserting in place thereof the following item:-

8910-0000 For a reserve to provide funds for certain costs of the Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth and Suffolk sheriffs' departments including, but not limited to, employee health care, retirement and Plymouth correctional facility debt service; provided, that the county finance review board shall distribute the funds appropriated herein through December 31, 2009; provided further, that effective January 1, 2010 the secretary of administration and finance may transfer funds from the sum appropriated in this item to

other items of appropriation; and provided further, that the transfers may be expended solely for the purposes authorized by the secretary \$162,427,746

SECTION 4. Said section 2 of said chapter 27 is hereby further amended by striking out item 8910-0010 and inserting in place thereof the following item:-

8910-0010 For the purpose of funding expenses for services provided to inmates of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Suffolk county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year 2010; provided, that the department shall notify the comptroller of all such expenses; provided further, that not more than 30 days after receiving such notification the comptroller shall effect the transfer of such amount from this item to item 4590-0903 in section 2B \$2,172,244

SECTION 5. The first sentence of section 10 of chapter 61 of the acts of 2009 is hereby amended by striking out the figure "2010" and inserting in place thereof the following figure:- 2011.

SECTION 6. Said section 10 of said chapter 61 is hereby further amended by adding the following sentence:- Each county, and in the case of Suffolk county the city of Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an amount equal to 51.25 per cent of the minimum obligations to fund from its own revenues in fiscal year 2009 the operations of the office of the sheriff for the purpose of covering the unfunded county pension liabilities and other benefit liabilities of the retired sheriff's office employees that remain in the county retirement systems, as determined by the actuary of the public employee retirement administration commission.

SECTION 7. Said chapter 61 is hereby further amended by striking out section 11 and inserting in place thereof the following section:-

Section 11. Notwithstanding any general or special law to the contrary and except as otherwise provided in this act, any funds including, but not limited to, county correctional funds, deeds excise funds and other sources of income and revenue, credited to the office of a transferred sheriff on December 31, 2009 or received by the county treasury after that date on account of fiscal year 2010 activity through December 31, 2009, shall be paid to the state treasurer, but the county treasurer may pay appropriate fiscal year 2010 sheriff's department obligations after December 31, 2009.

SECTION 8. Section 12 of said chapter 61 is hereby amended by striking out subsection (d).

SECTION 9. Section 19 of said chapter 61 is hereby amended by striking out subsection (b).

SECTION 10. Clause (6) of the third paragraph of section 22 of said chapter 61 is

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hereby amended by striking out the word “country” and inserting in place thereof the following word:- county.

SECTION 2 *Items disapproved by striking the wording:*

Item	<i>Wording Stricken</i>
8910-8200	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services”
8910-8300	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009”
8910-8400	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services”
8910-8500	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009”
8910-8600	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services”
8910-8700	“;provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item 4510-0108 of section 2B of chapter 27 of the acts of 2009”
8910-8800	“; provided further, that all pharmacy services shall be paid through the state office of pharmacy services chargeback, item

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Item

Wording Stricken

4510-0108 of section 2B of chapter 27 of the acts of 2009, not later than June 30, 2010; and provided further, that upon transitioning to the state office of pharmacy services, no charge or contract shall be made with an alternate vendor to provide pharmacy services other than the state office of pharmacy services”

The remainder of the bill was approved by the Governor on September 29, 2009 at twelve o'clock and twenty minutes, P.M.

Chapter 103. AN ACT RELATIVE TO A NEW PUBLIC SAFETY FACILITY LEASE IN THE TOWN OF BURLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Burlington may enter into a lease of land for a new public safety facility. The lease may be a ground lease of the land only, or the lease may provide for the financing, design and construction of a new public safety facility by a party or parties, or a combination thereof. The construction of a new public safety facility under a lease awarded pursuant to this section shall not be subject to the competitive bid requirements set forth in sections 38A½ to 38O, inclusive, of chapter 7, section 39M of chapter 30 or sections 44A to 44M, inclusive, of chapter 149 of the General Laws, but the lease shall be awarded pursuant to section 16 of chapter 30B of the General Laws. The town may borrow for the construction of a new public safety facility pursuant to section 7 of chapter 44 of the General Laws on land that is subject to the lease pursuant to this act; provided, however, that the lease has a term of at least 20 years.

SECTION 2. The request for proposals for the lease shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the town including, but not limited to, all capital financing. If the town awards a contract to an offeror who did not submit the proposal offering the lowest overall cost, the town shall explain the reason for the award in writing. Before awarding a lease that includes the construction of a public safety facility under section 1, the town shall conduct an independent evaluation for the purpose of comparing the overall cost of the lease, including the private financing of construction, to the cost of procuring the new public safety facility pursuant to the applicable General Laws.

SECTION 3. Notwithstanding any general or special law to the contrary, the lease awarded pursuant to section 1 may provide for a term not exceeding 50 years, and may include an option or a right of first refusal for the town to acquire the land and the new public

safety facility at the termination of the lease. Any option or a right of first refusal shall be at the sole discretion of the town of Burlington in accordance with the original terms and conditions set forth in the request for proposals or terms and conditions more favorable to and acceptable to the town. A lease entered into pursuant to this act may provide that the town shall not be exempt from liability for payment over the term of the lease of the costs to finance, design and construct the public safety facility.

SECTION 4. Subject to this act, any lease awarded hereunder shall be subject to such additional terms and conditions as the town administrator and the board of selectmen of the town shall determine to be in the best interests of the town and shall be authorized by a majority vote of the board of selectmen, and a majority vote of town meeting.

SECTION 5. The board of selectmen shall issue a request for proposals for the construction of the public safety facility that permits offerors, at their election, to submit alternate proposals, under one of which the selected offerors shall award all contracts for the construction of the public safety facility only to persons or entities whose bids or proposals are subject to such persons or entities being signatory to a project labor agreement with the appropriate labor organizations which shall include an obligation for the labor organizations and their constituent members not to strike with respect to the work on the construction project and which shall also establish uniform work rules and schedules for the project. In the alternative, offerors may submit proposals under which a project labor agreement is not required. The project agreement, if required, shall be entered into in order to facilitate the timely and efficient completion of the construction of the public safety facility and to make available a ready and adequate supply of highly trained, skilled craft workers who shall provide a negotiated commitment to assure labor stability and labor peace over the life of this project. The applicable entity responsible for any construction of the public safety facility shall designate a general contractor, project administrator or similar construction firm which is familiar in the negotiation and administration of project labor agreements to manage and oversee the construction of the project, including the development and implementation of labor relations policies for the project, and to instruct the general contractor, project administrator or other construction firm to negotiate a mutually agreeable project labor agreement covering the above described work, unless the town determines that the selected offeror responsible for constructing the public safety facility has sufficient experience and qualifications, in which case the selected offeror may discharge the duties respecting the project labor agreement. The board of selectmen may choose whether or not to award the project to an offeror who proposes that the project will be subject to a project labor agreement, and shall award the project to the proposal deemed to be in the best interests of the town, considering prices as well as other criteria.

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

Approved October 2, 2009.

Chapter 104. AN ACT AUTHORIZING THE TOWN OF WINTHROP TO PLACE A CERTAIN QUESTION ON THE BALLOT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF CERTAIN RESTAURANTS.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any limitations imposed by section 42C of chapter 54 of the General Laws or section 11 of chapter 138 of the General Laws as to the time and manner of voting on the question or any other special or general law to the contrary, the town council of the town of Winthrop shall cause to be placed on the official ballot for the election of officers at the biannual town election to be held in the year 2009 the following question:-

"Shall the licensing authority of the town of Winthrop be authorized to grant 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 25 persons?"

(b) If a majority of the votes cast in answer to the question is in the affirmative, the town of Winthrop shall be authorized to grant 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 25 persons. The licenses shall be subject to all the other provisions of said chapter 138.

(c) The town council of the town of Winthrop shall cause a summary of the question to be printed on the ballot along with the question as stated in subsection (a).

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

Approved October 2, 2009.

Chapter 105. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2010 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose which is to regulate forthwith the campaign finance, ethics and lobbying 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 1 of chapter 268B of the General Laws, as amended by section 85 of chapter 28 of the acts of 2009, is hereby further amended by inserting after the definition of "Executive agent," the following definition:-

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“Gift”, a payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received; provided, however, that “gift” shall not include a political contribution reported as required by law, a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance or a gift received from a member of the reporting person’s immediate family or from a relative within the third degree of consanguinity of the reporting person or of the reporting person’s spouse or from the spouse of any such relative;

SECTION 2. Section 105 of chapter 28 of the acts of 2009 is hereby amended by inserting after the word "Sections" the following words:- 1 to 16, inclusive, and sections.

SECTION 3. Section 2 shall take effect as of September 28, 2009.

Approved October 2, 2009.

Chapter 106. AN ACT AMENDING THE CHARTER OF THE TOWN OF SANDWICH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 137 of the acts of 2002 is hereby repealed.

SECTION 2. The following shall be the charter of the town of Sandwich:-

ARTICLE I INCORPORATION, FORM OF GOVERNMENT

Section 1.1 INCORPORATION

The inhabitants of the town of Sandwich, residing within its corporate boundaries as heretofore established, are hereby constituted and shall continue to be a body politic and corporate in perpetuity under the name of the town of Sandwich.

Section 1.2 FORM OF GOVERNMENT

The municipal form of government provided by this charter shall consist of a town meeting open to all voters of the town of Sandwich; a board of selectmen, elected by the people and accountable to the people; and a town manager, appointed by and accountable to the board of selectmen for proper administration of the affairs of the town.

ARTICLE II POWERS OF THE TOWN

Section 2.1 POWERS

(a) The town shall have all the powers granted to towns by the Constitution and the General Laws together with all of the implied powers necessary to execute such granted powers.

(b) 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 is not intended to limit in any way the general powers.

(c) The town may enter into agreements with any other agency of municipal government, agency of the commonwealth, other states or the United States government to perform jointly, by contract, or otherwise, any of its powers or functions and may participate in the financing thereof.

ARTICLE III LEGISLATIVE BRANCH

Section 3.1 OPEN TOWN MEETING

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

Section 3.2 PRESIDING OFFICER

All sessions of the town meeting shall be presided over by a moderator, elected as provided in section 4.4. The moderator shall regulate the proceedings, decide questions of order and make public declarations of all votes. The moderator shall have all of the powers and duties given to moderators under the Constitution and the General Laws and such additional powers and duties as may be authorized by the charter, by by-law or by other town meeting vote.

Section 3.3 ANNUAL TOWN MEETING

The annual town meeting shall be held on such date or dates as may be fixed by the board of selectmen as provided in paragraph (e) of Section 4.2.5.

Section 3.4 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 General Laws.

Section 3.5 QUORUM

The quorum for both the annual town meeting and any special town meeting shall be set by by-law.

Section 3.6 CLERK OF THE MEETING

The town clerk shall serve as the clerk to the town meeting. In the event that the town clerk is absent, the assistant town clerk shall serve.

Section 3.7 WARRANT ARTICLES

(a) Except for procedural matters, all subjects to be acted on by town meeting shall be placed on warrants issued by the board of selectmen.

(b) The board of selectmen shall receive all petitions addressed to it which require the submission of particular subject matter to the town meeting in accordance with the General Laws. Ten signatures shall be required on a petition to have an article inserted in the warrant for an annual town meeting and 100 signatures shall be required on a petition to have an article inserted in a warrant for a special town meeting.

(c) Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall show comparative figures including actual figures for the preceding year, appropriations for the current year, requests for the next fiscal year and amounts recommended by the finance committee.

Section 3.8 PUBLICATION AND DISTRIBUTION OF THE WARRANT

In addition to any notice required by the General Laws, the board of selectmen shall cause the annual town meeting warrant to be posted on the town bulletin board and otherwise distributed as provided by paragraph (e) of section 4.2.5. Additional copies shall be kept available for distribution by the town clerk. In addition, the board of selectmen shall cause the town meeting warrant to be posted on the town's website for the convenience of the residents of the town; provided, however, that failure to post the warrant on the website or to post it at least 1 week before the date of the town meeting shall not invalidate or otherwise affect the legality or validity of the actions taken at the town meeting.

ARTICLE IV ELECTED TOWN OFFICES

Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

The offices to be filled by the voters shall be: a board of selectmen consisting of 5 members; a school committee consisting of 7 members; a moderator; a town clerk; a board of assessors consisting of 3 members; a board of health consisting of 3 members; a planning board consisting of 7 members; trustees of the Sandwich library consisting of 9 members; trustees of the Weston Memorial Fund consisting of 3 members; Sandwich historic district consisting of 5 members; a housing authority consisting of 5 members, 4 of whom shall be elected and 1 of whom shall be appointed by the governor; and such other regional authorities, districts, or committees as may be required by the General Laws or inter local agreement. All elected or appointed multiple member boards shall be arranged so that as nearly an equal number of terms as possible shall expire each year. Notwithstanding any other provision of the charter, all elected officials and officers shall have the powers and duties as prescribed by the General Laws.

Section 4.2 BOARD OF SELECTMEN

The board of selectmen shall be composed of 5 members. Each member shall be elected from the town at-large to a 3-year term.

Section 4.2.1 QUALIFICATIONS

In addition to any other qualifications prescribed by law, each selectman shall be a qualified voter of the town and shall reside within the town while in office.

Section 4.2.2 COMPENSATION

Selectmen shall receive such compensation as may be specified in the annual budget; provided, however, that they shall be entitled to all necessary expenses incurred in the performance of their official duties upon approval by the board of selectmen.

Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

(a) A chairman shall be elected by the board of selectmen at the first meeting following each regular town election. The chairman shall preside at all meetings of the

board. The chairman shall perform such other duties consistent with this charter or as may be imposed on him by the board.

(b) A vice chairman shall be elected by the board of selectmen at the first meeting following each regular town election. The vice chairman shall act as chairman during the disability or absence of the chairman and, in this capacity, shall have the rights and duties conferred upon the chairman.

Section 4.2.4 VACANCIES

Vacancies in the office of selectman shall be filled by special election if the vacancy occurs 8 months or more before the next annual election. If a vacancy occurs, the board of selectmen shall, within 10 days after the occurrence of a vacancy, call a special election that shall be held not less than 65 days nor more than 90 days after issuing the call. A vacancy which occurs less than 8 months before the next annual election shall be filled at the next annual election.

Section 4.2.5 GENERAL POWERS AND DUTIES

(a) Except as otherwise provided by the General Laws or this charter, all executive powers of the town shall be vested in the board of selectmen. The board of selectmen shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the town by law.

(b) At least a majority of the board of selectmen shall sign all official documents and approve the financial warrants.

(c) The board of selectmen shall serve as the board of directors and policy-making body of the town. The board shall appoint a town manager to carry out the day-to-day operations of the town within the policies set by the board of selectmen. The board of selectmen shall appoint members of committees.

(d) No member of the board of selectmen may serve in any other elected or appointed town office or committee during his term as selectman, excluding ex-officio positions, except that selectmen may serve on committees when authorized by state law or town by-law. Service as a representative from the town to another body other than the town shall not be prohibited by this provision.

(e) The board of selectmen shall set guidelines for the preparation of the annual budget and present the budget to the town meeting. The board of selectmen shall set the date and warrant articles for the town meeting and any special town meeting. The board of selectmen shall make available sufficient copies of the warrant for the town meeting for all registered voters. The board of selectmen shall either provide direct mailings to households or publish notice of the availability of the warrant at town facilities and other common locations throughout the town at least 2 weeks before the town meeting; provided, however, that failure to post the warrant on the website or to post it at least 1 week before the date of the town meeting shall not invalidate or otherwise affect the legality or validity of the actions taken at the town meeting.

(f) The board of selectmen shall be a licensing board for the town and shall have the power to issue licenses as authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses and to impose restrictions on any such license as it deems to be in the public interest and to enforce all laws, rules, regulations and restrictions relating to all such businesses for which it issues licenses.

(g) The board shall require bonds for all municipal officers and employees who receive or pay out any moneys of the town. The amount of such bonds shall be determined by the board and the cost thereof shall be borne by the town.

(h) The board of selectmen shall be authorized to institute, prosecute, compromise or defend any claim, action, suit or other proceeding in the name of the town and to settle any claim, action, suit or other proceeding brought by or on behalf of or against the town. If a settlement requires the issuance of a permit or license or the transfer of property, and such matter is not within the board of selectmen's jurisdiction, the town board or officer with legal jurisdiction over the matter shall retain sole authority to act on behalf of the town.

(i) The board of selectmen shall annually review a long-range plan to project the future needs of the town and shall report on this at town meeting.

(j) The board of selectmen shall serve as custodians of all town property except as otherwise provided by the General Laws or by vote of the town.

(k) The board of selectmen shall exercise any other responsibilities as set forth in the General Laws.

Section 4.2.6 MEETINGS OF THE BOARD

(a) The board of selectmen shall hold at least 2 regular meetings each month. The board shall fix, by resolution, the days, times and location of its regular meetings.

(b) The board of selectmen may hold such special meetings as it deems necessary and appropriate, which may be called for by 3 members of the board. In no event shall a regular or special meeting be held in a facility or at a location which is not readily accessible to the public or handicap accessible.

Section 4.2.7 RULES OF PROCEDURE

(a) The board of selectmen shall, by resolution, determine its own rules and order of business; provided, however, the rules shall provide that citizens of the town shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

(b) Voting, except on procedural motions, shall be by roll call if requested by a selectman, and the ayes and nays shall be recorded in the minutes.

(c) Three selectmen shall constitute a quorum for the purposes of transaction of business.

(d) No action of the board of selectmen shall be valid or binding unless adopted by the affirmative vote of 3 or more members of the board.

Section 4.2.8 PROHIBITIONS

(a) Except where authorized by law, no selectman shall hold any other town office or town employment during his term as selectman, nor shall any former selectman hold any compensated appointed town office or town employment until 1 year after the expiration of

his term as selectman.

(b) The selectmen shall not, in any manner, dictate the appointment or removal of any town administrative officers or employees whom the town manager or any of his subordinates are empowered to appoint. The board of selectmen may express its views and fully and freely discuss with the town manager anything pertaining to appointments and removal of such officers and employees.

(c) Except for the purpose of inquiries and investigations, the board of selectmen and its members shall deal with town officers and employees who are subject to the direction and supervision of the town manager solely through the town manager, and neither the board of selectmen nor any of its members shall give orders to any such officer or employee, either publicly or privately.

Section 4.3 SCHOOL COMMITTEE

The school committee shall be composed of 7 members. Each member shall be elected from the town at-large to a 3-year term. The 3-year terms of office for school committee shall be staggered.

Section 4.3.1 GENERAL POWERS AND DUTIES

The school committee shall have all the powers and duties given to school committees by the General Laws. The school committee shall have the power to select, oversee and terminate the superintendent of schools, establish educational goals and policies for the schools consistent with requirements of the General Laws and standards established by the commonwealth.

Section 4.3.2 BUDGET HEARING

The school committee shall hold a public hearing on its proposed annual budget pursuant to section 38N of chapter 71 of the General Laws by March 1.

Section 4.3.3 VACANCIES

Vacancies in the school committee shall be filled by special election if the vacancy occurs at least 8 months before the next annual election. In this case, the board of selectmen shall, within 10 days after its occurrence call a special election that shall be held not less than 65 days nor more than 90 days after issuing the call. A vacancy which occurs less than 8 months before the next annual election shall be filled at the next annual election.

Section 4.4 MODERATOR

A moderator shall be elected by the voters for a term of 3 years. In the event of absence of the moderator, the town meeting may elect a temporary moderator, for the purpose of presiding over the town meeting.

Section 4.4.1 POWERS AND DUTIES

(a) The moderator shall have the powers and duties provided by the General Laws, by this charter, by by-law or by any other town meeting vote.

(b) The moderator shall appoint members of the finance committee which shall consist of 9 members. If the moderator fails to fill a vacancy on the finance committee within 45 days of having been notified in writing by the town clerk of said vacancy, a majority of the remaining members of the finance committee may nominate a person for the vacancy.

If the moderator fails to take action on said nomination within 21 days, the nominee shall become a member of the finance committee.

(c) The moderator shall appoint members to other committees as directed by town meeting.

Section 4.5 TOWN CLERK

A town clerk shall be elected by the voters at the annual town election, for a term of 3 years.

Section 4.7 BOARDS, COMMITTEES AND OFFICERS

(a) Each board or committee shall be organized and charged with the powers and duties specified in the General Laws and special acts of the commonwealth, town by-law or elsewhere in this charter. The board of selectmen may, from time to time, establish boards or committees to address specific needs or issues. Each board or committee shall, at its annual organization meeting, elect a presiding officer and shall cause the board of selectmen and the town clerk to be notified of its selection. Such boards and committees shall make a written annual report of its activities to the board of selectmen.

(b) Members of permanent committees shall be elected for a staggered term of 3 years unless otherwise provided for by the General Laws or this charter. Appointees to temporary and special committees shall be appointed by the board of selectmen for the duration of the charge of the board or committee. Boards, committees or officers specifically provided for by the General Laws or this charter may be continued or terminated only by the board of selectmen.

**ARTICLE V
ADMINISTRATIVE SERVICES**

Section 5.1 TOWN MANAGER

Section 5.1.1 APPOINTMENT AND QUALIFICATIONS

The board of selectmen shall, by majority vote of the entire board, appoint a town manager. The method of selection shall be left to the discretion of the board of selectmen so long as the method of selection ensures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The town manager shall be chosen solely upon the basis of the individual's executive and administrative training, education, experience and ability and need not, when appointed, be a resident of the town of Sandwich; provided, however, that the town manager shall establish such residence within 6 months following the effective date of appointment; and provided further, that the board of selectmen may, by a unanimous vote of all members of the board of selectmen then in office, extend to a time certain, the time for establishing residence or waive this requirement in its entirety. The town manager shall be bonded at town expense.

Section 5.1.2 COMPENSATION

The town manager shall receive compensation as may be fixed by the board of selectmen according to his expertise, education and training. Any contract between the board of selectmen and the town manager shall be made pursuant to section 108N of chapter 41 of the General Laws.

Section 5.1.3 TERM AND REMOVAL

The town manager may be appointed for a definite term, but may be removed at the discretion of the board of selectmen by vote of the majority of the entire board. The action of the board of selectmen in suspending or removing the town manager shall be final. It is the intention of this charter to invest all authority and fix all responsibilities of such suspension or removal in the board of selectmen.

Section 5.1.4 POWERS AND DUTIES

The town manager shall be responsible to the board of selectmen for the proper administration of all the affairs of the town consistent with the General Laws and this charter, and shall:

(a) appoint, discipline, suspend, or remove town employees, including employees in civil service positions, except that the approval of the board of selectmen shall be required for the appointment of department heads and the assistant town manager;

(b) supervise and direct all appointed department heads;

(c) administer and enforce the General Laws or special acts of the commonwealth or town by-laws, and all regulations established by the board of selectmen;

(d) coordinate activities of all town departments;

(e) attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and to matters under the general supervision of the town manager;

(f) keep the board of selectmen fully informed as to the needs of the town and recommend to the selectmen for adoption such measures requiring action by them or by the town as the town manager deems necessary or expedient;

(g) ensure that the complete and full records of the financial and administrative activity of the town are maintained and render reports to the board of selectmen as may be required;

(h) be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities;

(i) serve as the chief procurement officer and be responsible for the purchase of all supplies, materials, and equipment and approve the award of all contracts. Any contract over \$500,000 shall require approval by the board of selectmen;

(j) develop and maintain a formal and complete inventory of all town-owned real and personal property and equipment;

(k) administer personnel policies, practices, 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;

(l) fix the compensation of all town employees and officers appointed by the town manager within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;

(m) be responsible for the negotiation of all contracts with town employees regarding

wages, and other terms and conditions of employment, except employees of the school department. The town manager may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties. Collective bargaining agreements shall be subject to the approval of the board of selectmen and to chapter 150E of the General Laws;

(n) prepare and submit an annual operating budget and capital improvement program as provided in paragraph (b) of section 7.1 and be responsible for its administration after its adoption. The town manager may transfer funds between individual line items within a department account at any time during the fiscal year, and further, may transfer during the last 2 months of any fiscal year or during the 15 days of the new fiscal year to apply to the previous fiscal year, any amount appropriated for the use of any department other than a municipal light department or the school department to the appropriation for any other department, but the amount transferred from one department to another may not exceed 3 per cent of the annual budget of the department from which the transfer is made, with the approval of the selectmen and finance committee;

(o) keep the board of selectmen and the finance committee fully informed as to the financial condition of the town and make recommendations to the board of selectmen;

(p) prepare and submit to the board of selectmen at the end of the fiscal year a comprehensive report on the finances and the activities and operations of all departments, boards and committees of the town;

(q) investigate or inquire into the affairs of any town department or office;

(r) delegate, authorize or direct any subordinate or employee in the town to exercise any power, duty, or responsibility which the office of town manager may exercise; provided, however, that all acts performed under such delegation shall be deemed to be the acts of the town manager; and

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

Section 5.1.5 ACTING TOWN MANAGER

The assistant town manager shall perform the duties of the town manager in the town manager's absence. In the event of long-term disability, resignation, termination, or vacancy of both the town manager and the assistant town manager at the same time, the board of selectmen shall appoint an acting town manager for the duration of any such disability or until appointment of a permanent town manager or assistant town manager. No member of the board of selectmen shall serve as acting town manager.

Section 5.2 TOWN COUNSEL

The board of selectmen shall appoint a competent and duly qualified and licensed attorney practicing in the commonwealth to be the counsel for the town. Town counsel shall receive such compensation for his services as may be fixed by the board of selectmen and shall hold office at the pleasure of the board. The town counsel shall be the legal adviser of all of the offices and departments of the town, and shall represent the town in all litigation

and legal proceedings; provided, however, that the board of selectmen may retain special counsel at any time they deem appropriate and necessary. The town counsel shall review and concur or dissent upon all documents, contracts and legal instruments in which the town may have an interest. The town counsel shall perform other duties prescribed by this charter, town by-law, or as directed by the board of selectmen. No employee, committee or board, elected or appointed, other than the board of selectmen, shall contact or otherwise interact with the town or labor counsel in a manner inconsistent with the policy relative to access to counsel established by the town manager.

ARTICLE VI COMPLIANCE WITH LAW - PUBLIC RECORDS, OPEN MEETINGS, AND CONFLICT OF INTEREST

All boards, committees, and commissions shall comply with sections 23A to 23C, inclusive, of chapter 39 of the General Laws in the conduct of any town business.

All officers or employees of any agency, office, department, board, commission, bureau, division or authority of the town shall comply with clause Twenty-six of section 7 of chapter 4 and section 10 of chapter 66 of the General Laws.

All employees of the town, as defined in section 1 of chapter 269A, shall comply with the requirements of chapter 268A of the General Laws.

ARTICLE VII FINANCIAL PROVISIONS AND ADMINISTRATION

Section 7.1 SUBMISSION OF BUDGET AND BUDGET MESSAGE

(a) Annually, before November 1, the town manager shall establish and issue a budget schedule which shall set forth the calendar dates for developing the annual budget for the next fiscal year.

(b) On or before February 1, the town manager and school committee shall each submit to the board of selectmen and finance committee a proposed line item budget and accompanying message.

(c) The budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income and proposed expenditures. The budget shall include proposals for capital improvements for the next 5 years. The budget message shall begin with a clear general summary of its content and shall explain in both fiscal terms and work program objectives, proposed expenditures for each department, capital expenditures and the projected tax rate.

(d) The board of selectmen shall review the proposed town budget and refer it, including the school department budget and recommendations, to the finance committee, on or before March 1.

Section 7.2 FINANCE COMMITTEE

(a) There shall be a permanent committee known as the finance committee, composed of 9 registered voters of the town appointed by the moderator. They shall serve for 3 year

terms, which shall be staggered. Members shall serve without compensation and no member shall be an employee of the town, nor hold an elected or appointed town position during their term of office, excluding ex-officio positions.

(b) The finance committee shall conduct a detailed line item review of the town and school budgets and submit a written budget report to the annual town meeting and a written report to the annual town meeting and any special town meeting with its advisory recommendations on all financial warrant articles, and the projected tax impact consistent with its recommendations.

(c) The finance committee may require that the town manager, school committee, any town department, office, board, commission or committee furnish appropriate additional financial information, as needed.

(d) The finance committee shall elect a chairman and such other officers from among its members and form subcommittees as it deems necessary to accomplish its duties.

Section 7.3 PUBLIC NOTICE AND PUBLIC HEARING

(a) The finance committee shall, within 60 days following the submission of the draft budget by the town manager, review the proposed budget and return it to the board of selectmen with its recommendations.

(b) The board of selectmen shall conduct at least 1 public hearing on the proposed budget, including the school budget, before the town meeting and shall include the recommendations of the finance committee.

(c) The board of selectmen shall post in the town hall and publish in a daily newspaper of general circulation and on the town web-site, a summary of the proposed budget and notice stating:

(1) the times and places where copies of the message and budget shall be available for inspection by the public, and

(2) the date, time and place where the board of selectmen shall conduct the public hearing on the budget.

Section 7.4 BUDGET ADOPTION

Town meeting shall adopt the annual operating budget, with or without amendments, before the beginning of the fiscal year.

Section 7.5 ANNUAL AUDIT

At the close of each fiscal year, and at such times as it may be deemed necessary, the board of selectmen shall cause an independent audit to be made of all accounts of the town by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the town or any of its offices. Upon completion of the audit, the results in a summary form shall be placed on file in the town clerk's office and on the town web-site as a public record and in the Sandwich public library for public information.

Section 7.6 EMERGENCY APPROPRIATIONS, REDUCTIONS AND TRANSFERS

Any and all emergency appropriations, reductions and transfers shall be made in accordance with the General Laws and the town by-laws.

ARTICLE VIII RECALL

Section 8.1 RECALL

A holder of an elected office in the town of Sandwich may be recalled therefrom by the qualified voters of the town as provided in chapter 408 of the acts of 1987 for reasons which shall include, but are not limited to, the following: embezzlement; influence peddling; refusal to comply with clause Twenty-sixth of section 7 of chapter 4, section 10 of chapter 6, sections 23A to 23C, inclusive, of chapter 39 or chapter 268A of the General Laws or any rules and regulations thereto and the by-laws of the town of Sandwich which pertain to same; destruction or alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the elected office; or other willful acts of omission or commission which betray the public trust.

Section 8.2 RECALL PETITION

A recall petition shall be initiated by request of 10 qualified voters. The recall petition shall be signed by 25 per cent of the qualified voters and returned within 20 days in accordance with chapter 408 of the acts of 1987.

ARTICLE IX CHARTER

Section 9.1 SEVERABILITY

If any section, or part of a section of this charter, shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter.

Section 9.2 CHARTER REVIEW COMMITTEE

At least every 5 years, the selectmen shall appoint a charter review committee to be composed of 7 members for a period not longer than 6 months, who shall submit their recommendations to the board of selectmen and shall file proceedings of their deliberations.

Section 9.3 AMENDMENT TO CHARTER

This charter may be amended or revised by special act of the General Court, upon the recommendation of town meeting or pursuant to chapter 43B of the General Laws.

Approved October 2, 2009.

Chapter 107. AN ACT AUTHORIZING THE CITY OF SALEM TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Salem may grant an additional license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to Derby Deli, Inc. at a restaurant at 245 Derby street in the city of Salem. The license shall be subject to all of said chapter 138 except said section 17.

Notwithstanding any general or special law or rule or regulation to the contrary, the licensing authority of the city of Salem shall not approve the transfer of the license to any other location. The license may be granted by the 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 act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto to the licensing authority which may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.

Approved October 2, 2009.

Chapter 108. AN ACT VALIDATING THE ELECTION CALENDAR IN THE CITY OF SALEM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 7, 7A and 10 of chapter 53 and section 7 of chapter 55B of the General Laws or any other general or special law to the contrary or, any defect in the submission deadlines the election calendar established by the Salem city council on January 8, 2009 is hereby ratified, validated and confirmed in all respects.

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

Approved October 2, 2009.

Chapter 109. AN ACT RELATIVE TO A CERTAIN LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES IN THE CITY OF NEW BEDFORD.

Be it enacted, etc., as follows:

SECTION 1. Chapter 451 of the acts of 2006 is hereby repealed.

SECTION 2. Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law, rule or regulation to the contrary, the licensing authority of the

city of New Bedford is hereby authorized to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Nucleo Sportinguista de New Bedford, Inc. The license shall be subject to all of said chapter 138, except said section 17 unless specifically provided otherwise. The licensing authority shall not approve the transfer of the license to any other person, organization or corporation. Upon revocation, cancellation or termination of the license or the termination, abandonment or dissolution of the license holder, the license shall be void and shall not be reissued to any other entity.

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

Approved October 2, 2009.

Chapter 110. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SUSAN HARPER, AN EMPLOYEE OF THE DEPARTMENT OF DEVELOPMENTAL SERVICES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, or rule or regulation to the contrary, the department of developmental services shall establish a sick leave bank for Susan Harper, 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 Susan Harper. 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. Whenever Susan Harper 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 October 2, 2009.

Chapter 111. AN ACT VALIDATING THE ACTION TAKEN AT THE TOWN OF SHERBORN'S ANNUAL TOWN ELECTION HELD ON MAY 12, 2009.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or by-law to the contrary, all actions, votes and proceedings taken by the town of Sherborn at its annual town election held on May 12, 2009 are hereby ratified, validated, approved and confirmed, notwithstanding any defect or omission in the posting of the warrant of the election.

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

Approved October 2, 2009.

Chapter 112. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DEBORAH ARMSTRONG, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court of the commonwealth shall establish a sick leave bank for Deborah Armstrong, an employee of the Franklin/Hampshire division of the juvenile court department of the trial court. Any employee of the trial court may contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Deborah Armstrong. Whenever Deborah Armstrong 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 October 8, 2009.

Chapter 113. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF LUNENBURG.

Be it enacted, etc., as follows:

SECTION 1. The charter of the town of Lunenburg, adopted by the voters of the

town in 1999 and filed 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 text and inserting in place thereof the following text:-

**CHARTER OF THE TOWN OF LUNENBURG
ARTICLE 1
INCORPORATION; SHORT TITLE; POWERS**

SECTION 1-1 INCORPORATION

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

SECTION 1-2 SHORT TITLE

This instrument shall be known and may be cited as the Lunenburg Home Rule Charter.

SECTION 1-3 POWERS OF THE TOWN

Subject only to express limitations on the exercise of any power or function by a municipality in the constitution or laws of the commonwealth, it is the intent and the purpose of the voters of Lunenburg to secure through the adoption of this charter all of the powers it is possible to secure for a municipal government under the constitution and laws of the commonwealth.

SECTION 1-4 DIVISION OF POWERS

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

SECTION 1-5 CONSTRUCTION

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

SECTION 1-6 INTERGOVERNMENTAL RELATIONS

Subject to the applicable requirements of any provision of the constitution or statutes of the commonwealth, the town of Lunenburg may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any 1 or more states or civil divisions or agencies thereof or the United States government or agency thereof.

SECTION 1-7 DEFINITIONS

As used in this charter, the following words shall, unless another meaning is clearly apparent from the manner in which the word is used, have the following meanings:-

(a) "Appointing authority", the officer or multiple member body which appoints the officer, member of a multiple member body or town employee.

(b) "Charter", this charter and any amendment to it hereafter adopted.

(c) "Emergency", a sudden, unexpected, unforeseen happening, event, occurrence or condition which necessitates immediate action or response.

(d) "Full multiple member body", the entire authorized complement of the board of selectmen, the school committee or other multiple member body notwithstanding any vacancy which might exist.

(e) "general laws", laws enacted by the state legislature which apply to all cities and towns, to all cities, or to a class of 2 or more towns or cities and towns of which Lunenburg is a member.

(f) "General Laws", the General Laws of the commonwealth, a codification and revision of statutes enacted on December 22, 1920, and including all amendments and additions thereto subsequently adopted.

(g) "Local newspaper", a newspaper of general circulation within the town of Lunenburg, with either a weekly or daily circulation.

(h) "Majority vote", a majority of those members present and voting, unless otherwise provided by law, by-law or by the rules of that body or board.

(i) "Multiple member body", any board, commission, committee, sub-committee or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the board of selectmen or the school committee.

(j) "Quorum", a majority of all members of a multiple member body unless some other number is required by law or by-law.

(k) "Town", the town of Lunenburg.

(l) "Town agency", any multiple member body, any department, division, or office of the town of Lunenburg.

(m) "Town bulletin boards", the bulletin board in the town hall on which the town clerk posts official notices of meetings and upon which other official town notices are posted, and the bulletin boards at any other locations as may be designated town bulletin boards by the board of selectmen.

(n) "Town manager screening committee", the body established in section 4-1.

(o) "Town officer", a person having charge of an office or department of the town who in the exercise of the powers or duties of such position exercises some portion of the sovereign power of the town.

(p) "Voters", registered voters of the town of Lunenburg.

ARTICLE 2 LEGISLATIVE BRANCH

SECTION 2-1 TOWN MEETING

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

SECTION 2-2 PRESIDING OFFICER

The town moderator, elected as provided in section 3-8, shall preside at all sessions

of the town meeting. Annually, at the first session of the spring town meeting, the town moderator shall appoint a deputy moderator to serve as acting moderator in the event of the temporary absence or disability of the town moderator. The appointment of a deputy moderator shall be subject to ratification by the town meeting. The deputy moderator shall, when presiding at town meeting sessions, have all of the powers of the town moderator, but shall have no other powers or duties of the town moderator.

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

SECTION 2-3 COMMITTEES

(a) *In General* -Subject to the provisions of this charter and such by-laws or other town meeting votes regarding committees as may be provided, the town moderator shall appoint for fixed terms the members of such committees of the town meeting, special or standing, as may from time to time be established. In addition to such specific powers, duties and responsibilities as may be provided to a town meeting committee by the by-law or vote establishing it, each such committee, when acting within the scope of its authority, shall have a right to examine the pertinent records of any town agency and to consult, at reasonable times, with any town officer, employee or agent.

(b) *Finance Committee* - Composition, Term of Office -There shall be a finance committee that shall consist of 7 members appointed 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. The members shall be appointed by a committee consisting of: 1 member of the board of selectmen chosen by the board of selectmen; 1 member of the school committee chosen by the school committee; and the town moderator.

(c) *Powers and Duties* -

(1) The finance committee shall have the primary responsibility to report to town meeting on the proposed budget of the town manager and all warrant articles having a fiscal impact on the town, as more particularly detailed in the charter, town by-laws, and the laws of the commonwealth; before preparing its final recommendations, the finance committee shall hold 1 or more public hearings to permit public discussion on the subject matter of the articles contained in the warrant.

(2) After the town manager has prepared the budget, the finance committee shall consult with the town manager and recommend any modifications it deems appropriate before the budget is filed with the town clerk.

(3) The finance committee shall have all other powers conferred on finance committees by the General Laws.

SECTION 2-4 TIME OF MEETING

The annual town meeting shall be held during April or May, on a date fixed by by-law.

SECTION 2-5 SPECIAL MEETINGS

Special town meetings may be held at the call of the board of selectmen at such times as such board may deem necessary or desirable in order to transact the legislative business of the town in an orderly manner. Special town meetings may also be held on the petition of 200 or more voters, in the manner provided by the general laws. The town clerk shall make forms for the calling of a special town meeting available to voters, upon request.

SECTION 2-6 WARRANTS

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

SECTION 2-7 INITIATION OF WARRANT ARTICLES

(a) *Initiation* - The board of selectmen shall receive at any time all petitions addressed to it and which request the submission of any matter to the town meeting and which are filed by any 10 voters for the annual town meeting and any 100 voters for a special town meeting.

(b) *Referral* - Forthwith following receipt of any proposed warrant article the board of selectmen shall cause a copy of the proposal to be mailed to the residence of the chairperson of the finance committee, a copy to be posted on the town bulletin board and shall cause such other distribution to be made of each such proposal as may be required by law or by-law.

(c) *Inclusion on Warrant* - The board of selectmen shall close the warrant for a regular town meeting on the date established by by-law for such closing preceding the date on which the town meeting is scheduled, by by-law, to convene. The board of selectmen shall not include in any such warrant the subject matter of any petition which has been received by it after said day nor shall any matter originating with it be included after said date.

Whenever a special town meeting is to be called, the board of selectmen shall give notice by publication in a local newspaper of its intention and shall notify all town agencies of its intention to do so. The board of selectmen shall include in the warrant for such special town meeting the subject matter of all petitions which are received at its office on or before 5 o'clock in the afternoon of the fifth business day following such publication which are in conformity with the provisions of section 2-7 (a) and which specifically request that the subject matter be included on the warrant for said special town meeting.

SECTION 2-8 AVAILABILITY OF TOWN OFFICIALS AT TOWN MEETINGS

Every town officer, the chairperson of each multiple member body, the head of each department and the head of each division within the departments shall attend all sessions of the town meeting at which warrant articles pertinent to their agency are or may be acted upon for the purpose of providing the town meeting with information pertinent to all such matters as appear in the warrant for the town meeting.

In the event any town officer, chairperson of a multiple member body, department head or division head is to be absent due to illness or other reasonable cause, such person shall designate a deputy to attend to represent the office, multiple member body, department or division. If any person designated to attend the town meeting under this section is not a voter, such person shall, notwithstanding, have a right to address the meeting for the purpose of compliance with this section unless a majority of the town meeting shall vote to deny such person this privilege.

SECTION 2-9 CLERK OF THE MEETING

The town clerk shall serve as clerk of the town meeting, give notice of all adjourned sessions thereof, record its proceedings and perform such additional duties in connection therewith as may be provided by the general laws, this charter, by-law or other town meeting vote.

SECTION 2-10 RULES OF PROCEDURE

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

SECTION 2-11 GENERAL POWERS AND DUTIES

All powers of the town, except as otherwise provided by law or this charter, shall be vested in the town meeting. The town meeting shall provide for the exercise of all of the powers of the town and for the performance of all duties and obligations imposed upon the town for which no other provision is made in this charter or by by-law.

ARTICLE 3 ELECTED OFFICIALS

SECTION 3-1 GENERAL PROVISIONS

(a) *Elective Offices* - The town offices to be filled by ballot of the whole town shall be a board of selectmen, a school committee, a board of assessors, a board of cemetery commissioners, a board of health, a board of park commissioners, a planning board, a board of trustees of the public library, a board of commissioners of trust funds, a town moderator, a town clerk and a board of sewer commissioners. In addition, members of a housing authority and such members of regional authorities or districts as may be established by statute, interlocal agreement or otherwise shall also be elected at town elections.

(b) *Eligibility* - Any voter shall be eligible to hold any elective town office; but no elected town official shall simultaneously hold any other elected town office, as defined in subsection 3-1 (a).

(c) *Election* - The regular elections for town office shall be held annually on such date as may from time to time be fixed in the by-laws of the town.

(d) *Compensation* - Elected town officers shall receive such compensation for their services as may be appropriated annually for such purpose.

(e) *Coordination* - Notwithstanding their election by the voters, the town officers listed in subsection 3-1 (a) shall be subject to the call of the board of selectmen, or of the town manager, at all reasonable times, for consultation, conference and discussion on any matter

relating to their respective offices.

(f) Filling of Vacancies

(1) Town officer - If there is a failure to elect, or if a vacancy occurs in the office of town clerk, the board of selectmen shall, in writing, appoint some suitable person to serve until the next town election.

(2) Multiple member body - If there is a failure to elect, or if a vacancy occurs in the membership of any elected multiple member body, including the school committee, unless the provisions of a will or trust provide for a different method, the remaining members of the multiple member body shall forthwith give notice of such vacancy to the board of selectmen and to the public in the manner provided in section 7-10. The board of selectmen, with the remaining members of such multiple member body shall, after 1 week's notice of the date on which the vote shall be taken, fill such vacancy, until the next town election, by a joint vote. The votes of a majority of the total number of persons entitled to vote shall be necessary for such election.

(3) Board of selectmen - If there is a failure to elect, or if a vacancy occurs in the membership of the board of selectmen, the remaining members of the board of selectmen may call a special election to fill such vacancy and shall call such special election upon the written petition of 200 or more voters.

(g) Recall of Elected Officials

(1) Who Can be Recalled - Any holder of an elective office, as defined in section 3-1(a) with more than 6 months remaining of the term for which elected, may be recalled therefrom by the voters as herein provided.

(2) Recall Petition - Any 100 voters may file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, printed forms of which shall be kept available. When issued the blanks shall contain the signature and official seal of the town clerk and may be completed by printing or by typewriting. They shall be dated, shall be addressed to the board of selectmen and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit and shall demand the election of a successor in that office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 25 days after the filing of the affidavit and shall have been signed by at least 20 per cent of the voters who shall add to their signatures the street and number, if any, of their residence.

The town clerk shall, within 24 hours of receipt, submit the petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures, which are names of voters.

(3) Selectmen's Action on Receiving Petition - If the petition shall be found and certified by the registrars of voters to be sufficient, they shall submit the petition with their

certificate to the selectmen without delay, and the selectmen shall forthwith 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 days thereafter, order an election to be held on a date fixed by them not more than 60 days after the date of the registrars' certificate that a sufficient petition be filed; provided, however, that if any other town election is to occur within 90 days after the date of the certificate, the selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

(4) Nomination of Candidates - An officer whose recall is sought may not be a candidate to succeed to the office if the vote on the recall is in the affirmative. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the election shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

(5) Incumbent Holds Office Until Election - The incumbent shall continue to perform the duties of the office until the recall election. If not then recalled such person shall continue in office for the remainder of the unexpired term, subject to recall as before, except as provided in this section. If then recalled in the recall election such person shall be deemed removed upon the qualification of the candidate receiving the highest number of votes at the recall election who shall serve for the balance of the then unexpired term. If the successor fails to qualify within 5 days after receiving notification of election, the incumbent shall thereupon be deemed removed and the office vacant.

(6) Propositions on Ballot - 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)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of those propositions. Under the proposition shall appear the word "candidates", the directions to voters required by section 42 of chapter 54 of the General Laws, and beneath this the names of candidates nominated as hereinbefore provided. 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 a majority of votes on the question are in the negative, the ballots for candidates need not be counted.

(7) Repeat of Recall Petition - No recall petition shall be filed against an officer within 3 months after taking office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 3 months after the election at which the recall was submitted to the voters.

(8) Appointment of Person Recalled - No person who has been recalled from an office, or who has resigned from office while recall proceedings were pending against them, shall be appointed to any town office within 2 years after such recall or such resignation.

SECTION 3-2 BOARD OF SELECTMEN

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

(b) *Powers and Duties in General* - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office of the town. The board of selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise.

The board of selectmen shall serve as the chief policy-making agency of the town. The board of selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with elected multiple member bodies, to develop and promulgate policy guidelines designed to coordinate the operation of all town agencies; provided, however, that nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of such members, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines that are to be implemented by officers and employees serving under it.

(c) *Licensing Authority* - The board of selectmen shall be a licensing board for the town and shall have the power to issue licenses as otherwise authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses, to attach conditions and impose restrictions on any such license it may issue as it deems to be in the public interest and to enforce all laws relating to all businesses for which it issues any license.

(d) *Appointments* - The board of selectmen shall appoint a town accountant, constables, the town counsel, the members of the board of appeals, the conservation commission, the historical commission, the personnel board, the registrars of voters and other election officers, the members of the council on aging as provided by by-law, a director of said council, and the members of other multiple member bodies the functions of which do not involve direct operating responsibilities, but, which are, primarily, policymaking or advisory in nature. Unless some other provision is expressly made by law, the board of selectmen shall also appoint other individuals who are to serve as representatives of the town to the governing or advisory bodies of area, regional or district authorities.

The appointment of a police chief, fire chief, director of the department of public works, building inspector, inspector of wires or plumbing inspector by the town manager shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority vote of all its members, reject such appointment, or has sooner voted to affirm it.

(e) *Investigations* - The board of selectmen may make investigations and may authorize the town manager to investigate the affairs of the town and the conduct of any town

agency including any doubtful claims against the town. The report of the results of such investigation shall be placed on file in the office of the board of selectmen and a report summarizing the results of such investigation shall be printed in the next annual town report.

SECTION 3-3 SCHOOL COMMITTEE

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

(b) *Powers and Duties* - The school committee shall have all powers which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by-law or otherwise and consistent with said grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

(1) to elect a superintendent of the schools who shall be charged with the day-to-day administration of the school system, subject only to policy guidelines and directives adopted by the school committee;

(2) to make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as the committee deems necessary or desirable; and

(3) to adopt and administer an annual operating budget for the school department, subject to appropriation by the town meeting.

The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds; provided, however, that the town meeting may, by by-law, provide for the establishment of a central municipal maintenance department which may include maintenance of school buildings and grounds. Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, board or committee to which the planning or construction of such new, remodeled or renovated school building is delegated.

SECTION 3-4 BOARD OF ASSESSORS

(a) *Composition, Term of Office* - There shall be a board of assessors consisting of 3 members elected for terms of 3 years each, so arranged that the term of office of 1 member shall expire each year.

(b) *Powers and Duties* - The board of assessors shall annually make a fair cash valuation of all the estate, real and personal, subject to taxation within the town. It shall annually determine the rate of taxation to apply against property in the town based on such valuations and such sums as may be authorized to be expended by town meeting and consideration of other income and expenses of the town. The board of assessors shall have such other powers and duties which are given to boards of assessors by general law, this charter, town by-law or other vote of the town meeting.

(c) *Appointments* - The appointment of a principal assessor by the town manager shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of assessors, unless the board of assessors shall, within that period, by a majority vote of all its members, reject such appointment, or has sooner voted to affirm it.

SECTION 3-5 CEMETERY COMMISSION

(a) *Composition, Term of Office* - There shall be a board of cemetery commissioners consisting of 3 members elected for terms of 3 years each, so arranged that the term of office of 1 member shall expire each year.

(b) *Powers and Duties* - The board of cemetery commissioners shall have the responsibility to make regulations governing the care, superintendence and management of all public burial grounds in Lunenburg and to lay out existing public burial grounds and may lot out in lots or other suitable subdivision with proper paths, lanes and ways appropriate for burial use any other land acquired by the town for burial purposes. The day-to-day care and maintenance of the cemeteries shall be under the supervision of the town manager.

SECTION 3-6 BOARD OF HEALTH

(a) *Composition, Term of Office* - There shall be a board of health consisting 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) *Powers and Duties* - The board of health shall be responsible for the formulation and enforcement of local rules and regulations affecting the environment and the public health and for the enforcement within the town of all state statutes and the provisions of the code of Massachusetts regulations affecting the public health. The board of health shall have all of the other powers, duties and responsibilities given to boards of health by general laws.

SECTION 3-7 BOARD OF LIBRARY TRUSTEES

(a) *Composition, Term of Office* - There shall be a board of trustees of the public library consisting of 7 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) *Powers and Duties* - The board of trustees of the public library shall have the custody and management of the library and reading rooms and of all property of the town devoted to library purposes. All funds raised or appropriated by the town for the support and maintenance of the library shall be expended under the direction of said board. All funds which the town may receive by gift, bequest or otherwise for library purposes shall be administered under the direction of said board in accordance with the terms of such gift, bequest or otherwise.

The board of trustees of the public library shall, subject to appropriation, have the following specific powers and duties:

(1) To appoint a director of library services who shall be charged with the day-to-day administration of the library system, subject to policy directives established by the trustees;

(2) To appoint all other officers and employees connected with the library system and within the limits established by collective bargaining agreements, the town personnel by-laws

or otherwise, to fix their salaries, define their duties, make rules concerning their tenure of office and to discharge them; and

(3) To make all reasonable rules and regulations for the operation and management of the library system and for the conduct of its own business and affairs as may be deemed necessary.

The board of trustees of the public library shall, in all matters of general municipal policy and procedure, be subject to policy directives designed to achieve uniformity and better administrative control as may from time to time be established by the town manager. Responsibility for the ordinary maintenance of library buildings and property may be transferred to a central municipal maintenance department by town meeting vote.

The board of trustees of the public library shall have all of the other powers and duties which are given to library trustees by general law, this charter, by-law or other vote of the town meeting.

SECTION 3-8 TOWN MODERATOR

(a) *Term of Office* - At each town election at which the term of office expires, or when a vacancy exists, a town moderator shall be elected for a term of 3 years.

(b) *Powers and Duties* - The town moderator shall be the presiding officer of the town meeting, shall regulate its proceedings, decide all questions of order and shall have such other powers and duties as may be provided for that office by general law, this charter, by-law and other vote of the town meeting.

(c) *Vacancy* - In the event of a vacancy in the office of town moderator, the deputy moderator, as designated in section 2-2, shall perform the powers and duties of the town moderator until the election of a successor.

SECTION 3-9 BOARD OF PARK COMMISSIONERS

(a) *Composition, Term of Office* - There shall be a board of park commissioners consisting of 3 members who shall be elected for terms of 3 years each, so arranged that the term of 1 member shall expire each year.

(b) *Powers and Duties* - The board of park commissioners may lay out and improve public parks, make rules for their use and government, appoint all necessary engineers, surveyors, clerks and other officers, including a police force to act in such parks. The board of park commissioners may define the powers and duties of that police force, fix the compensation of its members and do all acts necessary for the proper execution of its powers and duties. Subject to appropriation, the park commissioners may conduct park programs and recreation activities at locations other than the public parks. The day-to-day care and maintenance of the public parks shall be under the supervision of the town manager.

SECTION 3-10 PLANNING BOARD

(a) *Composition, Term of Office* - There shall be a planning board consisting of 5 members who shall be elected for terms of 5 years each, so arranged that the term of 1 member shall expire each year.

(b) *Powers and Duties* - The planning board shall make careful studies of the resources, possibilities and needs of the town and shall make plans for the development of

the town. The board shall make a comprehensive or master plan, setting forth in graphic and textual form policies to govern the future growth and development of the entire town. The board shall have the power to regulate the subdivision of land within the town by the adoption of rules and regulations governing such development and the administration of such rules and regulations. The planning board shall make recommendations to the town meeting on all matters affecting land use and development, including the zoning by-laws of the town.

(c) *Appointments* - The appointment of the planning director by the town manager shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the planning board, unless the planning board shall, within that period, by a majority vote of all of its members, reject such appointment, or has sooner voted to affirm it.

The planning board shall make an annual report giving information regarding the condition of the town and any plans or proposals for its development and estimates of their costs. The planning board shall have all of the other powers and duties planning boards are given by general law, this charter, by-law or other vote of the town meeting.

SECTION 3-11 BOARD OF COMMISSIONERS OF TRUST FUNDS

(a) *Composition, Term of Office* - There shall be a board of commissioners of trust funds consisting of 3 members who shall be elected for terms of 3 years each, so arranged that the term of 1 member shall expire each year. (b) *Powers and Duties* - The board of commissioners of trust funds shall have the management of all trust funds given or bequeathed for the benefit of the town or the inhabitants thereof, unless the donor, in making the gift or bequest, shall make some other provision for the management of the fund.

The board of commissioners of trust funds shall, consistent with the terms of the trusts, manage and control said trusts, and distribute the income in accordance with the terms of the respective trusts. The board of commissioners of trust funds shall keep a record of its doings and, at the close of each financial year, make a written report to town meeting showing the total amount of the funds, their investments, receipts and disbursements.

SECTION 3-12 TOWN CLERK

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

(b) *Powers and Duties* - The town clerk shall be the keeper of vital statistics for the town; shall be the custodian of the town seal; shall administer the oath of office to all persons, elected or appointed to any town office; shall issue such licenses and permits as are required by law to be issued by town clerks; shall supervise and manage the conduct of all elections and all other matters relating to elections; shall be the clerk of the town meeting, keep its records and, in the absence of the town moderator or deputy town moderator, preside over town meeting pending the election of a temporary town moderator. The town clerk shall have such other powers and duties as are given to town clerks by general law, this charter, by-law or other vote of the town meeting.

SECTION 3-13 LUNENBURG HOUSING AUTHORITY

(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 in the manner provided by general law. All of the members shall serve for 5-year terms, so arranged that the term of office of 1 member shall expire each year.

(b) *Powers and Duties* - The housing authority shall make studies of the housing needs of the community and shall provide programs to make available housing for families of low income and for elderly persons of low income. The housing authority shall have such other powers and duties as are given to housing authorities by general laws.

SECTION 3-14 BOARD OF SEWER COMMISSIONERS

(a) *Composition, Term of Office* - There shall be a board of sewer commissioners consisting of 5 members who shall be elected to terms of 3 years each, so arranged that the terms of as nearly an equal number of members as possible shall expire each year.

(b) *Powers and Duties* - The board of sewer commissioners shall make careful studies of the resources, possibilities and needs of the town as they relate to the availability of sanitary sewers and shall make plans for the installation of a system of sanitary sewers and for the maintenance of a sanitary sewer system. The board of sewer commissioners shall develop a comprehensive or master plan for a town-wide system of sanitary sewers, setting forth, in graphic and textual form, policies to govern the future growth and development of the entire town. The board of sewer commissioners shall, in conjunction with other land use bodies, assist in developing a long-range strategic plan for guiding town growth and development. The powers and authority of the board of sewer commissioners shall include oversight of the sewer enterprise fund, setting rates and charges for the use of the sanitary sewer system, ratification responsibility for the sewer business manager and providing advice to the board of selectmen relating to intergovernmental agreements concerning sanitary sewers. The day-to-day operation, care and maintenance of the sanitary sewers shall be under the supervision of the town manager.

(c) *Appointments* - The appointment of a sewer business manager by the town manager shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of sewer commissioners, unless the board of sewer commissioners shall, within that period and by a majority vote of all of its members, reject such appointment or has sooner voted to affirm it.

ARTICLE 4 TOWN MANAGER

SECTION 4-1 APPOINTMENT; QUALIFICATION; TERM

There shall be a town manager who shall be responsible for the coordination and direction of all administrative and financial affairs of the town.

The town manager shall be appointed by the board of selectmen from a list submitted to it by a town manager screening committee which shall consist of 1 member of the board of selectmen, designated by it, 1 member of the school committee, designated by it, 1 member of the planning board, designated by it, 1 member of the finance committee designated by it and the town moderator, who shall serve as the chair and call all meetings

of the town manager screening committee. Whenever the position of town manager shall be vacant, the town manager screening committee shall be convened and shall solicit candidates, review applications, interview and rate candidates and submit a list of qualified candidates to the board of selectmen who shall appoint a town manager only from the list so prepared and submitted to it.

The town manager shall be a person especially fitted by education, training and previous experience in public administration and finance to perform the duties of the office. The board of selectmen shall appoint the town manager to serve for an indefinite term and shall fix the compensation for such person, annually, within the amount appropriated by the town. The town manager shall be appointed solely on the basis of demonstrated executive and administrative qualifications with special emphasis on financial matters. The board of selectmen may enter into a contract of employment with the town manager over wages, hours, benefits and other conditions of employment but no such contract shall be deemed to prevent the removal of the town manager by a majority vote of the full board of selectmen.

The town manager need not be a resident of the town or of the commonwealth. The town manager shall not have served in an elective or appointive office in the town government for at least 12 months prior to appointment. The town may, from time to time, establish by by-law, such additional qualifications as seem necessary and appropriate.

The town manager shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business, occupation or profession during such service, unless such action is approved in advance and in writing by the board of selectmen.

The board of selectmen shall provide for an annual review of the job performance of the town manager, which shall, at least in summary form, be a public record. Any vacancy in the office of the town manager shall be filled as soon as possible by the town manager screening committee and the board of selectmen. The board of selectmen shall appoint a qualified town administrative officer or employee as a temporary town manager to perform the duties of the office until a new town manager is appointed. Such temporary appointment may not exceed 3 months but 1 additional renewal may be voted by the board of selectmen not to exceed a second 3 months. Compensation for a temporary town manager shall be set by the board of selectmen.

SECTION 4-2 POWERS AND DUTIES

The town manager shall be the chief financial officer for all town agencies. The town manager shall be the chief administrative officer of the town, directly responsible to the board of selectmen for the administration of all town affairs for which the office of town manager is given responsibility by or under this charter. The powers and duties of the town manager shall include, but are not intended to be limited to, the following:

(a) to supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town manager is given authority, responsibility or control by this charter, by-law, by town meeting vote, vote of the board of selectmen, vote of the school committee, or otherwise;

(b) to structure, supervise, direct and be responsible for the efficient coordination of all of the fiscal and financial business of the town, including the school department, subject to the advice of the school committee and the board of selectmen;

(c) to recommend to the board of selectmen candidates to be appointed by the board of selectmen to the offices of the town treasurer and town collector, who may be the same individual; to appoint candidates to be ratified by the board of selectmen to the offices of police chief, fire chief, director of the department of public works, building inspector, inspector of wires and the plumbing inspector; to appoint candidates to be ratified by the board of assessors to the office of professional assessor; to appoint candidates to be ratified by the planning board to the office of planning director; and to appoint candidates to be ratified by the board of sewer commissioners to the office of sewer business manager; provided, however, that the provisions of this section shall apply to the appointment of any person under any other title who will perform, as the result of any reorganization of the administrative structure of the town, substantially similar duties as the officers named in this section;

(d) to appoint, and in appropriate circumstances to remove, subject to the provisions of the civil service law and any collective bargaining agreements as may be applicable, all department heads, officers, members of boards and commissions and employees for whom no other method of selection is provided by this charter; provided, that such appointments shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period by a majority of all of its members, vote to reject such appointment, or has sooner voted to affirm it; and provided, further, that copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the board of selectmen;

(e) to be, in conjunction with a personnel board established by by-law, entrusted with the administration of a town personnel system, including, but not limited to personnel policies and practices, rules and regulations, including provisions for an annual employee performance review, personnel by-law and collective bargaining agreements entered into by the town; and to prepare and keep current a plan establishing the personnel staffing requirements for each town agency, unless some other provision is made by law;

(f) to attend all regular and special meetings of the board of selectmen, unless unavailable for reasonable cause, and shall have a voice, but no vote, in all of its proceedings;

(g) to assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the board of selectmen, but not less than once in each year, a full report of all town administrative and financial operations during the period reported on, which report shall be made available to the public; and, at the first session of the annual town meeting, to give an oral report summarizing the financial condition of the town and recommending strategies to be followed during said meeting to enhance the fiscal condition of the town;

(h) to keep the board of selectmen fully advised as to the needs of the town and shall recommend to the board of selectmen and to other elected town officers and agencies for adoption such measures requiring action by them or by the town meeting as the town manager may deem necessary or expedient;

(i) to have full jurisdiction over the rental and use of all town facilities and property except property under the control of the school committee, the library trustees and the conservation commission; and shall be responsible for the maintenance and repair of all town buildings and facilities placed under his control by this charter, by-law, vote of the town or otherwise;

(j) to prepare and present, in the manner provided in article 6, an annual operating budget for the town and a proposed capital outlay program for the 5 fiscal years next ensuing;

(k) to assure that a full and complete inventory of all property of the town, both real and personal, is kept, including all property under the jurisdiction of the school committee;

(l) to negotiate all contracts involving any subject within the jurisdiction of the office of town manager, including contracts with town employees, except employees of the school department, involving wages, hours and other terms and conditions of employment;

(m) to be the chief procurement officer of the town, responsible for procuring all services, supplies, material and equipment for all departments and activities of the town in the manner provided in chapter 30B of the General Laws and shall have all the powers given to purchasing agents by section 103 of chapter 41 of the General Laws; and shall examine, or cause to be examined, the quantity, quality and condition of all supplies, material and equipment delivered to or received by any town agency; and shall be responsible for the disposal of all supplies, material and equipment declared surplus by any town agency;

(n) to see that all of the provisions of the General Laws, this charter, the town by-laws and other votes of the town meeting which require enforcement by the town manager, or officers subject to the direction and supervision of the town manager, are faithfully executed, performed or otherwise carried out;

(o) to inquire, at any time, into the conduct of office or performance of duties of any officer or employee, department, board, commission or other town agency;

(p) to attend all sessions of all town meetings and answer all questions raised by voters which relate to warrant articles and to matters over which the town manager exercises any supervision;

(q) to reorganize, consolidate or abolish, in the manner provided in article 5, town agencies serving under the supervision of the town manager, in whole or in part, provide for new town agencies and provide for a reassignment of powers, duties and responsibilities among such agencies so established or existing;

(r) to coordinate the activities of all town agencies serving under the office of town manager and the office of board of selectmen with those under the control of other officers and multiple member bodies elected directly by the voters; provided, however, that for this purpose, the town manager shall have authority to require the persons so elected, or their representatives, to meet with the town manager, at reasonable times, for the purpose of effecting

coordination and cooperation among all agencies of the town;

(s) to prepare and maintain long-term financial forecasts, including revenue expectations, future implications of operating budget program decisions and capital budget programs related to infrastructure maintenance, improvement and expansion; and

(t) to perform any other duties as are required to be performed by the town manager by town by-laws, the votes of the town meeting, or the votes of the board of selectmen.

SECTION 4-3 DELEGATION OF AUTHORITY

The town manager may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of town manager; provided, however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the town manager.

SECTION 4-4 ACTING TOWN MANAGER

(a) *Temporary Absence* - By letter filed with the town clerk, the town manager shall designate a qualified town administrative officer or employee to exercise the powers and perform the duties of town manager during a temporary absence. During a temporary absence, the board of selectmen may not revoke such designation until at least 10 working days have elapsed, whereupon the board of selectmen may appoint another qualified town administrative officer or employee to serve until the town manager shall return.

(b) *Unplanned Temporary Absence* - In the event of an emergency absence, the board of selectmen may appoint a qualified town administrative officer or employee to serve until the town manager shall return or the office is declared vacant.

(c) *Vacancy* - Any vacancy in the office of town manager shall be filled as soon as possible by the board of selectmen, but, pending such regular appointment, the board of selectmen shall appoint a qualified town administrative officer or employee to perform the duties of the office on an acting basis.

SECTION 4-5 REMOVAL AND SUSPENSION

The board of selectmen may, by a majority vote of the full board of selectmen, terminate and remove, or suspend, the town manager from office in accordance with the following procedure under this section.

(a) The board of selectmen shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members which must state the reason or 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 forthwith to the town manager.

(b) Within 5 days after receipt of the preliminary resolution the town manager may request a public hearing by filing a written request for such hearing with the town moderator filed with the town clerk. This hearing shall be held at a meeting of the appointing authority called by the town moderator not later than 30 days nor earlier than 20 days after the request is filed. The town manager may file a written statement responding to the reasons for removal stated in the resolution of removal provided the same is received by the town moderator at least 48 weekday hours in advance of the public hearing.

(c) The board of selectmen may adopt a final resolution of removal, which may be made effective immediately, by 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 the town manager has not requested a public hearing, or, any time after the public hearing if the town manager has requested one. The town manager shall continue to receive a 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, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal solely in the board of selectmen.

ARTICLE 5 ADMINISTRATIVE ORGANIZATION

SECTION 5-1 ORGANIZATION OF TOWN AGENCIES

The town manager and the town meeting shall from time to time provide for the grouping of town agencies into convenient units for the delivery of municipal services. The organization of the town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this article.

(a) *By-Laws* - Subject only to express prohibitions in a general law or the provisions of this charter, the town meeting may, by by-law, reorganize, consolidate, create, merge, divide or abolish any town agency, in whole or in part; establish such new town agencies as it deems necessary or advisable; determine the manner of selection, the term of office and prescribe the functions of all such agencies; provided, however, that no function assigned by this charter to a particular town agency may be discontinued, or unless this charter specifically so provides, assigned to any other town agency.

(b) *Administrative Plan* - The town manager may from time to time, after consultation with the board of selectmen, prepare and submit to the town meeting plans of organization or reorganization which establish operating divisions for the orderly, efficient or convenient conduct of the business of the town.

Whenever the town manager proposes such a plan, the board of selectmen shall hold 1 or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the hearing will be held, not less than 7 nor more than 14 days following said publication.

An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the town meeting unless the town meeting shall, by a majority vote, within such period, vote to disapprove the plan. The town meeting may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

The town manager, through the administrative plan, and subject only to express prohibitions in a general law or this charter, may reorganize, consolidate or abolish any town agency, in whole or in part; establish such new town agencies as are deemed necessary and

to the same extent as provided in section 5-1(a) for by-laws; and for such purpose may transfer the duties and powers and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriation of one town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless specifically authorized by this charter.

Every reorganization plan submitted by the town manager pursuant to this section shall contain a proposed by-law which contains, in detail, such amendments, revisions, repeals or otherwise of existing ordinances as may be necessary to accomplish the desired reorganization. Such reorganization plan and proposed ordinance shall be accompanied by a message from town manager which explains the benefits expected to ensue.

SECTION 5-2 MERIT PRINCIPLE

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

SECTION 5-3 DEPARTMENT OF FINANCE AND FINANCIAL SERVICES

(a) *Establishment* - There shall be a department of finance and financial services headed by a director of municipal finance who may be the town manager established by article 4, which shall be responsible for the management of the fiscal and financial affairs of the town and for the supervision and coordination of all activities of all town agencies in relation to any fiscal or financial matter. If the director of municipal finance is not the town manager, the appointment of a director of municipal finance by the town manager shall become effective on the fifteenth day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period, by a majority of all of its members vote to reject such appointment or has sooner voted to affirm it.

(b) *Scope of Department Activities* - The department of finance shall be responsible for and shall include the following functions:

- (1) coordination of all financial services and activities of the town;
- (2) maintenance of all accounting records and other financial statements for all offices and agencies of the town;
- (3) payment of all financial obligations on behalf of the town;
- (4) receipt of all funds due to the town from any source;
- (5) maintenance of all property valuation records and systems;
- (6) rendering advice, assistance and guidance to all town offices and agencies in any matter relating to financial or fiscal affairs;
- (7) monitoring throughout the fiscal year of the expenditure of funds by town offices and agencies, including the periodic reporting on the status of all accounts with recommendations concerning fiscal and financial policies to be implemented by such offices and agencies; and

(8) coordination of all financial transactions associated with the procurement of all goods, supplies and materials by town offices and agencies with the central procurement procedures established pursuant to chapter 30B of the General Laws.

(c) Director of Finance and Financial Services

The department of financial services shall be headed by the director of municipal finance who shall serve as the chief financial officer.

The treasurer and collector shall have such powers and duties as may be vested in those offices expressly by general or special law, but shall otherwise report to and be under the direction and supervision of the director of municipal finance.

The powers and duties of the director of municipal finance shall include the following:

(1) coordination, administration, and supervision of all financial services and activities;

(2) assistance in all matters related to municipal financial affairs;

(3) implementation and maintenance of uniform systems, controls and procedures for all financial activities in all departments, including the school department, and including, but not limited to, maintenance of all financial and accounting data and records;

(4) implementation and maintenance of uniform budget guidelines and procedures;

(5) assistance in development and preparation of all department budgets and spending plans;

(6) review of all contracts and obligations; monitoring of the expenditure of all funds, including periodic reporting to appropriate agencies of the status of accounts; establishment of a spending plan for each department; and the allotment of funds on a periodic basis.

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the chief financial officer to promote, secure and preserve the financial interests of the town.

The chief financial officer shall from time to time promulgate rules and regulations governing any subject within the jurisdiction of the department of finance as are necessary to implement the provisions of this section.

(d) Operating Divisions - The department of finance and financial services shall consist of the following divisions:

(1) Division of Collections

The division of collections, headed by a town collector, shall collect all accounts due to the town from any source.

(2) Division of Treasury Management

The division of treasury management, headed by a town treasurer, shall receive and take charge of all money belonging to the town.

(3) Division of Accounting

The division of accounting, headed by a town accountant appointed by the board of selectmen, shall be responsible for the following:

(a) the maintenance of accounts for all financial transactions of the town;

- (b) the pre-audit of all purchase orders, receipts and disbursements;
 - (c) the preparation of payrolls;
 - (d) the preparation of warrants for the payment of all bills of the town;
 - (e) the preparation of periodic reports on the status of departmental receipts and expenditures; and
 - (f) the maintenance of central grant and contract files.
- (4) *Division of Assessing*

The assessing division shall be under the charge of a board of assessors elected by the voters as provided in article 3. The division of assessing shall be responsible for the following:

- (a) establishing the valuation of all real and personal property;
- (b) maintaining records substantiating all assessments made;
- (c) preparing and issuing commitments for the collection of property taxes and motor vehicle excise taxes by the office of collections; and
- (d) acting on abatement and exemption applications filed with it and representing the town before the appellate tax board.

(5) *Division of Procurement*

The division of procurement shall be responsible for purchasing all supplies, material and equipment for all offices and agencies of the town to the extent provided in section 103 of chapter 41 of the General Laws, and for the purposes of chapter 30B of the General Laws, the town purchasing agent shall be the chief procurement officer of the town.

SECTION 5-4 DEPARTMENT OF FIRE AND EMERGENCY SERVICES

There shall be a department of fire and emergency services which shall be headed by a fire chief, who shall have full and absolute authority in the administration of the department and who shall make all rules and regulations for its operation. The fire chief shall be responsive to the town manager in coordinating the operation of the fire and emergency services department with the operation of all other town agencies. The fire chief appointed under this section shall have the powers and duties of a fire chief appointed pursuant to section 42 of chapter 48 of the General Laws.

ARTICLE 6
FINANCES AND FISCAL PROCEDURES

SECTION 6-1 FISCAL YEAR

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

SECTION 6-2 SCHOOL COMMITTEE BUDGET

(a) *Public Hearing* - At least 7 days before the meeting at which the school committee votes on its final budget request, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget and the reasons for such

changes. It shall further indicate the times and places at which complete copies of its proposed budget will be available for examination by the public, and the date, time and place when a public hearing will be held by the school committee on the proposed budget. The school committee shall take its final vote on its proposed budget not sooner than at its next regularly scheduled meeting following the public hearing.

(b) *Submission to Town Manager* - The budget as adopted by the school committee shall be submitted to the town manager in sufficient time to enable the town manager to consider the effect of the school department's requested appropriation upon the total town operating budget which is required to be submitted under this article.

SECTION 6-3 SUBMISSION OF BUDGET AND BUDGET MESSAGE

Within the time fixed by by-law before the annual town meeting is to convene, the town manager shall submit to the finance committee a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The town manager shall simultaneously provide for the publication in a local newspaper of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the current operating budget and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget will be available for examination by the public.

SECTION 6-4 BUDGET MESSAGE

The budget message of the town manager shall include specifically, projection of the fiscal and financial needs of the town for at least the next 5 fiscal years, or such longer period as may be deemed appropriate, both as to income and expenses, as well as any substantial financial expenditures contemplated by any department, committee or board during such period, including budget programs related to infrastructure maintenance, improvement and expansion. The message shall also include a forecast of any fiscal trends which the town manager believes are likely to have an affect on the town's revenues or expenses.

The budget message of the town manager shall explain the budget for all town agencies both in fiscal terms and in terms of work programs. It shall outline proposed financial policies of the town for the ensuing fiscal year, describe important features of the budget, indicate any major variations from the current year in financial policies, expenditures and revenues together with the reasons for such changes, summarize the town's debt position and include other material as the town manager deems desirable, or the selectmen may reasonably require.

SECTION 6-5 THE BUDGET

The proposed operating budget shall provide a complete financial plan for all town funds and activities for the ensuing fiscal year. Except as may otherwise be required by general law, or this charter, the budget shall be in the form which the town manager deems desirable or the board of selectmen may require. In the presentation of the budget, the town manager shall utilize modern concepts of fiscal presentation so as to furnish maximum information and the best financial control. The proposed budget shall show in detail all estimated income from the proposed property tax levy and other sources and all proposed expenditures,

including debt service, for the following year. The proposed budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate in separate sections:

(a) proposed expenditures for current operations during the ensuing fiscal year, detailed by town agency and position in terms of work programs, and the method of financing such expenditures;

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

(c) estimated surplus revenue and free cash at the end of the current fiscal year, including estimated balances in any special accounts established for specific purposes.

SECTION 6-6 ACTION ON THE BUDGET

(a) *Public Hearing* - Upon receipt of the proposed operating budget, the finance committee shall, forthwith, provide for the publication in a local newspaper of a notice stating the time and place, not less than 7 nor more than 14 days following such publication, at which it will hold a public hearing on the proposed operating budget as submitted.

(b) *Review* - The finance committee shall consider, in open public meetings, the detailed expenditures proposed for each town agency and may confer with representatives of each such agency in connection with its review and consideration. The finance committee may require the town manager, or any other town agency, to furnish it with such additional information as it may deem necessary to assist it in its review and consideration of the proposed operating budget.

(c) *Action by Town Meeting* - The finance committee shall file a report containing its recommendations for actions on the proposed operating budget, which report shall be available at least 7 days before the date on which the town meeting acts on the proposed budget. Copies of the report of the finance committee shall be available for distribution to any person requesting the same at the office of the town clerk, the office of the board of selectmen, the offices of the school administration and at the public library of the town of Lunenburg. When the budget proposed by the town manager is before the town meeting for action, it shall first be subject to amendments, if any, proposed by the finance committee before any other amendments shall be proposed.

SECTION 6-7 CAPITAL IMPROVEMENTS PROGRAM

The town manager shall submit a capital improvement program to the board of selectmen and the finance committee at least 150 days before the start of each fiscal year. It shall be based on material prepared by the capital planning committee established by by-law, including:

(a) a clear and concise general summary of its contents;

(b) a list of all capital improvements proposed to be undertaken during the ensuing 5 years, with supporting information as to the needs of each capital improvement;

(c) cost estimates, methods of financing and recommended time schedules for each improvement; and

(d) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by the town manager with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

ARTICLE 7 GENERAL PROVISIONS

SECTION 7-1 ELECTIONS

The articles in the warrant for any town meeting insofar as they relate to the election of town officers, or to the determination by the voters of any question to be submitted for such decision by written ballots, shall be acted upon and determined by the voters in their respective precincts. The regular town election shall be taken on official ballots without party or political designation of any kind on the date fixed by by-law. The order in which names of candidates appear on the official ballot at any town election shall be determined by a drawing by lot conducted by the town clerk. Each candidate shall be given the opportunity to be present, in person, or to be represented by a designee at the drawing. Each candidate for re-election shall have printed on the official ballot, in addition to such candidates name and address, the words "candidate for re-election".

SECTION 7-2 CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with any procedures made available under the state constitution and any statutes enacted to implement said constitutional provisions.

SECTION 7-3 SEVERABILITY

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

SECTION 7-4 SPECIFIC PROVISIONS TO PREVAIL

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

SECTION 7-5 NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the feminine gender shall include the masculine gender; words importing the masculine gender shall include the feminine gender.

SECTION 7-6 RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk before any such rule or regulation shall become effective, and copies shall be made available for review by any person who requests such information. No rule or regulation adopted by any town agency shall become effective until 10 days following the

date it has been so filed in the office of the town clerk. Attested copies shall also be kept available in the public library of the town of Lunenburg.

SECTION 7-7 PERIODIC REVIEW, CHARTER AND BY-LAWS

(a) *Charter Review* - At least once in every 10 years a special committee to consist of 9 members shall be established for the purpose of reviewing this charter and to make a report, with recommendations, to the town meeting concerning any proposed amendments which said committee may determine to be necessary or desirable. The committee shall consist of 9 members who shall be chosen as follows: the board of selectmen, the finance committee and the school committee shall each designate 2 persons, the planning board shall designate 1 person, and 2 persons shall be appointed by the town moderator. Persons appointed by the agencies may, but need not, be members of the agency by which they are designated. The committee shall meet to organize forthwith following the final adjournment of the annual town meeting.

(b) *By-Law Review* - The board of selectmen shall at 5 year intervals, in each year ending in 5, or in 0, cause to be prepared by a special committee appointed for that purpose, a proposed revision or recodification of all by-laws of the town which shall be presented to the town meeting for reenactment at the annual town meeting in the year following the year in which the committee is appointed. The by-law review committee shall consist of the town clerk who shall serve by virtue of office, 2 persons appointed by the town moderator and 2 persons appointed by the board of selectmen. The committee in its final, or in an interim report, shall include recommendations for such substantive change in town by-laws as it deems necessary or advisable. The review of town by-laws shall be in conjunction with the town counsel, or by special counsel retained for that purpose. Subsequent to enactment by the town meeting, copies of the revised by-laws shall be forwarded to the attorney general of the commonwealth for approval, and they shall be otherwise published, all as required by General Laws. Copies of the revised by-laws shall be made available for distribution to the public at a charge not to exceed the actual cost, per copy, of reproduction.

SECTION 7-8 PROCEDURES GOVERNING MULTIPLE MEMBER BODIES

(a) *Meetings* - All multiple member bodies shall meet regularly at such times and places within the town as they may by their own rules prescribe. Except in cases of emergency, special meetings of any multiple member body shall be held on the call of the respective chairperson or by one-third of the members thereof by suitable notice delivered to the residence or place of business of each member at least 48 hours in advance of the time set. A copy of the notice shall also be posted on the town bulletin board in the manner provided by law. Special meetings of any multiple member body shall also be called within 1 week after the date of the filing with the town clerk of a petition signed by at least 50 voters and which states the purpose or purposes for which the meeting is to be called. Except as authorized by law, all meetings of all multiple member bodies shall be open and public. All meetings shall be held in places to which members of the public have a convenient right of access.

(b) *Agendas* - At least 24 hours before any meeting of a multiple member body is to be held, an agenda containing all items which are scheduled to come before the multiple member body at the meeting shall be posted on the town bulletin board. No action taken on a matter not included in the posted agenda shall be effective unless the multiple member body first adopts, by a separate vote, a resolution declaring that an emergency exists and that the particular matter must be acted upon at that meeting for the immediate preservation of the peace, health, safety or convenience of the town.

(c) *Rules and Journal* - Each multiple member body shall determine its own rules and order of business unless otherwise provided by this charter or by law and shall provide for keeping a journal of its proceedings. These rules and journals shall be public records, and certified copies shall be kept available in the office of the town clerk.

(d) *Voting* - Except on procedural matters all votes of all multiple member bodies shall be taken by a call of the roll and the vote of each member shall be recorded in the journal; provided, however, that if the vote is unanimous only that fact need be recorded.

(e) *Quorum* - A majority of the members of the multiple member body then in office shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the multiple member body. No other action of the multiple member body shall be valid or binding unless ratified by the affirmative vote of the majority of the full multiple member body.

(f) *Filling of Vacancies* - Whenever a vacancy shall occur in the membership of an appointed multiple member body, the remaining members shall forthwith give written notice of such vacancy to its appointing authority. If, at the expiration of 30 days following the delivery of such notice to the appointing authority, said officer or multiple member body has not appointed some person to fill the vacancy, the remaining members of the multiple member body shall fill such vacancy for the remainder of any unexpired term by majority vote of the remaining members.

(g) *Composition of Multiple Member Bodies* - All multiple member bodies when established shall be composed of an odd number of members. Whenever the terms of office of a multiple member body are for more than 1 year such terms of office shall be so arranged that as nearly an equal number of terms as is possible will expire each year.

SECTION 7-9 REMOVALS AND SUSPENSIONS

Any appointed town officer, member of a multiple member body or employee of the town, not subject to the provisions of the state civil service law, or covered by the terms of a collective bargaining agreement which provides a different method, and whether appointed for a fixed or an indefinite term, may, for good cause, be suspended or removed from office, without compensation, by the officer or multiple member body which appoints such officers, members of multiple member bodies, or employees. The term cause shall include, but not be limited to the following: incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office. Any appointed officer, member of a multiple member body or employee of the town may be suspended from office by the officer

or multiple member body which appoints such officers, members of multiple member bodies, or employees, if such action is deemed by said appointing authority to be necessary to protect the interests of the town; provided, however, that no suspension shall be for more than 15 days. Suspension may be conterminous with removal and shall not interfere with the rights of the officer or employee under the removal procedure given below. The appointing authority when removing any such officer, member of a multiple member body or employee of the town shall act in accordance with the following procedure:

(a) A written notice of the intent to remove and a statement of the cause or causes therefor shall be delivered in hand, or by certified mail, return receipt requested, to the last known address of the person sought to be removed.

(b) Within 5 days following delivery of such notice the officer, member of a multiple member body or employee of the town may request a public hearing at which such person may be represented by counsel, shall be entitled to present evidence, call witnesses and to question any witness appearing at the hearing.

(c) Between 1 and 10 days after the public hearing is adjourned, or if the officer, member of a multiple member body or employee of the town fails to request a public hearing between 6 and 15 days after delivery of the notice of intent to remove, the appointing authority shall take final action, either removing the officer, member of a multiple member body or employee of the town or notifying such person that the notice is rescinded. Failure of the appointing authority to take any action within the time periods as stated in this section shall be deemed to be a rescission of the original notice and the officer, member of a multiple member body or employee shall, forthwith, be reinstated. Nothing in this section shall be construed as granting a right to such a hearing when a person who has been appointed for a fixed term is not reappointed when a fixed term expires.

SECTION 7-10 NOTICE OF VACANCIES

Whenever a vacancy occurs in any town office, position or employment, or whenever by reason of a pending retirement or expiration of a fixed term a vacancy can be anticipated, the appointing authority shall forthwith cause public notice of such vacancy to be posted on the town bulletin board for not less than 10 days. Such notice shall contain a description of the duties of the office, position or employment and a listing of the necessary or desirable qualifications to fill the office, position or employment. No permanent appointment to fill such office, position or employment shall be effective until 14 days following the date such notice was posted to permit reasonable consideration of all applicants. This section shall not apply to positions covered by the civil service law and rules or if in conflict with the provisions of any collective bargaining agreement.

ARTICLE 8 TRANSITIONAL PROVISIONS

SECTION 8-1 CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, votes, rules and regulations of or per-

taining to the town which are in force when the charter takes effect and which are not specifically or by implication repealed directly or indirectly hereby, shall continue in full force and effect until amended or rescinded by due course of law or until they expire by their own limitation.

SECTION 8-2 CONTINUATION OF GOVERNMENT

All town agencies shall continue to perform their duties until reappointed, reelected or until successors to their respective positions are duly appointed or elected, or their duties have been transferred and assumed by another town agency in accordance with the provisions of this charter.

SECTION 8-3 CONTINUATION OF ADMINISTRATIVE PERSONNEL

Any person holding a town office, or a position in the administrative service of the town, or any person holding full time employment under the town, shall retain such office, or position, or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, that no person in the permanent full-time service of the town shall forfeit their pay grade, or time in the service of the town as a result of the adoption of this charter. All such persons shall be retained in a capacity as similar to the capacity in which they were serving at the time this charter is adopted as is practicable and any reduction in the personnel needs of the town shall be accomplished through a policy of attrition, unless specific provision is otherwise made in this article.

SECTION 8-4 TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any office, department or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency shall be transferred forthwith to the office, department or agency to which such powers and duties are assigned.

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

Approved October 8, 2009.

Chapter 114. AN ACT ESTABLISHING A TOWN MANAGER IN THE TOWN OF HAMILTON.

Be it enacted, etc., as follows:

SECTION 1. There shall be a town manager in the town of Hamilton. Notwithstanding any general or special law or rule, regulation or by-law to the contrary, the town manager, reporting to and accountable to the board of selectmen, shall be the chief administrative and operating officer of the town of Hamilton and shall have the powers, duties and limitations described in this act. The town manager shall not set town policy but shall ensure appropriate coordination in the implementation of town policy, working with the board of selectmen and all elected and appointed officers, boards and commissions. The

town manager shall supervise and manage the day-to-day activities of all town departments and employees under the jurisdiction of the board of selectmen and shall coordinate their activities with those of all other departments and employees.

The town manager shall appoint and may remove all department heads and officers, subordinates and employees under the jurisdiction of the board of selectmen. Appointments and removals of department heads by the town manager shall be subject to confirmation by the board of selectmen. All other appointments shall be made in consultation with the respective department head, board, commission or committee.

The town manager shall be appointed by the board of selectmen on the basis of executive and administrative qualifications and experience. The town manager shall be a person especially suited by education, training and professional experience to perform the duties of the office. The position of town manager is a full-time commitment and the town manager shall not engage in any other business or occupation without the prior approval of the board of selectmen. The town manager shall be appointed for a term of up to 3 years, and shall be evaluated annually by the board of selectmen. The board of selectmen shall enter into an employment contract with the town manager.

The town manager shall be responsible and accountable to the board of selectmen, for the proper execution of the following powers and duties:

(a) with respect to general town administration, to implement all policies of the board of selectmen, to attend annual and special town meetings and respond to questions concerning all warrant articles, to implement and report progress on implementing actions taken by the town meeting, and to oversee preparation of all town reports including the annual report;

(b) with respect to the board of selectmen administration, to attend meetings of the board of selectmen and have the right to address all matters coming before the board, to prepare agendas and research, collect and disseminate information to enable the board of selectmen to make policy decisions, to inform the board of selectmen on implementation of policy decisions through regular reporting, and to inform the board of selectmen of important developments in the operation of town departments, fiscal affairs, personnel matters, procurement and town compliance with federal, state and local laws, rules and regulations;

(c) with respect to fiscal administration, to oversee administration and implementation of all town fiscal actions, to oversee all town actions in connection with municipal borrowing, to prepare and present detailed annual and interim operating and capital budgets to the board of selectmen, finance committee and town meeting, to provide regular, current analysis of performance relative to budget, to develop, present and implement a long-range capital plan, to approve and execute all warrants for the payment of town funds and to prepare and prosecute all grant applications;

(d) with respect to personnel administration, to serve as the town's personnel director, to administer the town's personnel policies, compensation plans, and employee benefit programs, to serve as the town's pension administrator, to serve as the town's coordinator for compliance with the Americans with Disabilities Act, to serve as the town's affirmative

action officer, to prepare and implement job descriptions for town department heads and employees, to review personnel performance at least annually and recommend salary and benefit adjustments, to negotiate all collective bargaining agreements on behalf of the town for which the town manager may seek the assistance of labor counsel as deemed necessary and which final agreement must be approved by the board of selectmen, and to establish compensation agreements for all town employees not subject to a collective bargaining agreement, which final agreement must be approved by the board of selectmen;

(e) with respect to procurement and construction, to serve as the town's chief procurement officer for the purchase and sale of equipment, materials, supplies and services of all town departments, to supervise and coordinate all town construction projects and activities including design, construction and construction management, to coordinate preparation of information for bidders and proposers and all design and construction documentation, to review bids, award contracts and manage all claims activity, to oversee and report on construction progress and contractual compliance, to review and act upon all bills and payment requests and to maintain all procurement and construction records;

(f) with respect to insurance, to contract for and administer the town's insurance policies and programs and to file, prosecute and settle all insurance claims;

(g) with respect to asset management, to manage and oversee maintenance of all town property, real and personal, to act upon all requests for rental and use of town property and to make recommendations regarding all requests for licenses and permits made to the board of selectmen;

(h) with respect to legal affairs, to coordinate with town counsel on all legal matters affecting town government, compliance, claims, litigation and administrative proceedings and to oversee prosecution, defense and settlement of all claims and actions;

(i) with respect to computers and information technology, to oversee and coordinate computer operations of town departments to ensure efficiency, economy and currency, to serve as procurement officer for purchase of hardware and software and maintenance and repair services, to oversee training of personnel, and to implement and oversee maintenance of the town website; and

(j) with respect to general duties, to serve as the town's liaison with residents, the media and the general public, to cultivate and maintain effective relations with the citizens of the town and to maintain cordial and effective relationships with governmental officials at all levels including those of neighboring towns.

The town manager shall designate by letter filed with the board of selectmen a qualified administrative employee or officer to exercise the powers and perform the duties of town manager during a temporary absence in the office of town manager. If the town manager fails to do so, or if the person so designated fails to serve to the satisfaction of the board of selectmen, the board may appoint a qualified employee or officer to serve. In the event of suspension of the town manager, the board of selectmen shall appoint an acting town manager.

SECTION 2. This act shall take effect upon its passage and implementation of the changes shall begin immediately thereafter and shall be completed promptly but consistent with the need for a comprehensive qualification process.

Approved October 8, 2009.

Chapter 115. AN ACT ESTABLISHING THE POSITION OF MUNICIPAL HEARING OFFICER IN THE TOWN OF SOUTHBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 21D of chapter 40 of the General Laws, a person who desires to contest a violation of an ordinance of the town of Southbridge alleged in a notice to appear, pursuant to violations issued by the town in accordance with said section 21D of said chapter 40 shall request, in writing, a hearing before a municipal hearing officer, who shall be appointed by the town manager with the approval of the town council, to conduct requested hearings pursuant to this act. The notice to appear shall be in the format required under said section 21D of said chapter 40, except that the third copy of the notice shall be submitted to the municipal hearing officer. The municipal hearing officer may be the same person appointed as municipal hearing officer pursuant to chapter 148A of the General Laws.

SECTION 2. Where a notice to appear is for a code violation, the person notified to appear shall return the notice of violation by mail, personally or by an authorized person, to the municipal hearing officer and shall, within 21 days, either: (a) pay in full the scheduled assessment by check, postal note or money order; or (b) request a hearing before the municipal hearing officer. All amounts paid shall be payable to the town of Southbridge. If the person notified to appear requests, in a timely manner, a hearing before the municipal hearing officer, the municipal hearing officer shall schedule a hearing not later than 45 days after receiving the hearing request. The municipal hearing officer shall send a hearing notice to duly notify the person notified to appear of the date, time and location of the hearing. Hearings shall be held at least twice each month, in the evening. When a hearing notice is sent, the person notified to appear shall be given an opportunity to request a rescheduled hearing date. The municipal hearing officer shall not be an employee or officer of the department associated with the issuance of the notice of violation. The municipal hearing officer shall receive annual training in the conduct of and procedure for administrative hearings. The hearings and dispositions by the municipal hearing officer shall be informal and the formal rules of evidence shall not apply. In conducting the hearings, the municipal hearing officer shall make a finding as to whether a violation occurred and, if so, whether it was committed by the person named in the notice to appear.

SECTION 3. Any person aggrieved by a decision of the municipal hearing officer, after a hearing, may appeal to the district court pursuant to section 21D of chapter 40 of the

General Laws on a form provided by the town and shall be entitled to a de novo hearing before a clerk magistrate of the district court. The district court shall consider such appeals under a civil standard. The aggrieved person shall file the appeal to the district court within 10 days after receiving notice of the decision from the municipal hearing officer.

SECTION 4. A person who receives a notice to appear issued in accordance with the procedure set forth in this act and who, within the prescribed time: (i) fails to pay the scheduled assessment; (ii) fails to request a hearing before the municipal hearing officer; or (iii) fails to appear at the time and place of the hearing shall be found responsible for the violations as stated in the notice to appear and such finding of responsibility shall be considered prima facie evidence of responsibility for the violation in any subsequent civil proceedings regarding that violation and shall be admissible as evidence in any subsequent criminal proceedings regarding that violation. A person who fails to appear at the scheduled hearing without good cause shall have the appeal dismissed and shall waive any further right to appeal. If the condition which caused the notice to appear to issue continues to exist, the finding of responsibility may also be used by the town of Southbridge as prima facie evidence of the existence of a violation in any proceeding to suspend or revoke any license, permit or certificate issued by the town relative to the building, structure or premises pending the correction of the condition.

SECTION 5. All fines, penalties or assessments collected by the town pursuant to proceedings instituted under this act, shall be paid to the general fund of the town of Southbridge.

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

Approved October 15, 2009.

Chapter 116. AN ACT AUTHORIZING THE TOWN OF SANDWICH TO EXCHANGE CERTAIN PARCELS OF LAND.

Be it enacted, etc., as follows:

SECTION 1. For the purposes of remediating the encroachment of a large retaining wall on town land, the board of selectmen of the town of Sandwich may convey a certain parcel of land in the town of Sandwich, upon such terms and conditions as it deems to be in the best interests of the town, to Richard Cunningham and Sarah DeWalt. The land to be conveyed is identified as Parcel "A" on a plan prepared for Richard Cunningham and Sarah DeWalt entitled "Approval Not Required Plan, 8 Water Street, Sandwich, Massachusetts", dated August 28, 2008 and prepared by Daniel W. MacKenzie, PLS. The plan is on file with the office of the town clerk.

SECTION 2. In consideration for the conveyance authorized in section 1, the town

of Sandwich may acquire by deed from Richard Cunningham and Sarah DeWalt a certain parcel of land located in the town of Sandwich and identified as Parcel "B" on the plan described in section 1, which parcel shall be acquired and held for use consistent with Article XCVII of the amendments to the constitution.

As a condition of the conveyance authorized in section 1, Richard Cunningham and Sarah DeWalt shall transfer to the town a parcel of land identified as Parcel "B" on the plan described in section 1 and such parcel shall be dedicated to Article XCVII purposes and under the jurisdiction of the conservation commission. The fair market value of the parcel to be conveyed to the town shall be equal to or greater than the fair market value of the property described in section 1, as determined by an independent appraisal. For the purposes of the appraisal, the fair market value of the property shall be calculated in its highest and best use and, where applicable, as assembled with other lands owned or otherwise controlled by Richard Cunningham and Sarah DeWalt. If there is a disparity in these values in favor of Richard Cunningham and Sarah DeWalt, they shall pay a sum equal to the difference to the town for deposit in its open space fund or otherwise dedicated to open space preservation.

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

Approved October 22, 2009.

**Chapter 117. AN ACT RATIFYING, VALIDATING AND CONFIRMING THE
ELECTION CALENDAR ESTABLISHED BY THE CITY OF
PEABODY FOR ELECTIONS TO BE HELD IN 2009.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the vote of the city council of the city of Peabody on February 26, 2009 establishing the election calendar is hereby ratified, validated and confirmed, notwithstanding any defect with respect to submission deadlines.

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

Approved October 22, 2009.

**Chapter 118. AN ACT AUTHORIZING THE TOWN OF SAUGUS TO GRANT AN
ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the

licensing authority in the town of Saugus may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to an area in the B2 zone of the town at the Square One Mall. The license shall not be transferable off the premises and shall be subject to all of said chapter 138 except section 17. 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 October 28, 2009.

**Chapter 119. AN ACT AUTHORIZING THE LEASE OF CERTAIN
CONSERVATION LAND IN THE TOWN OF EASTON FOR
AGRICULTURAL PURPOSES AND TO ESTABLISH THE TUFTS
FARM MAINTENANCE FUND.**

Be it enacted, etc., as follows:

SECTION 1. The town of Easton, acting by and through its conservation commission, may lease certain parcels of conservation land with buildings thereon for agricultural purposes. Notwithstanding section 3 of chapter 40 of the General Laws, the lease may be for a term not to exceed 10 years and on such terms and conditions as the conservation commission may determine. The parcel of land is identified as Tufts Farm located at 108 Canton street as shown on Assessors Map 6U, Parcel 8 and the adjacent parcel of conservation land located off Bay road as shown on Assessors Map 10U, Parcel 10, hereinafter referred to collectively as Tufts Farm.

SECTION 2. Notwithstanding any general or special law to the contrary, the town of Easton may establish the Tufts Farm Maintenance Fund to receive and expend funds, without further appropriation, to operate, maintain, manage and improve Tufts Farm at the direction of the town conservation commission under section 8C of chapter 40 of the General Laws.

SECTION 3. Notwithstanding sections 53 and 53A of chapter 44 of the General Laws, the income received by the commission including, but not limited to, the proceeds from the lease of Tufts Farm shall be deposited into the fund. The treasurer, who shall be the custodian of the fund, may invest and deposit the funds as provided in section 8C of chapter 40 of the General Laws and any income derived from such funds shall be credited

to the account. The funds shall be available to the commission, without further appropriation, to maintain and improve Tufts Farm. Maintenance and improvement costs for Tufts Farm may include, but shall not be limited to: (a) land management surveys and mapping; (b) property improvements, including trail establishment or improvement, parking, trash pickup and the protection and development of wildlife and plant habitats; (c) maintenance of the house, barn and other structures; (d) legal and other professional or consulting services; (e) improvement and maintenance of the property and buildings for educational purposes, including classes, walks, lectures, demonstrations and related expenses; and (f) improvement and maintenance of the buildings and land so that the area may be used for farming including, but not limited to, growing crops and hay, gardening and raising animals.

SECTION 4. The commission may establish and adopt operating standards and performance criteria for work done in connection with Tufts Farm, which may include, but shall not be limited to, restrictions on the nature and method of work performed, such as those related to seasonal or weather-related conditions, methods of stream crossings, stone wall repairs and the use of oil or other toxic or harmful material.

SECTION 5. The commission may enter into contracts to carry out this act. The commission may include in a contract a requirement that it not be held liable with respect to claims, injuries, costs, damages or other relief arising out of, or related to, the subject matter of the contract. The commission may require a person performing labor or services to maintain liability insurance and performance bonds. The standards and criteria adopted by the commission under section 4 may be incorporated into contracts entered into by the commission under this section.

SECTION 6. The commission may receive gifts from any source and appropriations from the town of Easton for deposit into the fund.

SECTION 7. The funds accumulated before the effective date of this act from the sources listed in section 3 shall be transferred to the fund.

SECTION 8. The town accountant shall annually audit the fund and submit a copy of the audit to the board of selectmen. The board of selectmen shall publish the audit in the town's annual report.

SECTION 9. Nothing in this act shall limit the powers and authority of the commission or limit or deny the commission any rights, power or authority granted by any general or special law or by-law of the town of Easton.

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

Approved October 28, 2009.

Chapter 120. 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 forthwith to make supplemental appropriations for fiscal year 2009 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 2009, 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, 2009. 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, 2010.

SECTION 2.

JUDICIARY
Trial Court

0330-3337	\$950,000
<i>Office of the Commissioner of Probation</i>	
0339-1001	\$4,170,000
0339-1003	\$300,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Division of Medical Assistance

4000-0700	\$60,000,000
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SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth 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, 2009. 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, 2010. These sums shall

be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECRETARY OF THE COMMONWEALTH

Office of the Secretary of the Commonwealth

0521-0005 For the Commonwealth of Massachusetts' administrative costs associated with both the special statewide primary and the special statewide election to fill the United States Senate seat on January 19, 2010, including, but not limited to, printing of nomination papers, printing of ballots, extended polling hours, printing and delivery of election supplies and programming of accessible equipment for both the special statewide primary and special statewide election \$5,396,390

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Department of State Police

8100-0006 For private police details; provided, that the department may expend up to \$19,900,000 in revenues collected from fees charged for private police details and for the costs of administering such details; and provided further, that notwithstanding any general or special law to the contrary, the department may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 2009 to be charged to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system for the purposes stated in this item to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year 2009 \$900,000

SECTION 2C.I. For the purpose of making available in fiscal year 2010 balances of appropriations which otherwise would revert on June 30, 2009, the unexpended balances of the maintenance appropriations listed below, not to exceed the amount specified below for each item, and the unexpended balance of all appropriations in the Massachusetts management accounting and reporting system with a secretariat code of 01 are hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of chapter 182 of the acts of 2008; 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 section 2 of said chapter 182 of the acts of 2008; provided, however, that for items which do not appear

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in said section 2 of said chapter 182, 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 said purposes.

JUDICIARY

Trial Court

0322-0100 \$250,000

SECRETARY OF THE COMMONWEALTH

Office of the Secretary of the Commonwealth

0511-0270 \$238,980

0521-0000 \$44,684

0540-1400 \$96,000

TREASURER AND RECEIVER-GENERAL

Office of the Treasurer and Receiver-General

0699-9100 \$500,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1100-1560 \$695,887

1599-0045 \$1,000,000

1599-1031 \$2,845,216

1599-2005 \$457,732

1599-2008 \$557,246

1599-1701 \$6,300,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Workforce Development

7003-0701 \$11,118,335

Division of Banks

7006-0011 \$100,000

Department of Telecommunications and Cable

7006-0071 \$49,846

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary of Public Safety and Security

8000-0036\$3,569,361

Department of Public Safety

8315-1020 \$45,412

Hampshire Sheriff's Department

8910-0110 \$55,000

SECTION 3. Section 1 of chapter 6C of the General Laws, as appearing in section 8 of chapter 25 of the acts of 2009, is hereby amended by striking out the definition of “Independent agencies” and inserting in place thereof the following definition:-

“Independent agencies”, shall include, but not be limited to, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority and the regional transit authorities established in chapter 161B.

SECTION 4. Section 10 of said chapter 6C, as so appearing, is hereby amended by adding the following 2 paragraphs:-

The executive director may, subject to the approval of the secretary, appoint a project ombudsman who shall assist municipalities and private entities to develop and advance projects critical to the economic development of a community and connecting to the state transportation system, and to ensure regional equity in the transportation system. The duties given to the ombudsman shall be exercised and discharged subject to the direction, control and supervision of the executive director. The ombudsman shall serve as the principal point of contact for municipalities and other governmental bodies concerning all matters under the jurisdiction of the department, including, but not limited to, providing advice and technical assistance to municipalities and other governmental bodies seeking said advice and with any other matter the executive director may deem appropriate.

The office of transportation planning shall establish and charge a reasonable fee to cover the costs of processing, reviewing, and approving a project proposal submitted to the project ombudsman by a municipality or private entity.

SECTION 5. The second sentence of section 18 of said chapter 6C, as so appearing, is hereby amended by striking out the words “chapter 12” and inserting in place thereof the following words:- : (i) said chapter 12; (ii) any general or special law pertaining to judicial remedies or procedures; and (iii) court rules and standing orders; and shall not be considered to be encompassed by the words “person” or “whoever” in any general or special law unless a contrary intention clearly appears.

SECTION 6. Section 38F of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The board may delegate its powers and duties under paragraph (b) of section 38D, paragraphs (c) and (d) of section 38E, paragraphs (a) and (b) of section 38G and sections 38H and 38I to panels of less than all the board members. A panel of not less than 6 members shall be required for selection of designers under this section, 4 of whom shall be architects or engineers, including at least 1 architect and 1 engineer on that panel.

SECTION 7. Section 40B of said chapter 7, as so appearing, is hereby amended by striking out, in lines 4 and 13, the words “one hundred thousand dollars” and inserting in place thereof, in each instance, the following figure:- \$250,000.

SECTION 8. Said section 40B of said chapter 7, as so appearing, is hereby further amended by striking out, in line 9, the figure “\$1,000,000” and inserting in place thereof the following figure:- \$2,000,000.

SECTION 9. Section 61 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “from that portion of the fee owed to” and inserting in place thereof the following word:- by.

SECTION 10. Said section 61 of said chapter 10, as so appearing, is hereby further amended by striking out, in line 14, the figure “2009” and inserting in place thereof the following figure:- 2010.

SECTION 11. Said chapter 10 is hereby further amended by inserting after section 61 the following section:-

Section 63½. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Central Artery and Statewide Road and Bridge Infrastructure Fund for the purposes of meeting: (i) the estimated additional costs associated with the Central Artery/Ted Williams Tunnel Project, in this section called the project; (ii) the costs of the statewide road and bridge program; (iii) the principal and interest expenses on bonds or notes issued after July 1, 2007 to pay costs of these projects; and (iv) payments or credits to the federal government to reimburse it for any costs of the project paid by the federal government for which it is entitled to reimbursement from amounts received and deposited in the fund.

Revenues credited to the fund shall include any appropriations to the fund, amounts transferred to the fund from other instrumentalities of the commonwealth, transfers to said fund from other funds of the commonwealth, certain sums recovered pursuant to section 83 of chapter 4 of the acts of 2003, any sums received by the commonwealth related to insurance programs or policies for the project, and any interest earned on balances contained in the fund and all other revenues specifically dedicated to the fund. The fund shall be held in trust by the state treasurer exclusively for the purposes established in this section. The state treasurer shall be the treasurer and custodian of the fund and shall have the custody of its monies and securities.

The state treasurer may invest any monies held for the credit of the fund in instruments permitted under sections 38, 38A, 38C and 49 of chapter 29 and as follows: (a) commercial or finance company paper, including both non-interest-bearing discount obligations and interest bearing obligations payable on demand or on a specified date not more than

1 year after the date of issuance thereof, that is rated in 1 of the 2 highest rating classifications by a nationally recognized rating service; (b) securities bearing interest or sold at a discount that are issued by any corporation incorporated under the laws of the United States or any state thereof and rated in one of the 2 highest rating classifications by any nationally recognized rating service at the time of such investment or contractual commitment providing for such investment; (c) units of taxable money market funds which funds are regulated investment companies and seek to maintain a constant net asset value per share and have been rated in one of the 2 highest rating classifications by a nationally recognized rating service; (d) investment agreements or guaranteed investment contracts rated, or with any financial institution whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, in one of the 2 highest rating classifications by a nationally recognized rating service; and (e) investment agreements with a corporation whose principal business is to enter into such agreements if: (1) such corporation and the investment agreements of such corporation are each rated in one of the 2 highest rating classifications by a nationally recognized rating service; and (2) the commonwealth has an option to terminate each agreement if such rating is downgraded below such 2 highest rating classifications.

As directed by the secretary of administration and finance, the comptroller shall make transfers from the fund to the Massachusetts Transportation Trust Fund, without further appropriation, for the purposes specified in this section.

SECTION 12. The third paragraph of section 31 of chapter 29 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any other general or special law to the contrary, and in accordance with section 148 of chapter 149, to ensure the timely payment of wages and related payroll charges for work authorized by a spending authority and performed by employees, the comptroller shall have full authority to mandate the payment of such wages and payroll charges and prescribe, regulate and direct any spending authority to take the appropriate actions necessary to properly account for payroll charges, to ensure that payroll accounts are not in deficit at the close of the fiscal year and any other actions necessary to support sound fiscal management including appropriation, allotment or other funding limits.

SECTION 12A. Subsection (a) of section 21 of chapter 30B of the General Laws, as appearing in section 45 of chapter 25 of the acts of 2009, is hereby amended by striking out the definition of "Agency" and inserting in place thereof the following definition:-

"Agency", the Massachusetts Department of Transportation, the Massachusetts Port Authority and the Massachusetts Bay Transportation Authority.

SECTION 12B. The definition of "Project" in said subsection (a) of said section 21 of said chapter 30B, as so appearing, is hereby amended by striking out the words "a state" and inserting in place thereof the following word:- an.

SECTION 12C. Subsection (c) of said section 21 of said chapter 30B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof

the following sentence:-

Whenever a project requiring architectural, engineering or related professional services is proposed for an agency, the agency shall provide not less than 14 days advance notice published in a professional services bulletin or advertised on the official agency website setting forth the projects and services to be procured.

SECTION 13. Chapter 44 of the General Laws is hereby amended by inserting after section 21A the following section:-

Section 21B. The city council of a city, and in the case of a city having a city manager and in the case of other cities, with the approval of the mayor the board of selectmen of a town, the school committee of a regional school district and the prudential committee, if any, otherwise, the commissioners of a district may designate any duly authorized issue of bonds or notes as tax credit bonds to the extent that any such bonds or notes are otherwise permitted to be issued in the form of bonds or notes with federal tax credits or other similar subsidies for all or any portion of their borrowing costs. Any borrowing designated as tax credit bonds may be payable without regard to any limitation as to amounts of annual installments for bonds provided in any other law.

Notwithstanding section 47 or any other general or special law to the contrary, the city council of a city, and in the case of a city having a city manager and in the case of other cities with the approval of the mayor the board of selectmen of a town, the school committee of a regional school district and the prudential committee, if any, otherwise, the commissioners of a district may establish a separate sinking fund to be held in trust solely for the payment of principal, redemption premium and interest on any tax credit bonds. Amounts held in any such sinking fund may be invested pursuant to section 55 and the income derived from such investment may be expended by the treasurer to pay the principal, redemption premium, if any, and interest on such tax credit bonds until they are paid or otherwise redeemed; provided, however, that notwithstanding the limitations on the maturity of investments under said section 55, any such investment may have a maturity not later than the date fixed for the payment or redemption of such tax credit bonds. Any earnings on proceeds of tax credit bonds may be applied to pay costs of any project for which the city, town or district is authorized to incur debt for a period of 5 years or more, or to the redemption of tax credit bonds from which such proceeds were derived, and may not be applied or appropriated for any other purpose.

Tax credit bonds may be sold at par, premium or discount, without regard to any limitation on the amount of any discount contained in any other general or special law, and may be sold as instruments the principal amount of which either remains constant or increases during the life of the instrument. When tax credit bonds are issued the amount issued shall be deemed to be the net proceeds of the issue; provided that the officers charged with the issuance of such tax credit bonds may apply all or a portion of any premium received on the sale of any such tax credit bonds, without appropriation, to the costs of issuance thereof, in which case the amount of any premium so applied shall not be included in the amount of the issue.

The city council of a city, and in the case of a city having a city manager and in the case of other cities with the approval of the mayor the board of selectmen of a town, the school committee of a regional school district and the prudential committee, if any, otherwise the commissioners of a district may provide for the issuance of refunding bonds or notes of the city, town, regional school district or district for the purpose of paying or refunding all or any designated part of an issue of tax credit bonds, other than tax credit bonds issued in accordance with section 54AA(g) of the Internal Revenue Code, without regard to the present value savings requirements set forth in section 21A. Except as provided herein, the issuance of refunding bonds for the purpose of paying or refunding tax credit bonds shall be governed by the provisions of said section 21A. Notwithstanding any general or special law to the contrary, any limitation amount that is allocated to any large local educational agency pursuant to, and as defined in, section 54F(d)(2) of the Internal Revenue Code of 1986 and that remains unused by such large local educational agency as of the end of any calendar year is hereby deemed reallocated to the commonwealth and, effective January 1 of the following calendar year, further reallocated by the commonwealth to such large local educational agency.

NO SECTION 14.

SECTION 15. Section 142M of chapter 111 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “exhaust”, in line 17, the following words:- or a device which analyzes a motor vehicle's computer system relating to emissions.

SECTION 16. Said section 142M of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words “including, but not” and inserting in place thereof the following words:- which may include, but shall not be.

SECTION 17. Said section 142M of said chapter 111, as so appearing, is hereby further amended by striking out, in line 134, the words “shall include but” and inserting in place thereof the following words:- may include, but shall.

SECTION 18. Said section 142M of said chapter 111, as so appearing, is hereby further amended by striking out, in line 174, the words “a private entity demonstrating” and inserting in place thereof the following words:- or any private entities that demonstrate.

SECTION 19. Said section 142M of said chapter 111, as so appearing, is hereby further amended by striking out, in line 229, the words “and (iv)” and inserting in place thereof the following words:- (iv) any motor vehicle that the United States Environmental Protection Agency or the California Air Resources Board new vehicle certification requirements do not require to be equipped with an onboard diagnostic system, as determined by the commissioner; and (v).

SECTION 20. Section 2 of chapter 121F of the General Laws, as so appearing, is hereby amended by inserting after the word “preservation”, in line 7, the following words:- , new construction.

SECTION 21. Said section 2 of said chapter 121F, as so appearing, is hereby further amended by inserting after the word “rehabilitation”, in line 10, the following words:- , new construction.

SECTION 22. Section 3 of said chapter 121F, as so appearing, is hereby amended by inserting after the word “rehabilitation”, in line 39, the following words:- , new construction.

SECTION 22A. The definition of “Serious bodily injury” in section 1 of chapter 258 of the General Laws, added by section 125 of chapter 25 of the acts of 2009, is hereby amended by adding the following words:- , or death.

SECTION 23. Section 2 of said chapter 258, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words “one hundred thousand dollars” and inserting in place thereof the following words:- \$100,000; provided, however, that all claims for serious bodily injury against the Massachusetts Bay Transportation Authority shall not be subject to a \$100,000 limitation on compensatory damages.

SECTION 24. Section 6 of chapter 703 of the acts of 1963 is hereby amended by striking out the first sentence and inserting in place thereof the following 4 sentences:-

The authority shall keep an accurate account of all its activities and of all its receipts and expenditures and shall annually in the month of January make a report thereof to the trustees, the governor, the state comptroller and the state auditor, such reports to be in a form prescribed by the trustees, with the written approval of said auditor. Without limiting the generality of the foregoing, the authority shall keep an accurate account of the sufficiency of available funds to pay debt service on its outstanding indebtedness, including without limitation non-appropriated funds or revenues pledged by the trustees pursuant to section 18A, and shall semiannually in the months of September and January make a report thereof to the trustees and the state comptroller. If the report described in the preceding sentence is not received by said comptroller during the month of September or January, as the case may be, said comptroller shall, as provided in said section 18A, prevent any amounts from being expended from the appropriation account of any state college until such time as the comptroller has determined whether there is an insufficiency of available funds to pay debt service. If such report indicates that there is an insufficiency of funds available to pay debt service, or if, in the absence of a report, the comptroller ascertains that there is such an insufficiency, the comptroller shall, within 5 days, but not later than the date specified in said section 18A, transfer amounts from the appropriation account of any applicable state college to cure such insufficiency.

SECTION 25. The first sentence of the first paragraph of section 18A of said chapter 703, as appearing in section 10 of chapter 258 of the acts of 2008, is hereby amended by striking out the word “may” and inserting in place thereof the following word:- shall.

SECTION 26. The second sentence of said first paragraph of said section 18A of said chapter 703 is hereby further amended by striking out the word “may” and inserting in place thereof the following word:- shall.

SECTION 27. Said first paragraph of said section 18A of said chapter 703 is hereby further amended by inserting after the third sentence the following 2 sentences:- Any agreement between the trustees and the Authority pursuant to this paragraph shall provide for the state comptroller to transfer amounts from applicable state college appropriation accounts as needed to prevent debt service payment defaults by the Authority, which provisions shall be acknowledged by the comptroller, and such amounts shall be disbursed, without further allotment, to the trustee under the trust agreement securing the applicable bonds. Such amounts shall be transferred not later than the applicable date for debt service fund deposits required by the trust agreement.

SECTION 28. Subsection (c) of section 5 of chapter 344 of the acts of 2002 is hereby amended by striking out, in line 10, the words “year 2008 and each subsequent year” and inserting in place thereof the following words:- years 2008 and 2009.

SECTION 29. Said section 5 of said chapter 344 is hereby further amended by adding the following subsection:-

(g) The Nashoba regional school district may use up to 25 per cent of the balance as of October 1, 2009 retained in the supplemental reserve fund under subsection (d) as a revenue source for the district budget in each of fiscal years 2010, 2011, 2012 and 2013. Any excess allowance from a previous fiscal year can be used in a subsequent fiscal year and any funds remaining as of July 1, 2013, may be used in a subsequent fiscal year for such purpose.

SECTION 30. Subsection (c) of section 83 of chapter 4 of the acts of 2003 is hereby amended by striking out the words, “Commonwealth Transportation Fund established in section 2zzz of chapter 29”, inserted by section 130 of chapter 25 of the acts of 2009, and inserting in place thereof the following words:- Central Artery and Statewide Road and Bridge Infrastructure Fund established in section 63½ of chapter 10.

SECTION 31. Subsection (b) of section 88 of chapter 182 of the acts of 2008 is hereby amended by striking out the second sentence, as appearing in section 27 of chapter 26 of the acts of 2009, and inserting in place thereof the following sentence:- Not less than \$987,959,145 shall be transferred from the General Fund to the Commonwealth Care Trust Fund and not less than \$47,996,382 shall be transferred from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund.

SECTION 32. Said chapter 182 is hereby further amended by inserting after section 120 the following section:-

Section 120A. Section 44 shall take effect as of July 1, 2009.

SECTION 33. Section 1 of chapter 306 of the acts of 2008 is hereby amended by striking out the words “Turnpike Authority”, each time they appear, and inserting in place thereof the following words:- Department of Transportation.

SECTION 34. Section 2 of said chapter 306 is hereby amended by striking out the definition of “Authority” and inserting in place thereof the following definition:-

“Authority,” the Massachusetts Department of Transportation.

SECTION 35. Section 11 of said chapter 306 is hereby amended by striking out the words “Turnpike Authority” and inserting in place thereof the following words: - Department of Transportation.

SECTION 36. The first sentence of section 12 of said chapter 306 is hereby amended by striking out the words “transportation and public works” and inserting in place thereof the following words:- the Massachusetts Department of Transportation.

SECTION 37. Said chapter 306 is hereby further amended by inserting after section 12 the following section:-

Section 12A. The 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.

SECTION 38. Section 9 of chapter 25 of the acts of 2009 is hereby repealed.

SECTION 38A. Section 126 of said chapter 25 is hereby repealed.

SECTION 38B. Section 129 of said chapter 25 is hereby repealed.

SECTION 39. Chapter 25 of the acts of 2009 is hereby amended by striking out section 122 and inserting in place thereof the following section:-

Section 122. Section 1 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in lines 243 to 244, inclusive, the words “Turnpike Authority as provided in chapter 598 of the acts of 1958” and inserting in place thereof the following words:- Department of Transportation.

SECTION 40. Said chapter 25 is hereby further amended by striking out section 124 and inserting in place thereof the following section:-

Section 124. Said section 1 of said chapter 258, as so appearing, is hereby amended by striking out, in lines 50 to 52, inclusive, the words “the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority” and inserting in place thereof the following words:- the Massachusetts Port Authority.

SECTION 41. Said chapter 25 is hereby further amended by inserting after section 132 the following section:-

Section 132A. Notwithstanding any other general or special law to the contrary, the Massachusetts Department of Transportation shall furnish or otherwise provide for the necessary flag protection on the railroad rights-of-way of the Massachusetts Bay Transportation Authority, which may be required when the department is performing inspection, maintenance and repair, reconstruction or replacement of any such bridges.

SECTION 42. Section 144 of said chapter 25 is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) Notwithstanding any general or special law to the contrary, all duly existing contracts, leases, and obligations of the authority regarding the bridge shall continue in effect and all rights and obligations thereunder shall transfer to the department on January 1, 2010

as the successor to the authority with respect thereto; provided, however, that all contracts and obligation related to any collective bargaining agreement shall be assumed by the Massachusetts Department of Transportation; and provided, further, that in the case of collective bargaining agreements, any obligations assumed by the Massachusetts Department of Transportation under said agreements shall expire on the stated date of expiration of such agreements. No existing right or remedy of any character shall be lost, impaired, or affected by this act. On and after the effected date of this act, the authority shall not amend existing or negotiate any new payment in lieu of tax (PILOT) agreements. Any PILOT payments that exist as of the effective date of this act shall continue to be paid by the authority until the transfer of the bridge is completed. Upon transfer of the bridge, the amount called for in the last payment of any PILOT still in effect as of the effected date of this act, whether that final payment was subsequently paid or is still due, shall be the basis for the conversion of PILOT payments into final, one-time payments calculated upon the present day value of a 25 year schedule of PILOT payments, and paid by the Massachusetts Department of Transportation to the receiving parties of the PILOT agreements. Once the final, one-time PILOT payments are made, the Massachusetts Department of Transportation shall not be required to enter into any new PILOT agreements.

SECTION 43. Subsection (b) of section 148 of said chapter 25 is hereby amended by adding the following 2 sentences:- Within 6 months after the effective date of this act, the Worcester city manager and the chief executive officer of the Massachusetts Port Authority in consultation with the appropriate representatives of the Federal Aviation Administration, shall come to an agreement as to the fair market value of the property as an airport. If no agreement has been reached, then 3 independent appraisers; 1 selected by the city manager of Worcester, 1 selected by the chief executive officer of the Massachusetts Port Authority and 1 selected by the other 2 appraisers, shall each determine fair market value of the property as an airport, and the Massachusetts Port Authority shall pay the city the median of the 3 appraisals as compensation for the airport.

SECTION 44. Said chapter 25 is hereby amended by striking out section 160 and inserting in place thereof the following section:-

Section 160. Notwithstanding any general or special law to the contrary, in making initial appointments to the board of directors of the Massachusetts Department of Transportation established in chapter 6C of the General Laws, the governor shall appoint 1 member for a term of 1 year, 1 member for a term of 2 years, 1 member for a term of 3 years, 1 member for a term of 4 years and 1 member for a term of 5 years.

SECTION 45. Section 2 of chapter 27 of the acts of 2009 is hereby amended by inserting after item 0610-0050 the following item:-

0610-0060 For the costs associated with the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs, known as Safe Campus, Safe Holidays, Safe Prom, and Safe Summer; provided, that funds from this item shall not support

other operating costs of item 0610-0050; and provided further, that said commission shall submit a report to the house and senate committees on ways and means not later than March 2, 2010 detailing the results of said program \$100,000

SECTION 46. Item 0640-0300 of said section 2 of said chapter 27 is hereby amended by striking out the words “; and provided further, that the Local Cultural Council Grant Program shall provide a minimum grant of no less than the amount detailed in item 0640-0300 in section 2 of chapter 182 of the acts of 2008 per municipality”.

SECTION 47. Item 4580-1000 of said section 2 of said chapter 27 is hereby amended by striking out the words “each health insurance carrier, as defined in chapter 1760 of the General Laws, that conducts business in the commonwealth shall contribute to the total amount determined by the department to be sufficient to cover the costs of purchasing and distributing childhood vaccines for children in this item; and provided further, that the division of health care finance and policy, in consultation with the department, shall specify by regulation the method of calculating a proportional contribution and procedures for payment of the contribution to the General Fund” and inserting in place thereof the following words:- the costs of purchasing and distributing childhood vaccines for children in this item may be assessed on surcharge payers under section 38 of chapter 118G of the General Laws and may be collected in a manner consistent with said chapter 118G.

SECTION 48. Item 6010-0001 of said section 2 of said chapter 27 is hereby amended by striking out the words “; provided, that no expenditures shall be made from the AA object code”.

SECTION 49. Said section 2 of said chapter 27 is hereby further amended by striking out item 8000-0040 and inserting in place thereof the following item:-

8000-0040 For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers; provided, however, that regular full-time members of municipal police departments hired on or after July 1, 2009 shall not be eligible to participate in the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department who has not enrolled in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 of the General Laws, as of October 1, 2009, shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department who has begun to accumulate credit hours pursuant to said section 108L of said chapter 41

of the General Laws as of October 1, 2009 shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41 of the General Laws; provided further, that any current regular full-time member of a municipal police department on active duty in the armed forces of the United States in any theater of operations from July 1, 2008 through September 1, 2009 who enrolls in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 no later than 4 months from the date of his return from active duty shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41; and provided further, that any permanent employee of a municipal police department appointed prior to October 1, 2009 and separated from employment pursuant to section 39 of chapter 31 of the General Laws may enroll in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 no later than 4 months from the date of his reinstatement \$10,000,000

SECTION 50. Section 128 of said chapter 27 is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Notwithstanding any general or special law to the contrary, any current regular full-time member of the state police who has not enrolled in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41, as of October 1, 2009, shall not be eligible to participate in the career incentive pay program established pursuant to said section 108L of said chapter 41; provided, however, that any current regular full-time member of the department of state police who has begun to accumulate credit hours pursuant to said section 108L of said chapter 41 of the General Laws as of October 1, 2009 shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41; and provided further, that any current regular full-time member of the department of state police on active duty in the armed forces of the United States in any theater of operations from July 1, 2008 through September 1, 2009 who enrolls in an education program for the purposes of participating in the career incentive pay program pursuant to said section 108L of said chapter 41 no later than 4 months from the date of his return from active duty shall be allowed to accumulate the maximum number of credit hours for any eligible degree permitted pursuant to said section 108L of said chapter 41.

SECTION 51. Notwithstanding any general or special law to the contrary, an employee transferred to the Massachusetts Department of Transportation pursuant to chapter

25 of the acts of 2009 shall not be considered a new employee for salary, wage, tax, health insurance, Medicare or any other federal or state purposes, but the employee shall retain the employee's existing start and hiring date, seniority and any other relevant employment status through the transfer.

SECTION 52. Notwithstanding any general or special law to the contrary, the comptroller shall transfer any funds transferred to the Commonwealth Transportation Fund under section 168 of chapter 25 of the acts of 2009 to the Central Artery and Statewide Road and Bridge Infrastructure Fund established under section 63½ of chapter 10 of the General Laws.

SECTION 53. Wherever in any general or special law, regulation, contract, or other document existing before November 1, 2009, the following words or phrases are used, these words and phrases shall, unless the context otherwise clearly requires, have the following meanings ascribed to them as of November 1, 2009: (1) "Massachusetts department of highways", "highway department" or "department", intending to mean the department of highways, shall mean the "Massachusetts Department of Transportation" established in chapter 6C of the General Laws; and (2) "commissioner of the highway department", "highway commissioner" or "commissioner", intending to mean the commissioner of the department of highways, shall mean the "administrator of transportation for highways" pursuant to chapter 37 of chapter 6C of the General Laws.

SECTION 54. Notwithstanding any general or special law to the contrary, the comptroller shall not make the transfer established in section 63 of chapter 10 of the General Laws to the General Fund for fiscal year 2009.

SECTION 55. Notwithstanding any general or special law or rule or regulation to the contrary, any unexpended balances, not to exceed a total of \$15,000,000, in items 4000-0600 and 4000-0700 of section 2 of chapter 182 of the acts of 2008, shall not revert to the General Fund until September 1, 2009, and may be used by the executive office of health and human services to pay for services provided during fiscal year 2009.

SECTION 56. Notwithstanding any general or special law to the contrary, the comptroller shall transfer not more than \$46,000,000 from the General Fund to the State Lottery Fund, established by section 35 of chapter 10 of the General Laws, to the extent necessary to eliminate a deficit created by the payments made to cities and towns for fiscal year 2009. The comptroller shall notify the secretary of administration and finance and the chairs of the house and senate committees on ways and means of the amount of the transfer.

SECTION 57. Notwithstanding any general or special law to the contrary, a school district with a project on the list created pursuant to the provisions of section 45 of chapter 208 of the acts of 2004 may expend a portion of the grant they may receive to comply with the remediation requirements in 40 C.F.R. section 761.61; provided, however, that the provisions of chapter 70B of the General Laws and any regulations related thereto shall continue to apply to a project approved pursuant to said section 45 of said chapter 208; and provided further, that the Massachusetts School Building Authority shall not be responsible

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for any costs or liabilities incurred by the city of New Bedford for expenditures made to comply with 40 C.F.R. section 761.61.

SECTION 58. Sections 12A to 12C, inclusive, and sections 22A, 39 and 40 shall take effect on November 1, 2009.

SECTION 59. Except as otherwise provided, this act shall take effect as of June 30, 2009.

This bill was returned on October 29, 2009, by the Governor to the House of Representatives, the branch in which said bill was originated, with His objections in writing to the following items therein:

Items Disapproved:

SECTION 2: 0330-3337 0339-1001 0339-1003

SECTION 2C.I: *Items disapproved by striking the wording:*

“, and the unexpended balance of all appropriations in the Massachusetts management accounting and reporting system with a secretariat code of 01”

Items Disapproved:

SECTION 2CI: 0322-0100 0540-1400

SECTION 45.

The remainder of the bill was approved by the Governor on October 29, 2009 at twelve o'clock and twenty-two minutes, P.M.

The objections of the Governor notwithstanding and in the manner prescribed by the Constitution, on November 18, 2009 the House of Representatives and in concurrence on November 18, 2009 the Senate passed the following Items:

SECTION 2. Items: 0330-3337 0339-1001 0339-1003

SECTION 2C1.

Chapter 121. AN ACT RELATIVE TO ORGANIZING TOWN AGENCIES IN THE TOWN OF DEDHAM.

Be it enacted, etc., as follows:

SECTION 1. Section 4-2 of the charter of the town of Dedham, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection (p) and inserting in place thereof the following subsection:-

(p) To create, reorganize, expand, consolidate or abolish, in the manner provided in article 5, town agencies serving under the supervision of the town administrator, in whole or in part, and provide for reassignment of powers, duties, functions and responsibilities with

and among such agencies so created or existing, notwithstanding any specific designation of a town agency or any specific assignment of powers, duties, functions and responsibilities within this charter. For purposes of article 5 of this charter, functions assigned by this charter to appointed town agencies under the supervision of the town administrator may be assigned to any other agency under the supervision of the town administrator or to any board, commission, committee, department, position or office of any such agency in the manner provided in said article 5.

SECTION 1A. Paragraph (1) of subsection (c) of section 5-1 of said charter is hereby amended by striking out the words “town collector and town treasurer” and inserting in place thereof the following word:- treasurer-collector.

SECTION 2. Subsection (c) of section 5-1 of said charter is hereby amended by striking out paragraphs (6) and (7) and inserting in place thereof the following paragraph:-

(6) The director of finance shall appoint, with the consent of the town administrator, a treasurer-collector. The treasurer-collector shall be a person qualified by education, training and previous experience to perform the duties of the office. Subject to the supervision of the director of finance, the treasurer-collector shall receive and take charge of all funds belonging to the town, shall collect all accounts due to the town and shall have all of the powers and duties which treasurers and collectors may have under the constitution and laws of the commonwealth. The treasurer-collector may also exercise such additional powers and duties as may from time to time be assigned to that office by charter, by-law or other vote of the town meeting. A treasurer-collector may be removed from office in accordance with the procedures established in section 6-15. The functions assigned by this charter to the treasurer-collector may be separated and assigned to a separate treasurer and a separate collector by the town meeting, in the manner provided by subsection (a) of section 5-3, or by the town administrator, in the manner provided by subsection (b) of said section 5-3.

SECTION 3. Subsection (a) of section 5-3 of said charter is hereby amended by adding the following sentence:- Pursuant to subsection (p) of section 4-2, functions assigned by this charter to appointed town agencies under the supervision of the town administrator may be assigned to any other appointed agency under the supervision of the town administrator or to any board, commission, committee, department, position or office of any such agency by by-law.

SECTION 4. Subsection (b) of said section 5-3 is hereby further amended by adding the following sentence:- Pursuant to subsection (p) of section 4-2, functions assigned by this charter to appointed town agencies under the supervision of the town administrator may be assigned to any other appointed agency under the supervision of the town administrator or to any board, commission, committee, department, position or office of any such agency in the manner provided herein.

SECTION 4A. The second sentence of section 5A-8 of said charter is hereby amended by striking out the words “town treasurer” and inserting in place thereof the follow-

ing word:- treasurer-collector.

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

Approved November 6, 2009.

Chapter 122. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARY MARKLEY, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Mary Markley, an employee of the Worcester division of the district court department of the trial court. Any employee of the trial court may voluntarily contribute 1 or more of sick, personal or vacation days to the sick leave bank for use by Mary Markley. 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. Whenever Mary Markley terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved November 6, 2009.

Chapter 123. AN ACT AUTHORIZING THE TOWN OF WINCHESTER TO GRANT 5 LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES OF CERTAIN RESTAURANTS.

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 Winchester may grant not more than 5 licenses for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to restaurants having a seating capacity of not less than 70 persons. The licenses shall be subject to all of said chapter 138, except said section 17.

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

Approved November 6, 2009.

Chapter 124. AN ACT DESIGNATING THE BUILDING OF THE STATE LABORATORY INSTITUTE AS THE DR. WILLIAM A. HINTON LABORATORY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the designation of the State Laboratory Institute building as the Dr. William A. Hinton Laboratory, 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 272 of the acts of 1975 is hereby repealed.

SECTION 2. The building of the State Laboratory Institute, located in the Jamaica Plain district of the city of Boston, shall be designated and known as the Dr. William A. Hinton Laboratory, in memory of Dr. William A. Hinton, a pioneer in bacteriology and immunology and former head of the department of public health state biologic laboratory. A suitable marker bearing that designation shall be attached to the building by the department of public health.

Approved November 6, 2009.

Chapter 125. AN ACT AUTHORIZING THE BOARD OF ASSESSORS OF THE TOWN OF NEWBURY TO GRANT A REAL ESTATE TAX ABATEMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 59 of the General Laws or any other general or special law to the contrary, the board of assessors in the town of Newbury may grant a real estate tax abatement in the amount of \$930.93 to Geraldine Buzzotta for the premises known and numbered as 4-5th Street on Plum Island in the town of Newbury, for the period of November 26, 2008 to June 30, 2009.

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

Approved November 10, 2009.

Chapter 126. AN ACT EXEMPTING THE OFFICE OF CHIEF OF POLICE OF THE TOWN OF SANDWICH FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

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SECTION 1. The office of the chief of police of the town of Sandwich shall be exempt from chapter 31 of the General Laws.

SECTION 2. The provisions of section 1 shall not impair the civil service status of an incumbent holding the position of chief of police in the town on the effective date of this act.

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

Approved November 10, 2009.

Chapter 127. AN ACT AUTHORIZING THE TOWN OF HARVARD TO GRANT 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 section 17 of chapter 138 of the General Laws, the licensing authority of the town of Harvard may grant not more than 3 licenses for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138; provided, however, that 1 such license may be granted to the owner or operator of the premises known as the Harvard General Store located at 1 Still River road in the town of Harvard.

The licensing authority shall not approve the transfer of a license granted under this act to any other location but it may grant any such license to a new applicant at the same location if the applicant 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 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 at the same location under the same conditions as specified in this act.

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

Approved November 10, 2009.

Chapter 128. AN ACT RELATIVE TO THE TENURE OF THE CITY CLERK, CITY COLLECTOR AND CITY ENGINEER OF THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 199 of the acts of 1923 is hereby repealed.

SECTION 2. Chapter 215 of the acts of 1938 is hereby repealed.

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SECTION 3. Chapter 314 of the acts of 1946 is hereby repealed.

SECTION 4. Chapter 442 of the acts of 1948 is hereby repealed.

SECTION 5. This act shall not impair the tenure of any person holding the position of city clerk, city collector and city engineer in the city of Revere on the effective date of this act.

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

Approved November 10, 2009.

**Chapter 129. AN ACT AUTHORIZING THE CITY OF WESTFIELD TO
CONVERT A SEASONAL LICENSE FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE
PREMISES TO AN ANNUAL LICENSE FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE
PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 17 and 17B of chapter 138 of the General Laws, the licensing authority of the city of Westfield may convert 1 currently-issued seasonal license for the sale of all alcoholic beverages not to be drunk on the premises located at 53 Elm street to an annual license for the sale of all alcoholic beverages not to be drunk on the premises located at 53 Elm street. An annual license granted under this act shall be subject to all of said chapter 138, except said sections 17 and 17B.

The licensing authority of the city of Westfield shall not approve the transfer of the license to any other person, organization, corporation or location but it may be reissued to a new applicant 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 of the city of Westfield which may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

An annual license issued or reissued pursuant to this act shall be subject to an original application fee of \$4,000 which shall be in addition to the annual fee charged for all alcoholic beverages licenses not to be drunk on the premises in the city of Westfield. The original fee shall be paid at the time of issuance or reissuance of the license, as the case may be, and deposited into an economic development account in the city of Westfield and expended consistently with the purposes of that account.

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

Approved November 10, 2009.

**Chapter 130. AN ACT DESIGNATING THE VIETNAM VETERANS MEMORIAL
SKATING RINK IN THE CITY OF NORTH ADAMS AS THE PETER
W. FOOTE VIETNAM VETERANS MEMORIAL SKATING RINK.**

Be it enacted, etc., as follows:

Notwithstanding chapter 651 of the acts of 1969 or any other general or special law or rule or regulation to the contrary, the Vietnam Veterans Memorial skating rink on South Church street in the city of North Adams shall be designated and known as the Peter W. Foote Vietnam Veterans Memorial skating rink in memory of Peter W. Foote who sacrificed his life in Vietnam. The department of conservation and recreation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved November 10, 2009.

**Chapter 131. AN ACT AUTHORIZING THE TOWN OF MONTAGUE TO GRANT
AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Montague may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138, to Jordan Quinn Consulting LLC located at 25 6th street in the village of Turners Falls section of the town of Montague. The license shall only be used for the serving of all alcoholic beverages within the connected buildings at 25 6th street and 47 J street and within the rooms designated as the Montague Performing Arts Center and its adjoining common space, and within the Oak Room and within Fire Stones Martini Bar and Restaurant, all at said location approved by the general court. The license authorized by this act shall be subject to all of said chapter 138 except said section 17.

The license authorized in this act shall be nontransferable to any other location but the licensing authority may grant the license to a new applicant for use at the same 3 locations 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.

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

Upon issuance of the license authorized in this act, Jordan Quinn Consulting LLC 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 and any further granting of that license shall be subject to said chapter 138.

Approved November 10, 2009.

Chapter 132. AN ACT PROVIDING BENEFITS TO VETERANS AND SERVICE MEMBERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith benefits to certain veterans and service members, 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 33 of the General Laws is hereby amended by inserting after section 67 the following section:-

Section 67A. There shall be a medal of liberty which shall be awarded to the next of kin of service men and women from the commonwealth killed in action or who died as a result of wounds received in action. The adjutant general and 2 field grade officers of the armed forces of the commonwealth detailed by the commander-in-chief shall constitute a commission to make recommendations to the commander-in-chief for the awarding of the medal of liberty.

SECTION 2. The last sentence of subsection (d) of section 4 of chapter 51 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following words:- , the secretary of veterans' services and local veterans' service officers.

SECTION 3. Section 95 of chapter 54 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Federal write-in absentee ballots shall be received and counted as provided in section 103 of the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. section 1973ff-2, for any preliminary, primary or general election for federal, state, city, town, county or district office or any ballot question. Federal write-in absentee ballots received for state and city final elections shall be counted only at the public meeting of the registrars held under the preceding paragraph, and only if no valid state ballot has been received from the

same voter, but shall be counted even if the voter has not applied for a state absent voter ballot or if the voter's application was received after the thirtieth day before the election.

SECTION 4. Said section 95 of said chapter 54, as so appearing, is hereby further amended by adding the following 3 paragraphs:-

Federal write-in absentee ballots from absent uniformed services voters and overseas voters as defined in section 107 of said Uniformed and Overseas Citizens Absentee Voting Act that are transmitted by email or facsimile as permitted by this section, shall be counted for federal, state, city, town, county or district offices at any preliminary, primary or general election or any ballot question so long as they are received by the city or town clerk before the hour fixed for closing the polls as provided in section 93, but only if no valid state ballot has been received from the same voter; provided, however, that section 99 shall apply to federal write-in absentee ballots sent by mail; and provided further, that a federal write-in absentee ballot shall be counted even if the voter has not applied for a state absent voter ballot or if the voter's application was received after the thirtieth day before the election. Federal write-in absentee ballots received for preliminary, primary, county, district, city and town elections shall be processed in the office of the registrars after the hour of the closing of the polls and the registrars shall amend each precinct tally sheet to include the counted federal write-in absentee ballots.

Absent uniformed services voters and overseas voters may mail, email or send by facsimile, a completed federal write-in absentee ballot directly to local election officials or use transmission services provided and administered through the Federal Voting Assistance Program, or any successor program. Email or facsimile transmissions of a federal write-in absentee ballot shall include a completed form approved by the Federal Voting Assistance Program, or any successor program, declaring that the voter voluntarily waives the right to a secret ballot. Failure to include such form shall not invalidate the ballot.

The secretary of state shall promulgate rules and regulations necessary for the implementation of this section to establish procedures for electronic transmission, including email and facsimile transmissions, of election materials.

SECTION 5. Section 26 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 to 9, inclusive, the words "male veterans as defined in clause Forty-third of section seven of chapter four, and who are qualified to perform the work to which the employment relates" and inserting in place thereof the following words:- veterans as defined in clause Forty-third of section 7 of chapter 4 and who are qualified to perform the work to which the employment relates and, within such preference, preference shall be given to service-disabled veterans.

SECTION 6. Said section 26 of said chapter 149, as so appearing, is hereby further amended by inserting after the word "district", in line 17, the following words:- and, within such preference, preference shall be given to service-disabled veterans.

SECTION 7. The executive office of health and human services, in consultation with the department of veterans' services and the Massachusetts commission against discrimination, shall conduct a disparities study examining the history of service-disabled

veterans in the commonwealth. The study shall examine factors including, but not limited to, the employment opportunities for service-disabled veterans, and any other forms of discrimination in the awarding of state contracts. The report shall provide recommendations for remedying any discovered discrimination. The executive office shall file the report not later than November 11, 2010 with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means and the joint committee on veterans and federal affairs.

SECTION 8. The executive office of health and human services, in consultation with the executive office for administration and finance and the department of veterans' services, shall study the current capacity to provide appropriate health care services for Massachusetts veterans and assess the necessity and feasibility of expanding capacity at current soldiers' homes or for establishing additional soldiers' homes in the commonwealth. The study shall examine factors including, but not limited to, the current and projected populations of veterans, the geographical distribution of the populations and the needs of the populations. The study shall assess potential funding mechanisms for expanded capacity at current soldiers' homes or for the construction and operation of additional soldiers' homes, including the availability of federal, state or private funds. The executive office of health and human services shall file the report not later than November 11, 2010 with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means and the joint committee on veterans and federal affairs.

SECTION 9. Notwithstanding any general or special law to the contrary, the department of veterans' services, in consultation with the secretary of administration and finance, shall issue a request for proposals for one or more private entities to construct, purchase and operate public homes for veterans. Such homes shall be considered "state veterans' homes". The construction, purchase and operation of state veterans' homes shall be funded from available federal and private funds. The primary purpose of such state veterans' homes is to provide support and care for veterans who served in the Armed Forces of the United States for no less than 180 days.

The secretary of veterans' services shall promulgate rules and regulations necessary for the implementation of this section to the degree necessary to achieve maximum federal financial participation within 90 days after the effective date of this act. The request for proposals shall be issued within 60 days of such rules and regulations being adopted. The department of veterans' services may determine that no proposals are responsive or may determine that no responsive proposals provide adequate value to the commonwealth. If the department of veterans' services determines that no proposals are responsive or no responsive proposals provide adequate value to the commonwealth, the department shall notify the legislature of the reasons for such findings in writing within 60 days of such decision. All actions relative to requests for proposals under this section shall comply with sections 52 to 55, inclusive, of chapter 7 of the General Laws.

SECTION 10. Notwithstanding any general or special law to the contrary, veterans who reside in the commonwealth and are honorably discharged from the armed services may

be exempted from apprenticeship, school and other requirements to acquire a permit or license to perform work in an area requiring a license that relates to specific military experience. Individual state licensing boards shall promulgate rules and regulations to award veterans' exemptions from requirements or credits towards licensure for all related military experience and schooling in the area in which the veteran seeks to be licensed. The rules and regulations shall include, but not be limited to, accepting all or a portion of a veteran's military training and work experience in lieu of apprenticeship requirements.

SECTION 11. Notwithstanding any general or special law to the contrary, a resident of the commonwealth who is sent overseas as a member of the United States Armed Forces and is eligible to receive benefits pursuant to section 16 of chapter 130 of the acts of 2005 may receive such benefits each time he is deployed; provided, however, that an eligible resident shall receive the full bonus allowed by said section 16 of said chapter 130 upon return after his first deployment and 50 per cent of the bonus after each subsequent deployment, provided that appropriated funding is available and the state treasurer certifies that the relevant account has sufficient funds to maintain such an initiative. The state treasurer shall annually provide a status report on the account to the secretary of veterans' services, the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on veterans and federal affairs.

SECTION 12. (a) Notwithstanding any general or special law to the contrary, there shall be a veterans' hall of fame council to study the feasibility of establishing a veterans' hall of fame in the commonwealth. The commission shall consist of 11 members, who shall be the president of the senate and the speaker of the house of representatives or their designees who shall serve as co-chairs, the minority leaders of the senate and house of representatives or their designees, the senate and house chairs of the joint committee on veterans and federal affairs or their designees, the adjutant general of the national guard or his designee, the secretary of veterans' services or his designee, the state superintendent of state office buildings or his designee and 2 persons to be appointed by the governor who shall be honorably-discharged veterans. Members shall serve without compensation.

(b) The council shall review and analyze the feasibility of, and costs associated with, establishing a veterans' hall of fame in the commonwealth and shall study reasonable methods and criteria that may be utilized for nominating and inducting veterans who are residents of the commonwealth into the veterans' hall of fame.

(c) The commission shall submit its finding and recommendations for establishing a veterans' hall of fame in the commonwealth by filing the same not later than November 11, 2010 with the clerks of the house of representatives and senate, the house and senate committees on ways and means and the joint committee on veterans and federal affairs.

SECTION 13. Notwithstanding any general or special law to the contrary, there shall be a special commission to study the feasibility and costs of establishing a functional magnetic resonance imaging and neuropsychological cognitive testing program for all military forces of the commonwealth prior to and upon return from deployment.

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The commission shall consist of 12 members, who shall be the secretary of veterans' services or his designee, who shall serve as chair of the commission, the president of the senate and the speaker of the house or their designees, the minority leaders of the senate and house of representatives or their designees, the senate and house chairs of the joint committee on veterans and federal affairs or their designees, the adjutant general of the national guard or his designee, the secretary of health and human services or his designee, the secretary of administration and finance or his designee, and 2 persons to be appointed by the governor, both of whom shall be honorably-discharged veterans who are residents of the commonwealth. The members shall serve without compensation.

The commission shall report to the general court not later than November 11, 2010 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 clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means and the joint committee on veterans and federal affairs.

SECTION 14. Notwithstanding any general or special law, rule or regulation to the contrary, active service members of the armed forces who otherwise meet the eligibility requirements of 108 C.M.R. 11.01 to receive a bonus for participation in operations Desert Shield or Desert Storm, shall be permitted to receive said bonus; provided, however, that sufficient funds are available in the relevant account.

SECTION 15. The state secretary shall immediately notify the program director for the Federal Voting Assistance Program or any successor program or his designee of all changes affecting absentee voting procedures of absent uniformed services voters and overseas voters provided for in sections 3 and 4.

Approved November 11, 2009.

Chapter 133. AN ACT RELATIVE TO PUBLIC UTILITY COMPANIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for reliable utility service 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 25 of the General Laws is hereby amended by inserting after section 4A the following 2 sections:-

Section 4B. Upon declaration by the governor that a state of emergency exists, the governor may authorize the chairman of the department of public utilities to take such action

that the chairman may consider necessary to assure public safety and welfare through the priority restoration or continuing availability of gas, electric and water utility services. Under such authority, the chairman may issue operational and management directives and order expenditures or other measures by any investor-owned utility that the chairman considers necessary to respond to the state of emergency, including but not limited to, expenditures for the deployment of personnel, equipment and other assets or property of an alternative utility to assume responsibility for the restoration of service if, in the judgment of the chairman, the affected utility is incapable of restoring service. The chairman shall have immediate access to all utility documents, information and personnel necessary to respond to the state of emergency; provided, however, that documents and information provided to the chairman during such state of emergency shall be subject to the exemption provided by subclause (n) of clause 26 of section 7 of chapter 4, to the extent necessary to protect the public safety. The chairman may temporarily suspend any department rule or regulation and implement any emergency rule, procedure or protocol that is necessary to respond to the emergency. Any orders issued by the chairman shall expire within 30 business days unless ratified by the commission prior to the 30 day expiration; provided, however, that said ratification by the commission shall prescribe an end date for each order. Expenses authorized by the chairman under this section may be recognized by the department for all purposes as proper business expenses of the affected utility or alternative utility subject to investigation and recovery through rates. The affected utility shall be required to reimburse the alternative utility for all its costs incurred within 90 days of the receipt of invoices for the cost of service. Failure of any investor-owned utility to carry out an order by the chairman authorized under this section shall be subject to investigation and a penalty of up to \$1,000,000 per violation. A penalty levied by the department shall be returned to ratepayers through distribution rates. Any investor-owned utility aggrieved by an order or directive issued by the chairman under this section may request a hearing within 90 days from the date the state of emergency ends.

Section 4C. (a) As used in this section, "emergency" shall mean a situation or condition which presents a threat to the public safety and welfare of the company's customers. An organized labor activity conducted for union recognition or as a tactic in contract negotiations shall not, of itself, constitute an emergency.

The attorney general on his own initiative, or upon petition by the department or by the city council in an affected city or by the board of selectmen in an affected town, may bring an action in superior court requesting the appointment of a receiver to oversee the operation of an investor-owned electric distribution, transmission or natural gas distribution company who serves less than 100,000 customers in the commonwealth. The court may appoint a receiver to operate the company, provided that the court finds that an emergency exists, and that the company has (a) materially violated standards for responding to emergencies, or (b) there is other compelling evidence that the company will not be able to comply with such standards without a receivership.

(b) The court may appoint as a receiver any person appearing on a list established for the purpose by the chairman and the secretary of energy and environmental affairs after the

chairman and secretary consult with representatives of investor-owned electric distribution, transmission and natural gas distribution companies.

(c) The purpose of a receivership created under this section shall be to safeguard the health, safety and welfare of the company's customers. A receiver appointed hereunder shall not take any actions or assume any responsibilities inconsistent with this purpose.

(d) No person shall impede the operation of a receivership created under this section. There shall be an automatic stay for a 120-day period subsequent to the appointment of a receiver, of any action that would interfere with the functioning of the company, including but not limited to, cancellation of insurance policies executed by the company or repossession of equipment used in the facility.

(e) Unless the court determines otherwise, a receivership created under this section shall not exceed 1 year.

(f) A receiver appointed pursuant to this section shall have access to all company utility assets and records and may manage the company's assets in a manner which will restore or maintain an acceptable level of service. The receiver may hire, direct or manage any employee, discharge any non-union employee, order an internal management audit, expend existing company utility revenues for labor and materials and make additional expenditures essential to providing an acceptable level of service; provided, that such expenditures are funded in accordance with generally accepted utility practices. Any costs incurred by the department or receiver under this section shall be the responsibility of the company. The company may petition the court to determine the reasonableness of any expenditure by the receiver.

(g) The court shall set a reasonable compensation for the receiver that is consistent with the regulations of the department. Such compensation shall be paid from the revenues of the company.

(h) No person shall bring an action against a receiver appointed under this section without first securing leave of court. The receiver shall be deemed the beneficiary of any insurance policies held by the company relating to the liability of directors or officers of the company.

(i) The department may promulgate rules and regulations, as necessary, for the implementation of this section.

(j) Notwithstanding the foregoing, this section shall not apply to an electric or gas distribution company serving less than 100,000 customers within the commonwealth that has an affiliate in the state which serves more than 100,000 customers within the commonwealth and the affiliates perform emergency restoration jointly.

SECTION 2. Section 1E of chapter 164 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following subsection:-

(c) The department shall promulgate regulations relative to an alternative dispute resolution process for the handling of damage claims by customers in an amount under \$100. The department shall establish a 60 day timeline for the resolution of all mediation claims.

The department shall issue a biannual report to the joint committee on telecommunications, utilities and energy which shall include, but not be limited to, the following information: the nature of consumer claims, the number of consumer claims and the resolutions of consumer claims reviewed by the department during the previous 6 months. Said report shall be available for public review at the department.

SECTION 3. Section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in line 238, the figure “\$1,000,000”, and inserting in place thereof the following figure:- \$5,000,000.

SECTION 4. Said chapter 164 is hereby further amended by inserting after section 1H the following 2 sections:-

Section 1I. Each investor-owned electric distribution, transmission, and natural gas distribution company shall file a report with the department by March first of each year comparing its performance during the previous calendar year to the department's service quality standards and any applicable national standards as may be adopted by the department. The department shall be authorized to levy a penalty against any distribution, transmission, or gas company which fails to meet the service quality standards in an amount up to and including the equivalent of 2.5 per cent of such company's transmission and distribution service revenues for the previous calendar year.

Section 1J. The department shall promulgate rules and regulations to establish standards of acceptable performance for emergency preparation and restoration of service for electric and gas distribution companies doing business in the commonwealth. The department shall levy a penalty not to exceed \$250,000 for each violation for each day that the violation of the department's standards persists; provided, however, that the maximum penalty shall not exceed \$20,000,000 for any related series of violations. The department shall open a full investigation, upon its own initiative, or upon petition of the attorney general or by the city council in an affected city or by the board of selectmen in an affected town, regarding a violation of the department's standards of acceptable performance to determine whether the electric or gas distribution company violated such standards; provided, however, that said petition shall be filed with the department not later than 90 days after the violation has been remedied.

SECTION 5. Said chapter 164 is hereby further amended by inserting after section 85A the following section:-

Section 85B. (a) Each electric distribution, transmission and natural gas distribution company conducting business in the commonwealth shall annually, on or before May 15, submit to the department an emergency response plan for review and approval. The emergency response plan shall be designed for the reasonably prompt restoration of service in the case of an emergency event, which is an event where widespread outages have occurred in the service area of the company due to storms or other causes beyond the control of the company. The emergency response plan shall include but not be limited to, the following:-

(1) the identification of management staff responsible for company operations during an emergency;

(2) a communications system with customers during an emergency that extends beyond normal business hours and business conditions;

(3) contact with customers who had documented their need for essential electricity for medical needs;

(4) designation of staff to communicate with local officials and relevant regulatory agencies;

(5) provisions regarding how the company will assure the safety of its employees and contractors;

(6) procedures for deploying company and mutual aid crews to work assignment areas; and

(7) identification of additional supplies and equipment needed during an emergency and the means of obtaining additional supplies and equipment.

The filing with the department shall also include a copy of all written mutual assistance agreements among utilities. The department shall accord protected treatment under section 5D of chapter 25 of confidential, competitively sensitive or other proprietary information contained in any emergency response plan and shall also confirm the application of subclause (n) of clause 26 of section 7 of chapter 4 so as not to jeopardize public safety.

(b) After review of an investor-owned electric distribution, transmission or natural gas distribution company's emergency response plan the department may request that the company amend the plan. The department may open an investigation of the company's plan. If, after hearings, the department finds a material deficiency in the plan, the department may order the company to make such modifications that it deems reasonably necessary to remedy the deficiency.

(c) Any investor-owned electric distribution, transmission or natural gas distribution company failing to file its emergency response plan may be fined \$500 for each day during which such failure continues. The fines levied by the department shall be returned to ratepayers through distribution rates.

(d) Notwithstanding any existing power or authority, the department may open an investigation to review the performance of any investor-owned electric distribution, transmission or natural gas distribution company in restoring service during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the department finds that, as a result of the failure of the company to implement its emergency response plan, the length of the outages were materially longer than they would have been but for the company's failure, the department may deny the recovery of all, or any part of, the service restoration costs through distribution rates, commensurate with the degree and impact of the service outage.

SECTION 6. The rules and regulations required by section 1J of chapter 164 of the General Laws, inserted by section 4 of this act, shall be promulgated on or before May 17, 2010.

Approved November 12, 2009.

Chapter 134. AN ACT AUTHORIZING THE TOWN OF NORTON TO TRANSFER CERTAIN PARK LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Norton, acting by and through its board of selectmen, may transfer a portion of the property located at 63 West Main street in the town of Norton, acquired for park purposes, to the board of water and sewer commissioners for water supply purposes and also for the purpose of leasing. The property is shown as lot 85 on assessors map 22 containing approximately 24.3 acres and the portion that may be transferred contains approximately 66,615 + - square feet, shown as "Lot A" on a plan entitled "Plan of Land on West Main Street in Norton, Massachusetts Prepared for Norton Water Department," dated April 30, 2008, by Yarworth Engineering Company, Inc.

SECTION 2. In consideration for and as a condition of the conveyance of park land authorized in section 1, the board of water and sewer commissioners of the town of Norton shall transfer a parcel of land located at 0 Rear Cottage street, Norton, shown as lot 106 on assessors map 21, containing approximately 4.5 acres, and held for water supply purposes, to the board of selectmen of the town of Norton to be held for park purposes. Said parcel of land to be held for park purposes pursuant to this section shall be of equal or greater size than the parcel described as "Lot A" in section 1.

SECTION 3. The board of water and sewer commissioners shall also transfer portions, as shown on a sketch plan on file with the town clerk, of 3 abutting parcels, shown as lots 102, 104 and 105 on assessors map 21, from the board of water and sewer commissioners for water supply purposes to the board of water and sewer commissioners for water supply purposes and for the purpose of access to the land described in section 2 to be held for park purposes.

SECTION 4. The board of selectmen and the board of water and sewer commissioners, upon such terms and conditions as they deem appropriate, shall execute, deliver and record any documents necessary to carry out the transfers set forth in this act, including entering into leases for the above-stated "Lot A" for a term or terms of up to 30 years, and to grant to public utility companies such easements as may be necessary for the leased land.

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

Approved November 13, 2009.

Chapter 135. AN ACT AUTHORIZING THE RELEASE OF CERTAIN RESTRICTIONS ON A PARCEL OF LAND IN THE TOWN OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Nantucket, acting by and through its board of selectmen, may release the open space restriction on a certain parcel in the town of Nantucket located at 1 Miacomet road, shown as parcel 345 on assessors' map 67 and use the parcel for any lawful general municipal purpose. The portion of said parcel 345 that may be released from such restriction contains 20,806 square feet and is shown as "Lot A" on a plan entitled "Exhibit A Plan in Nantucket, Mass., Prepared for Town of Nantucket," dated January 18, 2008, prepared by Blackwell & Associates, Inc. which is on file in the Nantucket planning office.

SECTION 2. In consideration for and as a condition of the release authorized in section 1, the town of Nantucket shall transfer 3 lots used for general municipal use and located within parcels 680 and 679 on said assessors' map 67 at 5 and 7 Miacomet road, respectively, either to the conservation commission or the Nantucket Islands Land Bank, to be used for conservation and open space purposes. The lots, totaling 25,961 square feet, are shown as "Lots B, C and D" on said plan prepared for the town by Blackwell & Associates.

SECTION 3. If the land released pursuant to section 1 ceases to be used for the purposes described in said section 1, the land shall revert to the town of Nantucket and be dedicated to open space.

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

Approved November 13, 2009.

Chapter 136. AN ACT RELATIVE TO THE ELECTION OF THE MEMBERS OF THE BOARD OF PUBLIC WORKS OF THE TOWN OF HOPKINTON.

Be it enacted, etc., as follows:

SECTION 1. At the next annual town election in the town of Hopkinton at which the 3 members of the board of public works are to be elected pursuant to section 1 of chapter 375 of the acts of 1998, the candidate receiving the highest number of votes shall be elected for a term of 3 years, the candidate receiving the second highest number of votes shall be elected for a term of 2 years and the candidate receiving the third highest number of votes shall be elected for a 1 year term. Thereafter, when the term of a member expires, his successor shall be elected to serve for a term of 3 years.

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

Approved November 13, 2009.

Chapter 137. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TERRY HOWARD, 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, rule or regulation to the contrary, the department of public health shall establish a sick leave bank for Terry Howard, 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 Terry Howard. 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. Whenever Terry Howard 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 November 13, 2009.

Chapter 138. AN ACT RELATIVE TO THE DEVELOPMENT OF CERTAIN TOWN LAND IN THE TOWN OF CHATHAM.

Be it enacted, etc., as follows:

SECTION 1. All leasehold improvements without the use of public funds undertaken at the property known as the Marconi-RCA Wireless Receiving Station, listed on the National Register of Historic Places, in the town of Chatham by private parties shall be exempt from section 38K of chapter 7 of the General Laws and chapter 149 of the General Laws. The land is shown as parcel 11J-7 on assessors' maps 10J and 11J.

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

Approved November 13, 2009.

Chapter 139. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF ORLEANS.

Be it enacted, etc., as follows:

Chapter 4 of the charter of the town of Orleans, which is on file in the office of the

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archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection 4-4-1 and inserting in place thereof the following subsection:-

4-4-1 Subject to the approval of the board of selectmen, the town administrator shall appoint on the basis of merit and fitness alone, and except as otherwise is provided by general law, charter or personnel bylaws, may suspend or remove: a town clerk, who need not be a resident of the town; a town collector-treasurer; a surveyor of highways; a full-time professional assessor who shall not be a member of the board of assessors; and a water and sewer superintendent. The town administrator may also appoint other positions, subject to the availability of funds.

Approved November 13, 2009.

Chapter 140. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF FALL RIVER AND THE TOWN OF SOMERSET AS THE VETERANS MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The Brightman street bridge replacement on state highway Route 6, spanning the Taunton river and connecting the city of Fall River and the town of Somerset shall be designated and known as the Veterans Memorial bridge. The Massachusetts department of transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved November 13, 2009.

Chapter 141. AN ACT ESTABLISHING A SICK LEAVE BANK FOR RICHARD DONATI, 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 Donati, an employee of the department. Any employee of the department may voluntarily contribute 1 or more

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sick, personal or vacation days to the sick leave bank for use by Richard Donati. 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. Whenever Richard Donati 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 November 16, 2009.

**Chapter 142. AN ACT RELATIVE TO THE INTEREST RATE TO BE CHARGED
UPON APPORTIONED BETTERMENT ASSESSMENTS FOR
WATER AND SEWER PROJECTS IN THE TOWN OF
MATTAPOISETT.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Mattapoisett shall assess interest on apportionments of sewer and water betterment assessments at the actual rate of interest chargeable to the town for the betterment project to which such assessments relate.

SECTION 2. If, upon the effective date of this act, assessments have already been apportioned for the Mattapoisett River Basin Sewer Project and the Buzzards Bay Sewer Extension Project phases I and II, Route 6, Brandt Beach, and 1 or more portions with interest at the rates allowed under section 13 of chapter 80 have been added to the annual tax assessed relative to the assessed properties, from the first day of October after the effective date of this act, such apportioned assessments shall bear interest at the rate authorized by section 1.

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

Approved November 16, 2009.

**Chapter 143. AN ACT RELATIVE TO THE RETIREE HEALTHCARE LIABILITY
TRUST FUND OF THE TOWN OF BROOKLINE.**

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 472 of the acts of 1998 is amended by striking out the fourth sentence.

SECTION 2. Said section 1 of said chapter 472 is hereby further amended by adding the following 2 paragraphs:-

Notwithstanding section 54 of chapter 44 of the General Laws or any other general or special law to the contrary, the fund shall remain under the custodial care of the treasurer but shall be under the supervision and management of an independent and autonomous 7-member board consisting of the 5 members of the town's contributory retirement board and 2 members appointed by the board of selectmen. The board may invest and reinvest the principal and interest of the fund under chapter 203C of the General Laws. The board may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the fund and may pay from the fund for this advice and other services as determined necessary by the board. Procurement for these services shall be subject to the procurement procedures and rules followed by the town's procurement department.

If any civil action is brought against a member of the board which necessitates the defense or settlement of the action by town counsel or outside counsel retained by town counsel on behalf of the board, the member shall be indemnified for all expenses incurred in the defense of the action and shall be indemnified for damages to the same extent as provided for public employees in chapter 258 of the General Laws if the claim arose out of acts performed by the member while acting within the scope of his official duties; provided, however, that no member of the board shall be indemnified for expenses incurred in the defense of an action, or damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of willful dishonesty or an intentional violation of law by the member.

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

Approved November 16, 2009.

Chapter 144. AN ACT DESIGNATING A PORTION OF ROUTE 140 AS THE KOREAN WAR VETERANS' MEMORIAL ROADWAY.

Be it enacted, etc., as follows:

The connector road to Acushnet avenue at exit 6 on route 140 in the city of New Bedford shall be designated and known as the Korean War Veterans' Memorial Roadway. The Massachusetts department of transportation shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department.

Approved November 16, 2009.

Chapter 145. AN ACT ESTABLISHING A TOWN ADMINISTRATOR AND A MUNICIPAL FINANCE DEPARTMENT IN THE TOWN OF DOUGLAS.

Be it enacted, etc., as follows:

SECTION 1. - TOWN ADMINISTRATOR

Section 1 -1. Appointment; Qualification; Term

The executive powers of the town of Douglas shall be vested in the board of selectmen who shall serve as the chief executive officer and policymaking board of the town. The board of selectmen shall continue to have and be able to exercise all the powers and duties vested in boards of selectmen under the General Laws or by vote of the town, except as otherwise provided herein.

The board of selectmen shall appoint a town administrator to serve for a term to be determined by contract, and shall fix the annual compensation within the amount appropriated by the town. The board of selectmen may establish an employment contract with the town administrator for salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of his duties, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave. The town administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least 3 years of prior full-time compensated executive service in public or business administration. Alternatively, 5 years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify an applicant. Seven years or more of prior full-time compensated service in public or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths vote, waive the education or experience requirements of this section. A town administrator need not be a resident of the town of Douglas or the commonwealth at the time of appointment, nor at any time during the period of such service. The town administrator shall not have served in an elective office in the town of Douglas for at least 12 months prior to appointment. The town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.

The town administrator shall devote full-time service to the office and shall not hold any other public office, elected or appointed, nor engage in any business or occupation during such service, unless such action is approved in advance by the board of selectmen. The board of selectmen shall provide for an annual review of the job performance of the town administrator.

Section 1-2 . Powers and Duties

The town administrator shall be the chief administrative officer of the town, directly responsible to the board of selectmen for the administration of all town affairs for which the

office of town administrator is given responsibility by this act. The powers and duties of the town administrator shall include, but are not intended to be limited to the following:

(a) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town administrator is given authority, responsibility or control by this act, by by-law, by town meeting vote, by vote of the board of selectmen, or otherwise.

(b) To appoint, and in appropriate circumstances, to remove, subject to any applicable collective bargaining agreement all department heads, officers and employees for whom no other method of selection is provided by this act, including, but not limited to, the chief of police, fire chief, highway superintendent, director of municipal finance, town accountant, town treasurer, town collector, building commissioner, town engineer, senior director, and facilities maintenance director; provided, however, that the town administrator shall not have the power to remove employees of the water and sewer department, the library department, and the school department. The town administrator shall, after consultation with the board of assessors, appoint the principal assessor. Appointments of department heads and officers shall become effective on the twenty-first day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period by a majority of all of its members, vote to reject such action, or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the board of selectmen. Except as otherwise provided herein, all offices under the supervision of the town administrator as set forth in this section shall have the powers and duties set forth in the General Laws, the town by-laws and this act.

(c) To administer the town personnel system, the personnel policies and procedures and rules and regulations and the personnel by-law and collective bargaining agreements entered into by the town.

(d) To attend all regular and special meetings of the board of selectmen, including executive sessions, unless excused in advance by the chairman of the board and have a voice, but no vote, in all of its proceedings. The board of selectmen may conduct a meeting despite the lack of attendance of the town administrator.

(e) To assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the board of selectmen, but not less than quarterly, a full report of all town administrative operations during the period reported on, which report shall be made available to the public.

(f) To keep the board of selectmen fully advised as to the needs of the town and recommend to the board of selectmen and to other elected town officers and agencies for adoption such measures requiring action by them or by the town meeting as the town administrator may deem necessary or expedient. The town administrator shall keep the board of selectmen informed in regards to issues affecting the administration and governance of the town, in a timely manner.

(g) To be responsible for the maintenance, repair and use of all town land and buildings which fall under the jurisdiction of the board of selectmen. Other municipal boards

may request that the town administrator be responsible for the maintenance and repair of the land and buildings under their respective jurisdictions.

(h) To prepare and present to the board of selectmen and finance committee an annual operating budget for the town; and to work in conjunction with the capital improvement committee, created by by-law, to prepare a proposed capital improvement plan for the ensuing 5 fiscal years.

(i) To negotiate, on behalf of the board of selectmen, all personnel contracts and collective bargaining agreements involving any subject within the jurisdiction of the office of the town administrator or board of selectmen, including contracts with town employees involving wages, hours and other terms and conditions of employment; provided, however, that all such contracts and agreements shall be subject to the approval of the board of selectmen.

(j) To be the chief procurement officer for the town, in accordance with chapter 30B of the General Laws, and to appoint such assistant procurement officers as provided in said chapter 30B.

(k) To see that the general laws, this act, town by-laws, votes of the town meeting and of the board of selectmen which require enforcement by the town administrator are faithfully executed, performed or otherwise carried out.

(l) To prosecute, defend and compromise, subject to the approval of the board of selectmen, all litigation to which the town is a party.

(m) To inquire and make investigation, at any time, into the conduct and operation of a town office or performance of duties of any officer, employee, department, board, commission or other town agency.

(n) To attend all sessions of all town meetings, unless excused in advance by the chairman of the board of selectmen, and answer questions raised by voters which relate to warrant articles and to matters over which the town administrator exercises any supervision.

(o) To coordinate the activities of all town agencies serving under the office of the town administrator and the board of selectmen with agencies under the control of other officers and multiple member bodies elected directly by the voters. The town administrator shall have authority to require those officers or members, or their representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town. The town administrator shall have the right to attend and speak at any public meeting of any multiple member body.

(p) To seek out and work to obtain resources from federal, state and other governmental jurisdictions.

(q) To approve all payroll and expense warrants for payment of town funds. Such approval shall be sufficient authority to authorize payment of the same by the town treasurer. In the event of the absence of the town administrator, the board of selectmen shall approve such warrants. If a vacancy exists in the office of town administrator, the board of selectmen shall approve all such warrants, or, may delegate such responsibility to a temporary town administrator appointed under subsection (b) of section 1-4 of this act.

(r) To perform any other duties as are required to be performed by the town administrator by by-laws, administrative code, votes of the town meeting, votes of the board of selectmen or otherwise.

Notwithstanding the provisions of this section, the board of selectmen shall be the appointing authority for town counsel, town auditor, appointed multiple member bodies created by statute, by-law or town meeting, except as may otherwise be provided by applicable provisions of said statute, by-law or town meeting vote, and for other individuals who are to serve as representatives of the town to the governing or advisory bodies of area, regional or district authorities.

Section 1-3. Delegation of Authority

The town administrator may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of the town administrator; provided, however, that all acts performed under any such delegation shall at all times be considered to be the acts of the town administrator.

Section 1-4. Acting Town Administrator

(a) With the approval of the board of selectmen, the town administrator may designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town administrator during an absence of the town administrator of not more than 20 days, including Saturdays, Sundays and holidays. Such delegation shall be made by a letter filed with the town clerk, the municipal finance director and the board of selectmen.

(b) A vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. Pending such regular appointment, the board of selectmen shall appoint a qualified town administrative officer or employee to perform the duties of the office on an acting basis. Such temporary appointment may not exceed 6 months but one renewal may be voted by the board of selectmen not to exceed a second 6 months. Compensation for such person shall be set by the board of selectmen.

(c) The powers and duties of the temporary or acting town administrator, under subsection (a) shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

Section 1-5 . Removal and Suspension

The board of selectmen may, by a vote of 4 out of 5 members, terminate and remove the town administrator. The board must provide a preliminary statement of removal to the town administrator setting forth the reasons for removal, which may provide for suspension of the town administrator for a period of not more than 45 days. Within 5 days after receipt of the statement the town administrator may request a public hearing by filing with the board of selectmen a written request for the same, and may be represented by counsel at the hearing. If no request for a hearing is received upon the expiration of the above-referenced 5 days, the preliminary resolution of removal shall immediately become a final resolution of removal without further action by the board of selectmen.

If a hearing is requested, no later than 10 days following the close of the public hearing, the board of selectmen may adopt, by a vote of 4 out of 5 members a final resolution of removal, which may be made effective immediately. Failure to adopt a final resolution prior to the expiration of the 10 days following the close of the public hearing shall nullify the preliminary resolution of removal, and the town administrator shall forthwith resume the duties of the office.

The board of selectmen may, by a vote of two-thirds of those members present and voting, suspend the town administrator.

Section 1-6. Implementation

The executive administrator holding office as of the effective date of this act shall have the powers and duties of the town administrator as set forth herein, and shall continue to serve for the remainder of any applicable contract term. The obligations of the executive administrator and the town under such contract, including any option to renew, shall not be affected by passage of this act. Upon expiration of the term of the contract or sooner resignation, the town administrator shall be appointed by the board of selectmen in accordance with this act; provided, however, that this act shall not be considered to prohibit the appointment of the executive administrator holding office as of the effective date of this act as the town administrator.

SECTION 2 - MUNICIPAL FINANCE DEPARTMENT

Section 2-1. Establishment and Scope

There shall be a department of municipal finance which shall be responsible for the performance of all fiscal and financial activities of the town, including those duties and responsibilities related to municipal finance activities which prior to the effective date of this act were performed by or under the authority of the town accountant, the town treasurer, and the town collector. Although the board of assessors shall be part of the department of municipal finance, the board of assessors shall continue to exercise all of the duties and responsibilities of a board of assessors under the General Laws, except as otherwise provided in subsection (b) of section 1-2 and section 2-3 of this act. The department of municipal finance shall have such additional powers, duties and responsibilities with respect to municipal finance-related functions and activities as the town may from time to time provide by by-law.

Section 2-2. Director of Municipal Finance

The department of municipal finance shall be under the direct control and supervision of a director of municipal finance who shall be appointed by and be responsible to the town administrator. The director of municipal finance shall be a person especially fitted by education, experience and training to perform the duties of the office. The educational qualifications shall consist of a master's degree, preferably in accounting or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least 3 years of prior full-time compensated service in accounting or business administration. Alternatively, 5 years or more of such professional

experience and a bachelor's degree in an appropriate discipline shall qualify an applicant. Seven years or more of prior full-time compensated experience in accounting or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths vote, waive the education or experience requirements of this section. The salary, fringe benefits and other conditions of employment of the director of municipal finance, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of his duties or office, liability insurance, conditions of discipline, termination, dismissal, reappointment, performance standards and leave may be established by contract.

Section 2-3. Duties and Responsibilities

The director of municipal finance shall be responsible for the supervision and coordination of all activities of the department in accordance with the General Laws, town by-laws, administrative codes and rules and regulations. The director of municipal finance may serve as the town accountant and shall be responsible for coordinating the fiscal management procedures of the offices of the town treasurer, town collector, board of assessors and town accountant, and shall be the administrator of budgeting, including financial reporting, accountability and control, as well as an advisor on financial and programmatic implications of current and future policies to all town departments, the town administrator and the board of selectmen. The finance director shall be responsible for coordinating all financial tasks required by the General Laws, and shall accomplish such tasks in accordance with the dates specified in the Massachusetts department of revenue municipal calendar, as it may be amended from time to time.

SECTION 3 - TRANSITION

Section 3-1. Implementation

Upon the effective date of this act, the positions of elected town treasurer and town collector shall be abolished and the terms of the elected incumbents shall be terminated. The appointed town accountant holding office as of the effective date of this act shall thereupon become the director of municipal finance. The appointed assistant assessor holding office as of the effective date of this act shall thereupon become the principal assessor. The elected incumbents holding the offices of town treasurer and town collector as of the effective date of this act shall thereupon become the first appointed town treasurer and town collector, respectively, subject to removal in accordance with subsection (b) of section 1-2 of this act. The town treasurer and town collector shall, subject to appropriation, maintain the same salary and benefits as they received in their elected capacities, and shall be eligible to receive salary increases in the same manner as all other non-union personnel. The town treasurer and town collector shall be employees of the department of municipal finance under the direction and supervision of the director of municipal finance. Thereafter, appointments to the positions of town treasurer and town collector will be made by the town administrator pursuant to subsection (b) of section 1-2, in consultation with the director of finance.

Section 3-2. Contracts, Transfer of Records and Property

No contracts or liabilities in force on the effective date of this act shall be affected by abolition of the elected offices and consolidation of financial functions of the town as provided for herein, and the newly created appointed offices and municipal finance department shall in all respects be the lawful successor of offices and departments so abolished or consolidated.

All records, property and equipment whatsoever of any office, department, or part thereof, the powers and duties of which are assigned in whole or in part to another office or department, are assigned to such office or department.

Section 4. This act shall be submitted to the voters of the town of Douglas for acceptance at an annual or special town election in the form of the following question:

“Shall an act passed by the General Court in the year 2009 entitled ‘An Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas,’ be accepted?”

The town shall include below the ballot question a fair and concise summary thereof prepared by town counsel and approved by the board of selectmen. If a majority of votes cast in answer to this question is in the affirmative, sections 1 through 3 of this act shall take effect 60 days following acceptance by the voters.

Section 5. Section 4 of this act shall take effect upon its passage.

Approved November 19, 2009.

Chapter 146. AN ACT AUTHORIZING THE DEVENS ENTERPRISE COMMISSION TO GRANT A LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding clause (h) of paragraph (5) of section 11 of chapter 498 of the acts of 1993, chapter 75 of the acts of 2003 or any other general or special law to the contrary, the Devens Enterprise Commission may grant a license for the sale of all alcoholic beverages to be drunk on the premises to a hotel within the Devens Regional Enterprise Zone. A license granted under this section shall not decrease the number of such licenses authorized to be granted by the towns of Ayer, Harvard and Shirley.

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 commission and the commission may then grant the license to a new applicant under the same conditions as specified in this act if the applicant files with the commission a letter from the department of revenue indicating that the license is in good standing and that all applicable taxes have been paid.

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

Approved November 19, 2009.

Chapter 147. AN ACT AUTHORIZING A SPECIAL MEETING OF THE TOWN COUNCIL OF THE CITY KNOWN AS THE TOWN OF RANDOLPH FOR THE PURPOSE OF SELECTING A TOWN MANAGER.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding the provisions of the charter of the city known as the town of Randolph, as appearing in section 3 of chapter 2 of the acts of 2009, to the contrary, those persons elected and qualified as town councillors pursuant to said charter shall assemble, take and subscribe to an oath of office and be sworn to the faithful performance of their duties at a special meeting convened solely for the purposes of selecting a town manager.

(b) The clerk of the town of Randolph shall provide notice of the date, time, place and purpose of the special meeting by written notice delivered in hand or to the place of residence of each town councillor-elect. Such notice shall be provided at least 7 days before the date the meeting is scheduled to take place. A copy of the notice to the town councillors-elect shall forthwith be posted upon the town bulletin board.

(c) The special meeting shall not proceed unless at least 6 of the town councillors-elect are present.

(d) After taking an oath of office, the town councillors shall elect from among its members present a temporary council president who shall preside over the meeting, regulate its proceedings and decide all questions of order.

(e) The temporary council president shall appoint, subject to the approval of the town councillors present, a temporary clerk of the council, who may be the town clerk. The temporary clerk of the council shall keep the journal of the council's proceedings and shall not receive a salary for the performance of this duty.

(f) At the special meeting, the town council shall select, from among candidates approved by the screening committee, a town manager who is qualified as required by section 3-1 of the charter. Such selection shall be by the affirmative vote of at least two-thirds of the councillors. The candidate selected to be town manager shall take office in accordance with the charter.

(g) Once the town manager has been selected, the appointment of the council president and clerk of the council shall expire and the town council shall have no other powers or duties until January 4, 2010; provided, however, that on or after January 4, 2010, whoever served as temporary president or temporary clerk shall be eligible to serve as council president or clerk of the council in accordance with the charter.

(h) This special meeting of the town council shall be subject to sections 23A to 23C, inclusive, and section 24 of chapter 39 of the General Laws.

SECTION 2. The selection of the town manager shall be made, in accordance with this act, not later than 30 days after the effective date of this act.

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

Approved November 19, 2009.

Chapter 148. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF HADLEY.

Be it enacted, etc., as follows:

SECTION 1. There shall be established in the town of Hadley a department of public works under the jurisdiction of the board of selectmen. The department of public works shall have charge of and responsibility for the management of all public works operations of the town including, but not limited to the following: highway, water, sewer, solid waste, engineering services, building maintenance of all town buildings except those under the jurisdiction of the school department, cemetery and other operations as may be deemed necessary or desirable. The board of selectmen shall have the power to make all policy decisions related to the operations of public works within the town of Hadley. All references herein to the "board" shall refer to the board of selectmen.

The board shall be responsible for: the repair, alteration and maintenance of all town-owned equipment, property and vehicles under the jurisdiction of the board, and those formerly under the board acting as water commissioners and water department, sewer commissioners and sewer department and cemetery committee and cemetery department; the central purchasing of all public works related supplies, materials and equipment and; the awarding of all contracts for the repair, alteration, remodeling, construction, reconstruction, maintenance or renovation of all town public ways, sewer lines, water lines, grounds, properties, facilities and equipment, except those under the jurisdiction of the school department.

The board shall appoint and may suspend, discipline or remove the director of public works and the division heads, assistants, laborers and employees thereof.

Upon the effective date of this act, the board shall have all the powers and duties now or from time to time vested by general law or special act in the following boards, departments and offices, or in boards, departments and offices having corresponding powers and duties in the town: road commissioners; surveyors of highways; superintendent of streets; water commissioners; sewer commissioners; municipal light board or commissioners thereof; cemetery commissioners; tree warden and; moth superintendent and forestry department. Such boards, departments and offices shall thereupon be abolished and the terms of any incumbent members of any such board shall be terminated. No contracts or liabilities then in force shall be affected by such abolition, but the board shall, in all respects, be the lawful successor of the boards, departments and offices so abolished.

SECTION 2. The board shall appoint the director of public works. Pending the appointment of the director, the board may appoint an acting director. The compensation of the director or acting director shall be fixed by the board, subject to appropriations therefore.

The board shall initiate a recruitment and selection process for the position of director of public works, who shall be responsible to the board. The board shall appoint a screening committee charged with recommending the appointment of the first director of public works for the town. The committee shall establish detailed qualifications for the position of direc-

tor of public works and seek candidates for the position through advertisements in professional journals and other recruitment sources. The director of the department of public works shall be especially suited by education, training and experience to perform the duties of the office and shall have such other qualifications as the board may from time to time require. The director need not be a resident of the town. The director shall be a college graduate with an appropriate 4 year engineering degree. The committee shall report to the board and recommend candidates for consideration within a reasonable period of time after its appointment.

No member of the board shall be eligible for appointment as director of public works. While employed by the town of Hadley, the director of public works shall hold no other elective or appointive office, nor engage in any other business or occupation; provided, however, that director of public works shall serve as the tree warden. The board may waive this restriction by prior written authorization.

SECTION 3. The director of public works shall supervise and direct the operations of the department of public works. The director shall have full authority to carry out the policies of the board and shall be responsible for the efficient exercise and performance of the powers, rights and duties vested in the board by this act.

The director shall, unless the board deems it unnecessary or impractical by reason of cost or otherwise, give the town a bond with a surety company authorized to transact business in the commonwealth as surety for the faithful performance of the director's duties in such sum and upon such conditions as the board may require.

The director shall serve at the pleasure of the board. On behalf of the town, the board may enter into an employment contract with any such director, the terms and conditions of which, including the length thereof shall not necessarily be limited to 1 calendar or fiscal year but shall be determined by the board, in its sole discretion.

The director shall keep full and complete records of the doings of his office and shall render to the board regular and full reports of all operations under the director's control during the period reported upon and shall annually prepare a synopsis of such reports for publication in the town report. The director shall keep the board fully advised as to the needs of the town within the scope of the director's duties and shall annually furnish to the board, not later than the last day of January, detailed estimates in writing of the appropriation required during the next ensuing fiscal year for the proper exercise and performance of all his powers, rights and duties; and shall annually furnish to the board not later than December detailed estimates in writing of the capital budget needs for the next 5 years. Each budget request shall be in such detail and such format as may be required by the board and shall, unless the board directs otherwise, be in such details and in such format as may be suggested by the finance committee.

SECTION 4. No person in the permanent full-time employment of the town, as of the effective date of this act, in any of the boards, positions or departments abolished or consolidated hereunder shall forfeit pay grade or time in service by virtue of the establishment of the department of public works. Each such person shall be retained in a capacity

as similar to such person's former capacity as is practical. No contracts or liabilities in force as of the effective date of this act shall be affected by this act, but the board shall be deemed the lawful successor of the aforesaid departments, commissions, board and offices relative to such contracts or liabilities. It shall be the duty of such departments, commissions, board and offices to turn over to the board property and records, including all contracts, papers, documents, permits, plans and property under their control and custody and each shall furnish to the board such information as may be required by the board of selectmen.

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

Approved November 19, 2009.

Chapter 149. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF DANVERS AS THE DANVERSPORT BRIDGE.

Be it enacted, etc., as follows:

The bridge no. D03013(2PF) on Water street spanning the intrastate highway route 35 in the town of Danvers, over the Waters river, shall be designated and known as the Danversport Bridge. The Massachusetts department of transportation shall erect and maintain suitable markers on the bridge bearing this designation in compliance with standards of the department.

Approved November 19, 2009.

Chapter 150. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Fairhaven may grant an additional license for the sale of wines and malt beverages to be drunk on the premises under section 12 of said chapter 138 to Katherine Psychopaidas, d/b/a Mermaid's Seafood Restaurant & Grille, 15 Sarah's way in the town of Fairhaven. The license shall be subject to all of said chapter 138 except said section 17. The licensing authority shall not approve the transfer of the license to any other location but the licensing authority may grant the license to a new applicant at the same location if the applicant 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 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 local licensing authority and the licensing authority 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 November 19, 2009.

Chapter 151. AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN TO ASSESS CERTAIN BETTERMENTS.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law to the contrary, the town of Fairhaven may assess, on those affected properties, betterments for the costs incurred by said town to provide design and construction data to the federal Emergency Management Agency in order to credit the Fairhaven portion of the New Bedford hurricane barrier with protection of certain areas of said town from flood hazard. The costs incurred by said town to provide such data shall include all engineering, legal and other professional fees and all other expenses related thereto.

(b) The betterments shall be assessed to each affected parcel on the basis of the assessed value of the improvements on such parcel and, in the case of an unimproved, buildable parcel, on the basis of the aggregate value of improvements upon all improved parcels assessed hereunder, expressed as a per square foot average of the aggregate improved land area assessed hereunder.

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

Approved November 19, 2009.

Chapter 152. AN ACT AUTHORIZING THE TOWN OF TEMPLETON TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 138 of the General Laws, or any other general or special law to the contrary, the town of Templeton may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises to Matthew David Nadeau d/b/a Patriot Package located at 394A Patriots road in said town. The licensing authority shall not approve the transfer of the license to any other location. The license may be re-issued to a new applicant at the same location if that 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.

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

Approved November 20, 2009.

Chapter 153. AN ACT AUTHORIZING THE TOWN OF TEMPLETON TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Chapter 227 of the acts of 1997 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. There is hereby established in the town of Sandwich a visitor services board consisting of 7 members to be appointed by the board of selectmen, 1 of whom shall be nominated by the Cape Cod canal region chamber of commerce, 1 of whom shall be nominated by the Sandwich chamber of commerce, 1 of whom shall be nominated by the Sandwich economic development committee, 1 of whom shall represent the hospitality interests within the town, and 3 of whom shall be members at large. If any of the organizations with nominating privileges hereunder cease to exist or operate, the board of selectmen may appoint in place of such nominee a member at large to serve on said visitor services board. The board of selectmen shall fill any vacancies on said visitor services board in a like manner.

Approved November 20, 2009.

Chapter 154. AN ACT RELATIVE TO THE LEASE OF PROPERTY AT SANDWICH HIGH SCHOOL.

Be it enacted, etc., as follows:

The town of Sandwich may establish a receipts reserved for appropriation account for any revenue generated from the lease of property at Sandwich high school to cellular phone and other communication providers. This account shall be used for the maintenance and improvement of exterior athletic fields and facilities at Sandwich high school.

Approved November 20, 2009.

Chapter 155. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER AN EASEMENT IN CERTAIN LAND IN THE TOWN OF NATICK TO MICHAEL AUDETTE.

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, in consultation with the Massachusetts Water Resources Authority, may grant to Michael Audette, his heirs, successors and assigns, an easement for right of way and parking purposes on certain commonwealth land located in the town of Natick and now under the care and control of the Massachusetts Water Resources Authority for waterworks purposes, said land having been most recently used as part of the Cochituate aqueduct. The easement is further described in a plan of land dated March 26, 2009, entitled “Plan Showing Proposed Access & Egress Easement in Natick, Mass, Over Massachusetts Water Resources – Cochituate Aqueduct Land, To Be Granted To Michael A. Audette”, dated March 26, 2009, Survey By: MacCarthy & Sullivan Engineering, Inc. 205 Newbury Street, Framingham, Mass”, said plan to be recorded in the Middlesex county south registry of deeds prior to the recording of said deed. The consideration for this grant of easement shall be the full and fair market value of said parcels as determined by the commissioner 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.

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, and copies of the same shall be filed with the house and senate committees on ways and means and with the joint committee on state administration and regulatory oversight. The commissioner of capital asset management and maintenance shall, 30 days before the execution of the grant of easement authorized by this act, or any subsequent amendment thereto, submit the proposed grant of easement 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 grant of easement or amendment. The commissioner shall submit the proposed grant of easement 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 state administration and regulatory oversight at least 15 days before execution of the grant of easement. The proceeds of the easement authorized by this act shall be deposited in the watershed land acquisition expendable trust account, #28221445, established by section 6 of chapter 6A of the General Laws. Such proceeds shall be used for future acquisition of water supply protection lands.

SECTION 3. Notwithstanding any general or special law to the contrary, the grantee shall be responsible for all costs and expenses associated with the grant of easement authorized by this act including, but not limited to, any engineering, appraisal, survey, deed preparation, recording and legal costs, and any and all other expenses incurred by the commonwealth in connection with said grant of easement as such costs may be determined by the commissioner of capital asset management and maintenance.

SECTION 4. Michael Audette and his agents, tenants or contractors shall 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 grant of easement authorized by this act, and shall indemnify and defend the commonwealth, the Massachusetts Water Resources Authority and their agents and employee from and against any and all such claims, actions, damages or costs.

SECTION 5. The grantee shall use the easement solely for right of way and parking purposes and the easement or other agreement pertaining to the grant of the easement shall include a provision restricting the use of the property to such purposes and providing that such property shall revert to the commonwealth if the property ceases to be so used or is used for any other purpose.

Approved November 23, 2009.

Chapter 156. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY, LEASE AND GRANT EASEMENTS WITH RESPECT TO CERTAIN LAND IN THE TOWN OF UXBRIDGE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the exchange of land in the town of Uxbridge, 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, in consultation with the secretary of transportation, may: (1) lease for not more than 50 years, for the purposes described below, certain parcels of land and any improvements thereon, upon terms and conditions as the commissioner of capital asset management and maintenance determines to be in the best interest of the commonwealth, to KGI Properties, LLC or its designee; (2) may convey a fee interest in a certain parcel of land and any improvements located thereon to KGI Properties, LLC or its

designee; and (3) may convey to the town of Uxbridge certain temporary and permanent easements for utility purposes.

The first parcel to be leased, known as the northbound rest area on state highway route 146, is located on the northbound side of said route 146 and contains approximately 7.59 acres. The second parcel to be leased, known as the southbound rest area on said route 146, is located on the southbound side of said route 146 and contains approximately 11.98 acres. The parcel to be conveyed in fee is located on the eastbound side of state highway route 16 at the intersection of said route 16 and said route 146 southbound and contains approximately 9.49 acres. The exact boundaries of each of the 3 parcels and the temporary and permanent easements shall be established prior to any such lease or conveyance by a survey approved by the commissioner of capital asset management and maintenance.

Notwithstanding any general or special law to the contrary, the authorized uses under the leases shall be for rest areas open to the public for motorists traveling on state highway route 146, and may include restrooms, restaurants, gasoline service stations and such other uses deemed acceptable to the Massachusetts Department of Transportation. If at any time the leased property ceases to be used for the purposes described in this section, the commissioner shall give written notice to the lessee of the unauthorized use. The lessee 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 2. The consideration for the parcel to be conveyed in fee shall be the full and fair market value of the parcel as determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal. The consideration for the leases shall be the full and fair market rental value of the parcels to be leased as determined by said commissioner based upon an independent professional appraisal.

SECTION 3. Contemporaneously with the conveyance authorized in section 1, Uxbridge Woods Realty Trust may convey to the Massachusetts Department of Transportation a certain parcel of land located at 57 Pond street in the town of Uxbridge, which is shown on the town of Uxbridge Assessors' Map 28 as lot 3163. The grantee of the fee parcel and the lessee of the leasehold parcels shall be entitled to credits against the consideration for the conveyance and the leases in an aggregate amount equal to the full and fair market value of the parcel to be conveyed by Uxbridge Woods Realty Trust to the Massachusetts Department of Transportation, as determined by the commissioner of capital asset management and maintenance based upon an independent professional appraisal. The grantee of the fee parcel and the lessee of the leasehold parcels shall be entitled to credits against the consideration for the conveyance and the consideration for the leases in an aggregate amount equal to the full and fair market value of any construction provided by KGI

Properties, LLC of facilities for use by the Massachusetts Department of Transportation as determined by the commissioner of capital asset management and maintenance. Construction provided by KGI Properties, LLC shall not be subject to sections 44A to 44J, inclusive, of chapter 149 of the General Laws, or any other public construction procurement law; provided, however, that KGI Properties, LLC shall not design or construct any facilities on the parcel without the written approval of the commissioner of capital asset management and maintenance and the secretary of transportation; provided further that the commissioner and the secretary shall not approve any design or construction project pursuant to this section unless they have determined that KGI Properties, LLC has: (i) sufficient financial resources to complete the project; and (ii) obtained insurance protecting the commonwealth as specified by the commissioner and the secretary; provided further, that prior to approval, all agreements shall include a requirement that the performance of, and payment for, improvements to the parcels shall be fully covered by bonds issued by bonding companies authorized to issue bonds in the commonwealth as determined by the commissioner; provided further, that KGI Properties, LLC shall have met any other terms and conditions to ensure completion of the public facilities in a timely manner; and provided further, that KGI Properties, LLC shall pay the prevailing wages in accordance with sections 26 and 27 of chapter 149 of the General Laws in connection with any such construction. Upon completion of any such construction by KGI Properties, LLC, the Massachusetts Department of Transportation shall bear all maintenance and repair costs for any structures and related land area used by said department.

SECTION 4. Notwithstanding any general or special law to the contrary, the inspector general shall review and approve the appraisals required by sections 1 and 2 and the review shall include an examination of the methodology utilized for the appraisals. Within 30 days after receiving an 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 not later than 15 days before the execution of any agreement or other document relating to the lease, the commissioner shall submit the report to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets.

SECTION 5. Notwithstanding any general or special law to the contrary, the grantee of the fee parcel and the lessee of the leasehold parcels shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals, deed preparation, easement preparation and lease preparation related to the conveyance, leases and grants of easements authorized in this act as those costs may be determined by the commissioner of capital asset management and maintenance. Upon conveyance of the respective fee parcels, the grantees shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of such parcels.

Approved November 23, 2009.

Chapter 157. AN ACT RELATIVE TO A CONVEYANCE OF LAND IN THE TOWN OF EAST LONGMEADOW.

Be it enacted, etc., as follows:

SECTION 1. The town of East Longmeadow, acting by and through its board of selectmen, may convey a certain parcel of recreational land, containing 3,563 square feet, located in Heritage park in the town, to Paul A. Racicot to be used for residential purposes on such terms and conditions as the board of selectmen considers will be in the best interests of the town. The parcel is shown on a plan on file in the office of the town engineer entitled "Preliminary Plan of Land Prepared for Paul A. Racicot and the Town of East Longmeadow" by Smith Associates Surveyors, Inc. dated September, 2008. The parcel is a portion of the property conveyed to the town of East Longmeadow in a deed recorded in the Hampden county registry of deeds in book 1665 at page 577.

SECTION 2. In consideration and as a condition of the conveyance authorized in section 1, Paul A. Racicot and any other current owner shall convey to the town of East Longmeadow a parcel of land containing 3,593 square feet, located in the city of Springfield, adjacent to Heritage park, to be dedicated for recreational purposes. The parcel is also shown on the plan of land described in section 1 of this act and is a portion of the property conveyed to Paul A. Racicot and Christine G. Morrill by deed dated September 7, 1988 and recorded in the Hampden county registry of deeds in book 6959, page 253.

SECTION 3. If the land conveyed under section 1 ceases to be used for the purposes described in said section 1, the land shall revert to the town of East Longmeadow for recreational purposes.

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

Approved November 23, 2009.

Chapter 158. AN ACT RELATIVE TO CLEAN ENERGY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to create forthwith jobs and provide economic relief to the people of the commonwealth in the present fiscal emergency, 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 35FF of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 67 and 68, the words "and (7) to make any other expenditure provided by this section" and inserting in place thereof the following 2 clauses:-

(7) to make grants to the Massachusetts Technology Transfer Center, established by section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the commonwealth's research institutions to the commonwealth's clean energy industries, for productive use by such industries, and to make targeted investments in proof of concept funding for emerging technologies; and

(8) to make any other expenditure provided by this section.

SECTION 2. Section 1 of chapter 23J of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Contribution agreement" the following 2 definitions:-

"Director", the director of the Massachusetts Renewable Energy Trust appointed pursuant to section 2.

"Executive director", the executive director of the center appointed pursuant to section 2.

SECTION 3. Said section 1 of said chapter 23J, as so appearing, is hereby further amended by adding the following definition:-

"Trust fund", the Massachusetts Renewable Energy Trust Fund established pursuant to section 9.

SECTION 4. Section 2 of said chapter 23J, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) The center shall be governed and its corporate powers exercised by a board of directors consisting of 12 directors: 1 of whom shall be the secretary of energy and environmental affairs or his designee, who shall serve as a chair; 1 of whom shall be the secretary of housing and economic development or his designee; 1 of whom shall be the secretary of administration and finance 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 the executive director of the Massachusetts Workforce Alliance; 1 of whom shall be the commissioner of the department of energy resources; and 5 of whom shall be appointed by the governor, 1 of whom shall be a venture capitalist or a chief executive officer of a Massachusetts-based clean energy corporation with expertise in clean energy technologies in the commonwealth, 1 of whom shall be the president of a Massachusetts community college or his designee, 1 of whom shall have knowledge of electricity distribution, generation, supply or power marketing, 1 of whom shall be the president of a private college or university or his designee, and 1 of whom shall be a union representative. Each of the 5 directors appointed by the governor shall serve for a term of 5 years. 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 the director.

SECTION 5. Subsection (e) of said section 2 of said chapter 23J, as so appearing, is hereby amended by adding the following paragraph:-

The board shall appoint and employ a director for the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the trust fund, and shall fix his compensation and conditions of employment. The director of the trust fund shall report to the executive director. The director of the trust fund shall have a full range of previous experience in the clean energy industry.

SECTION 6. Section 3 of said chapter 23J, as so appearing, is hereby amended by inserting after the word “purposes”, in line 57, the following words:- including, but not limited to, making, or delegating to a lessee or a licensee to make, improvements or alterations to the real property of the center, or any interest thereon or engage in construction on or renovation at such property or interest.

SECTION 7. Said section 3 of said chapter 23J, as so appearing, is hereby further amended by striking out, in line 155, the word “and”.

SECTION 8. Said section 3 of said chapter 23J, as so appearing, is hereby further amended by inserting after the word “sector”, in line 167, the following words:- ; and (31) to administer the trust fund in accordance with section 9.

SECTION 9. Section 5 of said chapter 23J, as so appearing, is hereby amended by striking out, in line 10, the word “June 1” and inserting in place thereof the following:- August 15.

The center shall annually, not later than August 15, submit to the governor, the joint committee on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies and the senate and house committees on ways and means a report detailing the expenditure and investment of monies from the fund and the trust fund over the previous fiscal year, the ability of the fund to meet the requirements in section 35FF of chapter 10 and the ability of the trust fund to meet the requirements in section 9, and any recommendations for improving the ability of the board, the center and the fund and trust fund to meet such requirements.

The center shall annually, no later than August 15, submit to the governor, the joint committee on telecommunications, utilities and energy, the joint committee on economic development and emerging technologies and the senate and house committees on ways and means a report detailing the commonwealth’s clean energy sector. The report shall include, but shall not be limited to, an examination of the growth rate of the commonwealth’s clean energy sector, including the number of in-state jobs and businesses.

SECTION 10. Said chapter 23J is hereby further amended by adding the following 3 sections:-

Section 9. (a) There is hereby established and placed within the center a separate fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the trust fund. The center shall hold the trust fund in an account or accounts separate from other funds. There shall be credited to the trust fund all amounts collected under section 20 of chapter 25 and any income derived from the investment of amounts credited to the trust fund. All amounts credited to the trust fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the trust fund as set forth

in subsection (b), including the ordinary and necessary expenses of administration and operation associated with the trust fund. Unless otherwise specified, all monies of the center, from whatever source derived, shall be paid to the treasurer of the center. Such monies shall be deposited, in the first instance, by the treasurer in national banks, in trust companies, savings banks and cooperative banks chartered under the laws of the commonwealth, or in other banking companies in compliance with section 34 of chapter 29. Funds in these accounts shall be paid out on the warrant or other order of the treasurer of the center and the director of the trust fund or other person that the board may authorize to execute warrants.

(b) The center may make expenditures from the trust fund for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploit the advantages of renewable energy in a more competitive energy marketplace by: (i) promoting the increased availability, use and affordability of renewable energy; (ii) by making operational improvements to existing renewable energy projects and facilities which, in the determination of the center, would yield more significant results in the development of renewable energy if such funds were made available for the creation of new renewable energy facilities; and (iii) by fostering the formation, growth, expansion and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions and projects which serve the citizens of the commonwealth consistent with a strategic plan or annual operational plan.

(c) Public interests to be advanced through the center's actions shall include, but shall not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth and the New England region; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the maximization of benefits to consumers of the commonwealth resulting from increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth through the development of renewable technologies including, but not limited to, promoting programs and investments that lead to pathways toward economic self-sufficiency for low- and moderate-income individuals and communities in the clean energy industry; (v) the stimulation of increased public and private sector investment in, and competitive advantage for, renewable energy and related enterprises, institutions and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions and projects.

(d) In furtherance of any strategic and operational plans, and other public purposes and interests, the center may expend monies from the trust fund to: make grants, contracts, loans, equity investments, energy production credits, bill credits or rebates to customers; provide financial or debt service obligation assistance; or take any other action, in such forms, under such terms and conditions and under such selection procedures as the center deems ap-

propriate and otherwise in a manner consistent with good business practices; provided, however, that the center shall generally employ a preference for competitive procurements; provided further, that the center shall endeavor to leverage the full range of the resources, expertise and participation of other state and federal agencies and instrumentalities in the design and implementation of programs conducted pursuant to this section; and provided further, that the board determines and incorporates into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy including, but not limited to, promoting programs and investments that lead to pathways toward economic self-sufficiency for low- and moderate-income individuals and communities in the clean energy industry; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997; and (viii) matters related to the conservation of scarce energy resources.

(e) Subject to the approval of the board and not inconsistent with any strategic or annual operational plans, investment activity of monies from the trust fund may consist of the following: (i) an equity fund to provide risk capital to renewable energy enterprises, institutions and projects; (ii) a debt fund to provide loans to energy enterprises, institutions, projects, intermediaries and end-users; and (iii) a market growth assistance fund to be used to attract private capital to the equity and debt funds. To implement these investment activities, the center may retain, through a bid process, public or private sector investment fund managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described in this section and to seek other trust fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital shall be appropriately segregated. Subject to the approval of the board, the managers may retain necessary services and consultants to carry out the purposes of the trust fund. The managers shall develop a business plan to guide investment decisions which shall be approved by the board before any expenditure from the trust fund and which shall be consistent with the plan for the trust fund as adopted by the board.

(f) For the purposes of expenditures from the trust fund, renewable energy technologies eligible for assistance shall mean technologies eligible as class I or class II renewable energy generating sources under section 11F of chapter 25A, micro-combined heat and power units less than 60 kilowatts, solar hot water, geothermal heating and cooling projects, biomass thermal and storage and conversion technologies connected to qualifying generation

projects. The board may make grants from the trust fund, not to exceed a total of \$4,000,000 annually, in support of Massachusetts-based public and private enterprises developing new technologies to significantly increase the efficiency of the internal combustion engine. The center shall make grants, loans or other support from the trust fund, not to exceed \$3,000,000 annually for hydroelectric facilities, other than pumped storage facilities in the commonwealth, constructed before December 31, 1997 for upgrades to increase efficiency or capacity and to reduce environmental impacts. Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewable energy and distributed generation opportunities, if consistent with this section; provided, however that the following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells or micro-combined heat and power and nuclear power.

(g) The use by the center of monies to implement this section shall be deemed to be an essential governmental function. No lease or license executed in furtherance of the public purpose and interests of the trust fund shall exceed 30 years in duration, and the duration and terms shall be developed in a manner consistent with good business practices; and provided further, that the center shall take no action which contravenes the commonwealth's reversionary interest in any of its real property. The center, any purchasing cooperative established thereby and all members of any such purchasing cooperative may participate in any energy-related purchasing, aggregating or similar program established and operated by the Health and Educational Facilities Authority, established by section 4 of chapter 614 of the acts of 1968, and such participation shall be deemed to be in furtherance of an essential governmental function.

Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, as a condition subsequent to the prior transfer of \$17,000,000 from the trust fund to the commonwealth for deposit in the General Fund authorized by section 183 of chapter 26 of the acts of 2003, the commonwealth, acting by and through the department of energy resources or a successor agency, shall enter into an agreement with the center under which the commonwealth, at the direction of the center, shall enter into contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The center shall determine the particular types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the center and the commonwealth, of such amount as

shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. The maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5,000,000. The commonwealth shall be indemnified under such contracts by the owners or power marketers on such terms as the center shall deem commercially reasonable. The amounts collected pursuant to section 20 of chapter 25 shall be impressed with a trust for the benefit of the trustfund. To facilitate the purchase by the center of electricity produced by renewable energy technologies or of certificates produced under the renewable energy portfolio standard regulations of the department of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth shall covenant with the sellers of such electricity or certificates that the amounts collected under said section 20 of said chapter 25 shall not be diverted from the trust fund and that the rates of the mandatory charges under said section 20 of said chapter 25 shall not be reduced during the term of any contract entered into by the center for the purchase of such electricity or certificates below a level which shall enable the center to fulfill the terms of such contracts; provided, however, that the term of any such contract shall not exceed 20 years. In furtherance of the public purposes of the trust fund, income derived from the investment of amounts collected under said section 20 of said chapter 25 shall be expended by the center as provided in subsection (a) and, in the discretion of the center, in furtherance of the public purposes of the center and for such costs of departments and agencies that support or are otherwise consistent with the purposes of the trust fund.

Section 10. The center shall develop an initiative to be known as the pathways out of poverty initiative. This initiative shall award grants to clean energy companies, regional employment boards, 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: (i) serve individuals in families with incomes that either 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; (ii) engage in partnerships with public and private employers and community-based nonprofit agencies; and (iii) establish career pathways for hard and soft skill development and salary advancement. Such grants shall be awarded so as to ensure geographic diversity within the commonwealth.

Section 11. The books and records of the center and board relative to expenditures and investments of monies from the fund and the trust fund shall be subject to a biennial audit by the auditor of the commonwealth.

SECTION 11. Section 20 of chapter 25 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “4E of chapter 40J” and inserting in

place thereof the following words:- 9 of chapter 23J.

SECTION 12. Said section 20 of said chapter 25, as so appearing, is hereby further amended by striking out, in lines 21 to 23, inclusive, the words "Technology Park Corporation, doing business as the Massachusetts Technology Collaborative, or the governing board, as applicable", and inserting in place thereof the following words:- clean energy technology center.

SECTION 13. Said section 20 of said chapter 25, as so appearing, is hereby further amended by striking out, in lines 29 and 30, the word "collaborative" and inserting in place thereof, in each instance, the following words:- Massachusetts clean energy technology center.

SECTION 14. Section 10 of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in lines 58 and 59, the words "4E of chapter 40J" and inserting in place thereof the following words:- 9 of chapter 23J.

SECTION 15. Section 3 of chapter 40J of the General Laws, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

The corporation shall be governed and its corporate powers exercised by a board of directors, which shall consist of the secretary of housing and economic development or his designee, the secretary of administration and finance or his designee and the commissioner of higher education or his designee and 20 persons to be appointed by the governor, 2 of whom shall be appointed from a list of persons nominated by the president of the senate, 2 of whom shall be appointed from a list of persons nominated by the speaker of the house of representatives, 6 of whom shall be chief executive officers of post-secondary educational institutions or distinguished members of the engineering or scientific faculties of those institutions, or members of other appropriate faculties, and of those 6, at least 2 shall be representatives of public post-secondary educational institutions, and 6 of whom shall be chief executive officers, chairpersons or chief engineers of businesses concerned with any technology which may be subject to this chapter, and 2 of whom shall be recommended by the Massachusetts AFL-CIO. Each director appointed from the list of nominations recommended by the president of the senate and the speaker of the house of representatives shall serve a term of 2 years to be coterminous with the legislative session of the general court. Each director appointed by the governor shall serve for a term of 5 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 the unexpired term of the predecessor director. Any director shall be eligible for reappointment. Any director may be removed by the governor for cause. Twelve directors shall constitute a quorum and the affirmative vote of a majority of the directors present and eligible to vote at a meeting shall be necessary for any action to be taken by the board. The directors shall serve without compensation, but each director shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The board shall meet at least 4 times in each year and shall have final authority over the activities of the corporation.

The board shall annually elect from among its members a chairperson and a vice-chairperson, and may designate a treasurer and a secretary who need not be members of the board. The secretary shall keep a record of the proceedings of the corporation and shall be the custodian of all books, documents and papers filed with the corporation and its official seal. The secretary shall cause copies to be made of all minutes and other records and documents of the corporation and shall certify that such copies are true copies and all persons dealing with the corporation may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the corporation and shall be in charge of its funds, books of account, and accounting records. The executive committee of the board shall consist of the chairperson and the vice-chairperson, together with the secretary of housing and economic development, and not less than 2 individuals elected annually by the board from among its members, 1 of whom shall be a board member from a post-secondary educational institution and 1 of whom shall be a board member from a business. The executive committee shall have all the powers of the board between meetings of the board, to be exercised in accordance with by-laws established by the board. The executive committee shall meet as often as considered necessary by the committee.

SECTION 16. Section 4 of said chapter 40J, as so appearing, is hereby amended by inserting after the word “establish”, in line 20, the following words:- , without limitation, advisory boards in furtherance of the purposes of this chapter including.

SECTION 17. Section 4A of said chapter 40J, as so appearing, is hereby amended by striking out, in line 7, the word “five” and inserting in place thereof the following figure:- 30.

SECTION 18. Section 4B of said chapter 40J, as so appearing, is hereby amended by striking out, in lines 36 and 37, the words “working in collaboration with the Massachusetts clean energy technology center established in section 2 of chapter 23J, state to induce” and inserting in place thereof the following word:- inducing.

SECTION 19. Said section 4B of said chapter 40J, as so appearing, is hereby further amended by striking out, in line 41, the words “the Massachusetts clean energy technology center.”.

SECTION 20. Section 4E of said chapter 40J of the General Laws is hereby repealed.

SECTION 21. Subsection (a) of section 6A of said chapter 40J, as appearing in the 2008 Official Edition, is hereby amended by striking out the ninth sentence.

SECTION 22. Section 2 of chapter 70B of the General Laws, as so appearing, is hereby amended by striking out, in line 44, the words “section 4E of chapter 40J” and inserting in place thereof the following words:- section 9 of chapter 23J.

SECTION 23. Section 134 of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 90 to 92, inclusive, the words “Technology Park Corporation for monies from the Massachusetts Renewable Energy Trust Fund, established

pursuant to subsection (a) of chapter 40J” and inserting in place thereof the following words:- clean energy technology center for monies from the Massachusetts Renewable Energy Trust Fund, established pursuant to section 9 of chapter 23J.

SECTION 24. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 97, the words “Technology Park Corporation” and inserting in place thereof the following words:- clean energy technology center.

SECTION 25. Notwithstanding any general or special law to the contrary, the Massachusetts Technology Park Corporation established pursuant to section 3 of chapter 40J of the General Laws and the Massachusetts clean energy technology center established pursuant to section 2 of chapter 23J of the General Laws shall execute a memorandum of understanding pursuant to which the Massachusetts Technology Park Corporation shall transfer to the Massachusetts clean energy technology center: (i) all monies credited to the Massachusetts Renewable Energy Trust Fund and held by the Massachusetts Technology Park Corporation, except for amounts allocated by the Massachusetts Technology Park Corporation pursuant to the last sentence of subsection (I) of section 4E of chapter 40J of the General Laws prior to the effective date of this act; and (ii) all associated equipment, employees, records, investments, contracts, agreements and other assets funded by the Massachusetts Renewable Energy Trust Fund, as further indentified in said memorandum of understanding. In furtherance of the transfer of the Massachusetts Renewable Energy Trust Fund, the Massachusetts Technology Park Corporation shall transfer or otherwise assign, and the Massachusetts clean energy technology center shall assume, all rights, responsibilities, obligations and liabilities of said corporation arising out of the Massachusetts Renewable Energy Trust Fund and the Massachusetts Technology Park Corporation shall thereafter be discharged from all administrative, legal and financial responsibility arising from its administration of Massachusetts Renewable Energy Trust Fund, except as expressly provided otherwise in the memorandum of understanding between the Massachusetts Technology Park Corporation and the Massachusetts clean energy technology center; provided, however, that the memorandum of understanding entered into between the Massachusetts Technology Park Corporation and the Massachusetts clean energy technology center shall provide for the orderly transfer of the Massachusetts Renewable Energy Trust Fund to the Massachusetts clean energy technology center and shall include a plan and schedule to implement the transfer of the Massachusetts Renewable Energy Trust Fund to the Massachusetts clean energy technology center; and provided further, the Massachusetts Technology Park Corporation and the Massachusetts clean energy technology center shall use best efforts to transfer the Massachusetts Renewable Energy Trust Fund and all associated rights, obligations, responsibilities and liabilities to the Massachusetts clean energy technology center within 120 days of the effective date of this act.

SECTION 26. Notwithstanding any general or special law to the contrary, in making his initial appointments to the board of the Massachusetts clean energy and technology center pursuant to section 2 of chapter 23J 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, 1 member to serve for a term of 4 years and 1 member to serve for a term of 5 years.

Approved November 23, 2009.

Chapter 159. AN ACT PRESERVING PUBLICLY-ASSISTED AFFORDABLE HOUSING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to preserve forthwith the affordability of publicly-assisted housing, 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 inserting after chapter 40S the following chapter:-

**CHAPTER 40T
PUBLICLY-ASSISTED AFFORDABLE HOUSING**

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

“Affected municipality”, a city or town in which publicly-assisted housing is located.

“Affiliate”, an entity owned or controlled by an owner or under common control with the owner.

“Affordability restriction”, a limit on rents that an owner may charge for occupancy of a rental unit in a publicly-assisted housing development or a limit on tenant income for persons or families seeking to qualify for admission to such housing.

“CEDAC”, the Community Economic Development Assistance Corporation established in chapter 40H.

“Chief executive officer”, the mayor, city manager or city council in a city or the board of selectmen in a town unless otherwise designated by a municipal charter.

“Department”, the department of housing and community development or its designee as set forth in this chapter.

“Designee”, a municipality, local or regional housing authority, nonprofit or for-profit corporation or other entity qualified to do business in the commonwealth which is selected by the department to operate publicly-assisted housing that is decent, safe and sanitary affordable housing under subsection (b) of section 3.

“Enhanced section 8 vouchers”, vouchers provided under 42 U.S.C. 1437f (t) or other substantially equivalent assistance.

“Extremely low income”, a household income of not more than 30 per cent of the area median income, adjusted for household size, as periodically determined by the United States Department of Housing and Urban Development.

“Government program”, a program that provides government assistance under a program set forth in the definition of publicly-assisted housing.

“Low income”, a household income of not more than 80 per cent of the area median income, adjusted for household size, as periodically determined by the United States Department of Housing and Urban Development.

“Owner”, a person, firm, partnership, corporation, trust, organization, limited liability company or other entity, or its successors or assigns, that holds title to publicly-assisted housing.

“Prepayment”, (a) the payment in full or the refinancing of a governmental-insured or government-held mortgage loan indebtedness prior to its original maturity date; (b) the voluntary cancellation of mortgage insurance on a publicly assisted housing development; or (c) the payment in full of a government contract, any of which would have the effect of removing either: (i) the affordability restrictions applicable to publicly-assisted housing; or (ii) a requirement to renew any such affordability restrictions.

“Preserve affordability”, with respect to publicly-assisted housing, to undertake reasonable and diligent actions to retain, renew or secure subsidies affecting publicly-assisted housing in order to maintain at least the same number of units affordable to low, very low and extremely low-income households, respectively, as are currently occupied by such households, and to maintain as affordable to such households generally all units that are currently vacant, to the extent of available subsidies and taking into account the need to ensure that the publicly-assisted housing provides quality housing to its tenants. To the extent that the department determines that existing affordability does not provide quality housing to the tenants, the department shall consider affordability to a range of incomes for such units not to exceed 80 per cent of area median income as defined by United States Department of Housing and Urban Development; provided, however, that no tenant shall be displaced pursuant to the determination; and provided further, that units affordable to low, very low and extremely low-income households that are not retained, renewed or secured at the publicly-assisted housing shall be replaced with comparable deed-restricted publicly-assisted housing units at an alternative site to the extent of available subsidies and to the extent feasible.

“Protected low-income tenant”, a low-income tenant residing in publicly-assisted housing on the date of termination of the government program and whose rent was restricted by that government program.

“Publicly-assisted housing”, a housing unit or development that receives government assistance under any of the following programs: (i) section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, as it applies to new construction, substantial rehabilitation, moderate rehabilitation, property disposition and loan management set-aside

programs or any other program providing project-based rental assistance; (ii) the federal Low-Income Housing Tax Credit Program, 26 U.S.C. section 42; (iii) section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. section 1701s, as it applies to programs for rent supplement assistance thereunder; (iv) section 202 of the Housing Act of 1959, 12 U.S.C. section 1701q; (v) the below market interest rate program codified at section 221(d)(3) of the National Housing Act, 12 U.S.C. section 1715 (d)(3) and (5); (vi) section 221(d)(4) of the National Housing Act, 12 U.S.C. section 17151 (d)(4), to the extent the project's rents are restricted pursuant to a government agreement; (vii) section 236 of the National Housing Act, 12 U.S.C. section 1715z-1; (viii) section 515 of the Housing Act of 1949, 42 U.S.C. section 1485; (ix) section 521 of the Housing Act of 1949, 42 U.S.C. section 1490a; (x) the Urban Development Action Grant, 42 U.S.C. section 5318, to the extent that the affordability of dwelling units subject to such program are restricted pursuant to a government agreement; (xi) the Housing Development Action Grant, 42 U.S.C. section 1437, to the extent the project's rents are restricted pursuant to a government agreement; (xii) section 13A of chapter 708 of the acts of 1966; (xiii) the voucher program provided for annually in item 7004-9024 of section 2 of the general appropriation act as that program applies to project-based rental assistance; (xiv) the Massachusetts low income housing tax credit program established in section 6I of chapter 62; (xv) the State Housing Assistance for Rental Production, established pursuant to chapter 574 of the acts of 1983; or (xvi) chapter 121A to the extent that the affordability of dwelling units are restricted pursuant to a written agreement with the affected municipality.

"Purchase contract", a binding written agreement whereby an owner agrees to sell publicly-assisted housing including, without limitation, a purchase and sale agreement, contract of sale, purchase option or other similar instrument.

"Regulatory agreement", an affordable housing restriction that establishes an owner's obligations created pursuant to the efforts of the department or its designee to preserve affordability and which is consistent with section 31 of chapter 184; provided, however, that in any project that is eligible for participation in the United States Department of Housing and Urban Development's Mark Up to Market Program, the restriction, insofar as it relates to the limiting of the level of rents, shall not apply to units covered by a section 8 housing assistance payment contract so long as such contract is effective.

"Sale", an act by which an owner conveys, transfers or disposes of property by deed or otherwise, whether through a single transaction or a series of transactions, within a 2 year period; provided, however, that a disposition of publicly-assisted housing by an owner to an affiliate of such owner shall not constitute a sale.

"Subsidy", public financial assistance including, but not limited to, grants, loans, rental assistance, tax credits, tax abatements, mortgage financing, mortgage insurance, assistance pursuant to any government program or any other form of assistance intended to make housing affordable to low, very low and extremely low-income households.

"Tenant", a person entitled to possession or occupancy of a rental unit within publicly-assisted housing, including a subtenant, lessee and sublessee.

“Tenant organization”, an organization established by the tenants of publicly-assisted housing for the purpose of addressing issues related to their living environment and which meets regularly, operates democratically, is representative of all residents in the development, is completely independent of owners, management and their representatives and which has filed a notice of its existence with CEDAC; provided, however, that no owner or other third party shall be required to ascertain the organization’s compliance with this definition.

“Termination”, the cessation, discharge or removal of an affordability restriction affecting publicly-assisted housing in the absence of a simultaneous replacement of that restriction with an equivalent affordability restriction including, but not limited to: (i) nonrenewal or termination, in whole or in part, of a government program contract; (ii) expiration, in whole or in part, of an affordability restriction under a government program or the requirement to renew the restriction; (iii) payment in full of a government program mortgage loan; or (iv) prepayment of a government program mortgage loan.

“Time for performance”, the date for delivery of the deed or other document evidencing a sale pursuant to a purchase contract or any extension thereof.

“Very low income”, having a household income of not more than 60 per cent of the area median income, adjusted for household size, as periodically determined by the United States Department of Housing and Urban Development.

Section 2. (a) Except with respect to property subject to an affordability restriction which has less than 2 years remaining and, for which subsection (e) shall apply, the owner shall provide written notice to: (i) all tenants and the tenant organization, if any; (ii) the chief executive officer of the affected municipality; (iii) CEDAC; and (iv) the department, not less than 2 years before the termination of the affordability restriction affecting publicly-assisted housing. Nothing herein shall prohibit the owner from taking actions to terminate an affordability restriction during any notice period provided herein; provided, however, that the owner shall comply with all of the notice terms and restrictions pursuant to subsections (b) and (c).

The written notice shall provide: (1) the address of the publicly-assisted housing; (2) the name and address of the owner; (3) notification that an affordability restriction may terminate; (4) the date on which each affordability restriction may terminate; and (5) such other information as required by the department. Where more than 1 termination may occur, the owner may send 1 written notice so long as the terminations are scheduled to occur within 1 year of each other, the notice is given at least 2 years prior to the earliest termination and the notice otherwise complies with this subsection. Thereafter, the owner shall again be subject to the notice provision of subsection (c) of section 2.

(b) An owner shall not complete a termination or allow a termination to occur unless, not less than 1 year before the completion of the last termination event affecting the housing, the owner provides the entities identified in subsection (a) with written notice of intent to complete termination. The notice shall state: (1) the address of the publicly-assisted housing; (2) the name and address of the owner; (3) the date on which the owner intends to complete

termination; (4) unless section 6 applies, a statement that the department has the right of offer pursuant to section 3 to the extent the owner wishes to pursue a potential sale of the property; and (5) such other information as required by the department.

(c) Except as provided in section 6, an owner shall not sell publicly-assisted housing before offering the department the opportunity to purchase the property pursuant to sections 3 and 4. The owner shall notify, in writing, the parties identified in subsection (a) of the owner's intention to sell the property.

(d) Any notice required by this chapter shall be deemed to have been provided when delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom notice is required; except that with respect to tenants, notice shall be deemed to have been provided when either: (1) the notice is delivered in hand to the tenant or an adult member of the tenant's household; or (2) the notice is sent by first class mail and a copy is left in or under the door of the tenant's dwelling unit. A notice to the affected municipality shall be sent to the chief executive officer.

(e) Notwithstanding subsection (a) of section 2, an owner of publicly-assisted housing who, on the effective date of this chapter, has less than 2 years remaining prior to the date when the affordability restriction will cease to apply to such property, shall not be required to give the 2-year notice required by said subsection (a), but shall provide such notice within 90 days after the effective date of this chapter. Notwithstanding subsection (b), an owner who, on the effective date of this chapter has less than 1 year remaining prior to a termination shall not be required to give the 1-year notice required by subsection (b), but shall provide such notice within 90 days after the effective date of this chapter.

(f) The notice requirements of this section shall not be affected by the status of an offer, purchase contract or sale under section 3 or section 4.

Section 3. (a) An owner shall offer the department an opportunity to purchase publicly-assisted housing prior to entering into an agreement to sell such property pursuant to the time periods contained in this section, but no owner shall be under any obligation to enter into an agreement to sell such property to the department.

(b) The department may select a designee to act on its behalf as purchaser of the publicly-assisted housing and shall give the owner and CEDAC written notice of its selection. The department shall promptly consult with the affected municipality before selecting a designee and shall immediately designate the affected municipality as its designee upon written request of the affected municipality, unless the department determines that such request is not feasible for reasons set forth in the department's regulations. The department shall enter into a written agreement with its selected designee providing that the designee, and any of its successors or assigns, agree to preserve the affordability of the publicly assisted housing. Once such an agreement is executed, the designee shall assume all rights and responsibilities attributable to the department as a prospective purchaser under this section and section 4. At any time prior to a sale under this section or section 4, the department may revoke its designation and assume the designee's rights and responsibilities, either in its own capacity or by selecting a new designee; provided, however, that no change

in a designation shall operate to extend or alter any time periods for performance set forth in this chapter or in any purchase contract entered into pursuant to this chapter.

(c) The department may, within 90 days after it receives notice pursuant to subsection (c) of section 2 of the owner's intention to sell, submit an offer to the owner to purchase the publicly-assisted housing. Failure by the department to submit a timely offer shall constitute an irrevocable waiver of the department's rights under this section and the owner may sell the publicly-assisted housing subject to section 4. If the owner accepts the department's initial or any revised offer, the owner and the department shall enter into such other agreements as are necessary and appropriate to complete the sale. If the owner and the department have not entered into an agreement to sell the property to the department within 90 days after receipt of the notice pursuant to subsection (c) of section 2, the owner may enter into an agreement to sell the property to a purchaser of the owner's choice, subject to section 4.

(d) At any time after the notice in section 2 has been provided and within 10 days of receiving a request, the owner shall make documents available to the department for review and photocopying during normal business hours at the owner's principal place of business or at a commercial photocopying facility. Such documents shall include, but not be limited to: (1) any existing architectural plans and specifications of the development; (2) itemized lists of monthly operating expenses and capital expenditures in each of the 2 preceding calendar years; (3) any capital needs studies or market studies that have been submitted to a federal, state or local agency in the preceding 3 years; (4) utility consumption rates for the preceding year; (5) copies of the last 2 audited annual financial statements and physical inspection reports filed with federal, state or local agencies; (6) the most recent rent roll showing then current vacancies and rent arrearages; and (7) a statement of the approximate annualized vacancy rate at the development for each of the 2 preceding calendar years. Documents obtained pursuant to a request under subsections (c) and (d) shall not be considered public records, as defined in clause 26 of section 7 of chapter 4, and the department shall not make such documents available to the public without the written consent of the owner or pursuant to a court order; provided, however, that disclosure may be made to potential funding sources, regulatory agencies or agents or consultants of the department in connection with the transaction, subject to appropriate confidentiality agreements. Upon request and with appropriate notice, the owner shall permit reasonable inspections of the dwelling units, building systems, common areas and common grounds by agents, consultants and representatives of the department or its designee including, but not limited to, inspections related to environmental, engineering, structural or zoning matters; provided, however, that the owner and agents, consultants or representatives of the department or its designee shall execute an access and confidentiality agreement, in a form approved by the department, with respect to such matters as insurance to be carried by the investigators, indemnities of the owner, restrictions on invasive testing, restoration requirements, the timing of such inspections and the requirement to keep all matters discovered confidential.

(e) Not later than 30 days after the department submits an offer to purchase the publicly-assisted housing pursuant to subsection (c), the department shall notify tenants in the housing development of its plans.

Section 4. (a) Upon the expiration of the 90 day offer period in subsection (c) of section 3, but not later than 2 years after the date notice was provided to the department in subsection (c) of said section 2, the owner may execute a purchase contract with a third party to sell the publicly-assisted housing pursuant to this section. Thereafter, the owner again shall be subject to the notice provision of said subsection (c) of said section 2.

(b) Upon execution of a third party purchase contract, the owner shall, within 7 days, submit a copy of the contract to the department and CEDAC, along with a proposed purchase contract for execution by the department. If the department elects to purchase the publicly-assisted housing, the department shall, within 30 days after receipt of the third party purchase contract and the proposed purchase contract, execute the proposed purchase contract or such other agreement as is acceptable to the owner and the department. The time periods set forth in this subsection may be extended by agreement between the owner and the department. The proposed purchase contract shall contain the same terms and conditions as the executed third party purchase contract, except that the proposed purchase contract shall provide at least the following terms: (i) the earnest money deposit shall not exceed the lesser of: (1) the deposit in the third party purchase contract; (2) 2 per cent of the sale price; or (3) \$250,000; provided, however, that the owner and the department may agree to modify the terms of the earnest money deposit; and provided further, that the earnest money deposit shall be held under commercially-reasonable terms by an escrow agent selected jointly by the owner and the department; (ii) the earnest money deposit shall be refundable for not less than 90 days from the date of execution of the purchase contract or such greater period as provided for in the third party purchase contract; provided, however, that if the owner unreasonably delays the buyer's ability to conduct due diligence during the 90 day period, the earnest money deposit shall continue to be refundable for a period greater than 90 days; and (iii) the time for performance shall be not less than 240 days from the date of the execution of the purchase contract, or such greater period as provided for in the third party purchase contract.

(c) If the department fails to execute the proposed purchase contract within 30 days or such other period as provided in subsection (b), the owner shall have 2 years from the last day on which the department was entitled to execute the proposed purchase contract in which to complete a sale of the owner's publicly-assisted housing to a third party, except as provided in subsection (e). Upon the expiration of the 2-year period, the owner shall be subject again to subsection (c) of section 2, section 3 and this section.

(d) If the department executes the proposed purchase contract as provided in subsection (b) but fails to perform as provided in the executed purchase contract, then the owner shall have 2 years from the date on which the executed purchase contract terminated in which to complete a sale of the owner's publicly-assisted housing to a third party. Upon the expiration of the 2-year period, the owner shall be subject again to all of subsection (c)

of section 2, section 3 and this section.

(e) After receipt of the third party purchase contract provided for in subsection (b), the department may, within the 30-day time period prescribed in said subsection (b), make a counteroffer by executing and submitting to the owner an amended proposed purchase contract. Failure by the department to execute the purchase contract or submit a counteroffer within the 30-day period referenced in subsection (b) shall constitute a waiver of the department's right to purchase under this section. If the department submits a counteroffer, the owner shall have 30 days from the date it receives the amended proposed purchase contract to execute the amended proposed purchase contract or reject, in writing, the counteroffer. If the owner rejects the counteroffer, the owner shall have 2 years from the date on which the owner rejects the department's counteroffer to complete a sale of the publicly-assisted housing to a third party; provided, however, that if such sale is upon economic terms and conditions that are the same as or materially more favorable to the proposed purchaser than the economic terms and conditions in the proposed purchase contract offered by the department in its counteroffer, the owner shall provide a copy of the new third party purchase contract, along with a proposed purchase contract for execution by the department which shall contain the same terms and conditions as the executed third party purchase contract; provided that the department shall have 30 days from the date it receives the third party purchase contract and the proposed purchase contract to execute the proposed purchase contract or such other agreement as is acceptable to the owner and the department.

(f) The owner shall, not later than 7 days after the execution of a purchase contract with a third party, provide the department with a copy of any new or amended purchase contract executed with respect to the property during the 2 year period set forth in subsections (c) to (e), inclusive, and shall not later than 7 days after the recording or filing of the deed or other document with the registry of deeds or the registry district of the land court of the county in which the affected real property is located, provide the department with a copy of any such deed or other document transferring the owner's interest in the publicly-assisted housing.

(g) Any third party purchase contract, amended third party purchase contract, deed or any other document transferring the owner's interest in publicly-assisted housing shall include a certification by the owner that the document is accurate and complete and there are no other agreements between the owner and the third party buyer, or an affiliate of either, with respect to the sale of the publicly-assisted housing.

Section 5. An affected municipality shall not be subject to section 16 of chapter 30B.

Section 6. (a) Sections 3 and 4 shall not apply to the following: (i) a government taking by eminent domain or a negotiated purchase in lieu of eminent domain; (ii) a forced sale pursuant to a foreclosure; (iii) a deed-in-lieu-of foreclosure; (iv) a proposed sale to a purchaser pursuant to terms and conditions that preserve affordability, as determined by the department; (v) a proposed sale of publicly-assisted housing that the department has determined, as of the effective date of this act, was neither receiving government assistance

nor was subject to regulation by any of the programs listed in the definition of publicly-assisted housing other than project-based section 8 and the buyer has agreed, in a regulatory agreement, to renew in whole, all project-based section 8 assistance contracts, or any successor program thereto; provided, however, that at the time of such renewal, such assistance is available to the owner on economic terms and conditions that are comparable to the existing project-based rental assistance contract; (vi) a proposed sale of publicly-assisted housing to an affiliate of the owner that is not a termination as determined by the department; (vii) a proposed sale of publicly-assisted housing which has more than 15 years from the date of the sale until the date of the publicly-assisted housing's first scheduled termination; or (viii) a bona fide proposed sale pursuant to a purchase contract on the effective date of this chapter.

(b) An owner seeking an exemption under clause (iv), (v) or (vi) of subsection (a) shall include the name and address of any tenant organization in the request and shall provide a copy of its request to the chief executive officer of the affected municipality, CEDAC, the local legal services organization as designated by the department and the tenant organization, if any, at the time it files its exemption request with the department. The department shall provide a copy of its written determination under said clause (iv), (v) or (vi) of said subsection (a) to the owner, CEDAC, the local legal services organization and the tenant organization.

Section 7. For 3 years after termination, the rent for a protected low-income tenant who does not receive an enhanced section 8 voucher shall not be increased more than once annually by the increase in the consumer price index applicable to the area in which the publicly-assisted housing is located during the preceding year plus 3 per cent. The foregoing shall not apply to a low-income tenant: (i) who is income eligible for an enhanced section 8 voucher but does not obtain one solely due to some action or inaction of the tenant on or after the date he is eligible to apply for the enhanced section 8 voucher; or (ii) who would be eligible for an enhanced section 8 voucher if this provision was not in effect. For a period of 3 years after termination, a protected low income tenant shall not be evicted or involuntarily displaced from his dwelling except for good cause related to tenant fault.

Section 8. A purchase by the department or by its designee pursuant to this chapter shall be subject to a regulatory agreement. A regulatory agreement shall not contain any terms that would preclude an owner or buyer from participating in, or diminishing the benefits that an owner would otherwise receive by participating in the United States Department of Housing and Urban Development's Mark Up to Market Program.

Section 9. An owner who has complied with sections 2 through 4, inclusive, which has not resulted in a purchase by the department or which has resulted in a sale pursuant to section 4, may apply to the department for a certificate of compliance by submitting a written request for the certificate in a form and with such documentation as required by the department to establish the owner's compliance to the satisfaction of the department. Upon submission of the written request, the owner shall provide a copy of the request to CEDAC and the chief executive officer of the affected municipality. Upon request by a tenant of the

affected publicly-assisted housing, the owner shall provide a copy of the owner's request for a certificate of compliance. The department shall issue the certificate of compliance within 30 days after receipt of the application if it determines that the owner has complied with said sections 2 to 4, inclusive. The certificate of compliance shall be filed with the registry of deeds or the registry district of the land court of the county in which the real property is located within 1 year after the date of issuance.

Section 10. For the purposes of sections 3 and 4, housing that qualified as publicly-assisted housing as of the effective date of this chapter shall be subject to this chapter for 4 years after the date of the last event or occurrence that constituted a termination; provided, however, that the termination occurred subsequent to the effective date of this chapter.

SECTION 2. Section 6I of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 173, the word "taxpayer" and inserting in place thereof the following words:- qualified Massachusetts project.

SECTION 3. Section 31H of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out, in line 177, the word "taxpayer" and inserting in place thereof the following words:- qualified Massachusetts project.

SECTION 4. Within 45 days after the effective date of this act, the department of housing and community development shall establish a 13-member advisory committee to provide advice and recommendations to the department regarding regulations to implement this act. The advisory committee shall consist of the following members: the undersecretary of the department of housing and community development or his designee; the executive director of the Community Economic Development Assistance Corporation; 1 member selected by the Massachusetts Mayors Association; 1 member selected by the Massachusetts Municipal Association; 1 member selected by Citizens Housing and Planning Association; 1 member selected by the Greater Boston Real Estate Board; 1 member selected by the Real Estate Bar Association for Massachusetts; 1 member selected by the Massachusetts Association of Community Development Corporations; 1 member selected by the Massachusetts Legal Assistance Corporation; 1 member affiliated with the Affordable Housing Preservation Initiative of the Local Initiatives Support Corporation; 1 member selected by the Massachusetts Chapter of the National Association of Housing and Redevelopment Officials; and 2 members chosen by the department of housing and community development.

SECTION 5. The department of housing and community development shall promulgate regulations to effectuate the purposes and implement chapter 40T of the General Laws not later than 150 days after the effective date of this act.

Approved November 23, 2009.

Chapter 160. AN ACT AUTHORIZING THE TOWN OF HARWICH TO CONVEY CERTAIN RECREATIONAL LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Harwich, acting by and through its board of selectmen, may sell, convey or transfer a portion of land containing approximately 1,501 square feet located at Cranberry Valley golf course and acquired for recreational purposes, to abutters, W. Daniel O’Leary and Carla W. Blanchard of 7 Daluze drive in said town. The portion to be conveyed is shown as parcel H1 on assessors’ map 61 and is situated at the rear of 7 Daluze drive on the golf course. The land is also shown on a plan entitled “Plan of Land in Harwich, Massachusetts Located at Cranberry Valley Golf Course” dated March 17, 2008, prepared by the town of Harwich engineering department, which is on file in the office of the town engineer.

SECTION 2. The consideration for the conveyance authorized in section 1 shall be approximately \$3,500 based upon the assessed value of the entire golf course according to the town assessor’s records.

Approved November 23, 2009.

Chapter 161. AN ACT PROVIDING FOR SALTWATER FISHING LICENSES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35LL, inserted by section 9 of chapter 27 of the acts of 2009, the following section:-

Section 35NN. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Marine Recreational Fisheries Development Fund. There shall be credited to the fund all recreational saltwater fishing permit fees collected by the director of the division of marine fisheries under section 17C of chapter 130, any appropriations, grants, gifts or other monies authorized by the general court or other parties and specifically designated to be credited to the fund and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund may be expended, subject to appropriation, provided that all unexpended balances remaining in the fund at the end of the fiscal year shall not revert to the General Fund and may be appropriated for expenditure in the subsequent fiscal year.

(b) The fund shall be administered by the director in consultation with the marine recreational fisheries development panel established in section 17C of chapter 130. Monies expended from the fund shall be used for the development and administration of the recreational saltwater fishing permit program established in said section 17C of said chapter 130, to support science and conservation programs designed to improve recreational saltwater fishing and other recreational saltwater fishing improvement programs and for the

direct and indirect costs of personnel or contractors of the division of marine fisheries associated with such programs; provided, however, that not less than one-third of the permit fees appropriated for expenditure in a fiscal year shall be expended on existing or new facilities and other activities that improve public access to recreational saltwater fishing. The director shall consult with the department of fish and game's office of fishing and boating access on any proposals for public access facilities to be constructed with monies from the fund and such facilities may be constructed in consultation with the office of fishing and boating access. The director shall request the marine recreational fisheries development panel's input on the division's proposed spending plan for the fund in the upcoming fiscal year and provide the panel with a written explanation if the director does not adopt a recommendation of the panel.

SECTION 2. Section 1 of chapter 130 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:-

"Commissioner", the commissioner of the department of fish and game.

SECTION 3. Said section 1 of said chapter 130, as so appearing, is hereby further amended by striking out the definition of "Department" and inserting in place thereof the following definition:-

"Department", the department of fish and game of the executive office of energy and environmental affairs.

SECTION 4. Said section 1 of said chapter 130, as so appearing, is hereby further amended by inserting after the definition of "Quahaug" the following definition:-

"Recreational saltwater fishing", the non-commercial taking or attempted taking of finfish for personal or family use; provided, however, that the finfish are not sold, traded or bartered.

SECTION 5. Section 1A of said chapter 130, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "of fisheries, wildlife and environmental law enforcement".

SECTION 6. Section 5 of said chapter 130, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "of fisheries, wildlife and environmental law enforcement".

SECTION 7. Section 17A of said chapter 130, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 8. Said chapter 130 is hereby further amended by inserting after section 17B the following 2 sections:-

Section 17C. (a) The director shall establish a state recreational saltwater fishing permit program to comply with the state exemption requirements of section 401 (g)(2) of the

Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1881 (g)(2) and may promulgate regulations implementing the state program in accordance with sections 17 and 17A.

(b) No person shall engage in the recreational activity of finfishing, or take or land finfish for recreational purposes in or from the coastal waters of the commonwealth without first obtaining a saltwater recreational fishing permit from the director. The permit process shall require the applicant to submit, in addition to any other information required by the director, the applicant's name, address, telephone number and date of birth. A permit shall not be required in the following circumstances:

(1) a non-resident holding a valid recreational saltwater fishing permit from a coastal state; provided, however, that the director shall determine that: the requirements of such other state permit are substantially the same as the commonwealth's permit requirements; and the privileges granted under law to the resident of the other coastal state are similar to those permitted by the commonwealth;

(2) a person under 16 years of age;

(3) a disabled person, as defined in section 1 of chapter 19C; or

(4) a person fishing as a passenger on a for-hire vessel; provided, however, that the owner of the vessel has a valid permit from the director as provided in subsection (c).

(c) The director may issue a recreational saltwater fishing permit to an individual or a business entity that is engaged in for-hire recreational fishing in the coastal waters of the commonwealth, and such permit shall be valid for all persons on board the for-hire vessel. The director may establish categories and related requirements for such permits.

(d) The director may establish categories of recreational saltwater fishing permits, including, but not limited to, individual permits, age-related permits and for-hire permits, and may charge a separate annual fee for each category of permits. The amounts of such fees shall be established by the secretary of administration and finance under section 3B of chapter 7; provided, however, that the director or authorized agents may not charge a fee to individuals requesting a permit who, at the time of permit application, are 60 years of age or older or less than 16 years of age. The director shall develop a fee schedule for all classes of permits and submit such schedule to the clerks of the house of representatives and senate not less than 30 days before the schedule is to take effect.

(e) The director may authorize agents to sell recreational saltwater fishing permits issued under this section and authorize agents who are not employed by the commonwealth to charge and retain a reasonable service fee for such service.

(f) The director may designate not more than 2 days in each year as free recreational saltwater fishing days. A person may take saltwater finfish for noncommercial purposes on a free recreational saltwater fishing day without obtaining or possessing a permit or paying a permit fee as prescribed in this section; provided, however, that a person who takes saltwater finfish on a free recreational fishing day must comply with all laws, rules and regulations governing the holders of a recreational fishing permit and all other conditions and limitations regulating the taking of saltwater finfish.

(g) There shall be established within the division a marine recreational fisheries development panel. The panel shall advise the director on the development and administration of recreational saltwater fishing improvement programs, including, but not limited to, the improvement of public access to marine recreational fisheries. The panel shall consist of 2 members of the marine fisheries advisory commission and 3 members of the public at large, all of whom shall have specific expertise and background in the commonwealth's marine recreational fisheries. The panel members shall be appointed by the commissioner for terms not to exceed 3 years. Any member shall be eligible for reappointment. The panel shall meet at least twice annually and shall also meet at the request of the director or the commissioner. Three of the members shall constitute a quorum and the affirmative vote of a majority of members present at a duly called meeting where a quorum is present shall be necessary for any action to be taken by the panel.

Section 17D. Whoever violates section 17C, or any rule or regulation made under authority thereof, shall be punished by a fine per offense as promulgated by the director. All funds received by the commonwealth under this section shall be deposited in the Marine Recreational Fisheries Development Fund established by section 35NN of chapter 10.

Approved November 23, 2009.

Chapter 162. AN ACT PROVIDING FOR THE TRANSFER OF CERTAIN STATE REAL PROPERTY TO THE TOWN OF HOPKINTON.

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, in consultation with the department of conservation and recreation, convey in fee simple, for nominal consideration, a certain parcel of land, any permanent easements and any improvements and structures located thereon formerly known as the 1918 Whitehall Reservoir Dam and Gatehouse located on, adjacent and under Highland street in the town of Hopkinton, accepted by the town of Hopkinton as a public highway on March 7, 1925, and the historic Gatehouse, its spillway and the former earthen dam under Highland street, to the town for the purpose of operating and maintaining a public way. Before any conveyance, the town of Hopkinton shall enter into a historical covenant agreement with the Massachusetts historical commission which shall be filed with the Middlesex south registry of deeds and run with the land in perpetuity. Use and maintenance of the parcel, excluding the Highland Street infrastructures, shall be subject to the restrictions and provisions of the historical covenant. The exact boundaries of the parcel and any permanent easements shall be determined by the commissioner of capital asset management and maintenance in consultation with the commissioner of conservation and recreation after com-

pletion of a survey. 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 town of Hopkinton 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 under this act as such costs may be determined by the commissioner of capital asset management and maintenance.

Approved November 23, 2009.

Chapter 163. AN ACT AUTHORIZING THE ROSE FITZGERALD KENNEDY GREENWAY CONSERVANCY, INC. TO LEASE CERTAIN PROPERTY TO THE NATIONAL PARK SERVICE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the lease of a certain parcel of land to the Rose Fitzgerald Kennedy Greenway Conservancy, Inc., 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 10 of chapter 306 of the acts of 2008, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, the conservancy may lease Parcel 14 as shown on the plan, or a portion thereof, to the National Park Service for a period not to exceed the term of the lease executed between the authority and the conservancy pursuant to the preceding paragraph; provided, however, that the lease shall contain a restriction limiting the use of the parcel to the construction and operation of a public information pavilion and services related thereto by the National Park Service for visitors to the Boston Harbor Islands National Recreation Area. If at any time the parcel ceases to be used for the purposes described in this paragraph, the conservancy shall provide written notice to the National Park Service of the unauthorized use. The National Park Service 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 conservancy in the appropriate registry of deeds, shall terminate and any further disposition of the parcel shall be subject to the approval of the conservancy and the secretary of transportation.

Approved November 23, 2009.

Chapter 164. AN ACT RELATIVE TO THE LEASING OF THE HORSENECK POINT LIFESAVING STATION IN THE TOWN OF WESTPORT TO THE WESTPORT FISHERMEN'S ASSOCIATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the lease of the lifesaving station in the town of Westport to the Westport Fishermen's Association, 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 44 of chapter 85 of the acts of 1994 is hereby amended by striking out, in line 2, the words "environmental management" and inserting in place thereof the following words:- conservation and recreation.

SECTION 2. Said section 44 of said chapter 85 is hereby further amended by inserting after the word "forest", in line 44, the following words:- , Horseneck Point Lifesaving Station in the Horseneck Beach State Reservation.

SECTION 3. Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws or section 44 of chapter 85 of the acts of 1994 or any other general or special law or rule or regulation to the contrary, the commissioner of conservation and recreation may lease certain land and the building thereon to the Westport Fishermen's Association. The parcel, the exact boundaries of which shall be established prior to such conveyance by a survey commissioned by the commissioner, is located at the corner of West Beach and East Beach roads at Gooseberry Neck in the town of Westport and known as the Horseneck Point Lifesaving Station. The term of such lease shall be 25 years, subject to extension for another 10 year term at the discretion of the commissioner.

SECTION 4. Notwithstanding any general or special law to the contrary, the parcel described in section 3 shall be leased subject to a restriction limiting the use of the parcel to operating a lifesaving museum and promoting the appreciation of the Horseneck Point Lifesaving Station and historic resources. If at any time the property ceases to be used for the purposes described in this section or should the commissioner of conservation and recreation determine that the Westport Fishermen's Association has failed to comply with the terms of the lease entered into between the department and the Westport Fishermen's Association, the commissioner shall give written notice to the lessee of the unauthorized use. The lessee 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 5. Notwithstanding any general or special law, or any rule or regulation to the contrary, the commissioner of capital asset management and maintenance shall, 30 days before the execution of any lease authorized by this act, or any subsequent amendment

thereto, submit the proposed lease 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 lease or amendment. The commissioner of capital asset management and maintenance shall submit the proposed lease or amendment, and the reports and the comments of the inspector general, if any, to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight at least 15 days before execution of said lease.

SECTION 6. Notwithstanding any general or special law to the contrary, the lessee shall be responsible for all costs associated with the lease of the property under this act including but not limited to, costs associated with any engineering, surveys and legal or recording fees as such costs may be determined by the commissioner of capital asset management and maintenance. During the term of the lease, the lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance and operation of the leased property.

SECTION 7. Use of the Horseneck Point Lifesaving Station shall be in compliance with all applicable statutes, regulations and executive orders, including, but not limited to, laws relating to environmental protection and the Westport Fishermen's Association shall secure all necessary approvals and permits. Failure to obtain or maintain compliance with these statutes, regulations and executive orders or to obtain and maintain permits and approvals shall constitute cause for termination of the lease and the notice and right to cure provisions of section 4 shall apply.

SECTION 8. The use of the Horseneck Point Lifesaving Station shall not interfere with the commonwealth's use and operation of adjacent property as a state park.

Approved November 23, 2009.

Chapter 165. AN ACT AUTHORIZING THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION AND THE TOWN OF KINGSTON TO EXCHANGE CERTAIN PARCELS OF LAND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the exchange of certain parcels of land in the town of Kingston, 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 Massachusetts Department of Transportation shall conduct a review and approve plans for the construction of a ramp in the town of Kingston to provide access from public ways serving the Kingston MBTA station and land in the towns of Kingston and Plymouth in the vicinity of state highway route 3 southbound. Upon comple-

tion of its review and its approval of plans, the department shall notify the board of selectmen of the town of Kingston. The notice shall include plans depicting: (1) the layout of the ramp; (2) the extension of Cranberry road as approved by the town of Kingston planning board as provided in section 3; and (3) necessary easements, both construction and permanent, within the boundaries of the town's land described as follows: (a) parcel 1 being a portion of Kingston assessors' map 66, lot 50; (b) parcel 2 consisting of portions of map 66, lot 50 and map 75, lot 11; (c) parcel 3 being a portion of Cranberry road right-of-way; and (d) parcel 5 consisting of portions of map 66, lot 50 and map 75, lot 11 on the plan identified in said section 3. The layout of the ramp, the extension of Cranberry road and the easements shall not require the relocation of the town's existing sewer treatment and recycling facilities.

SECTION 2. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the Massachusetts Department of Transportation following the acquisition of the land and easements described in section 3, shall convey to the town of Kingston for municipal purposes the portion of land shown as parcel 6 on the plan described in said section 3 located south of the layout of the ramp, including any and all rights-of-way and easements appurtenant thereto, currently owned by the commonwealth and under control of the department, which is no longer required for highway purposes. The parcel shall not be less than 30,000 square feet, shall be contiguous to parcel 4, consisting of portions of map 66, lot 50 and map 75, lot 11, and shall be described in the notice given to the board of selectmen under section 1. The exact boundaries of the parcel shall be determined by the commissioner of capital asset management and maintenance in consultation with the Massachusetts Department of Transportation after completion of a survey. The parcel shall be conveyed by deed without warranties or representations by the commonwealth.

SECTION 3. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Kingston, upon receipt of the notice required under section 1 and as requested by the division of capital asset management and maintenance in consultation with the Massachusetts Department of Transportation, shall either convey by deed to the commonwealth, acting by and through the division on behalf of the department, or release the town's interest in, and the commonwealth acting by and through the division on behalf of the department shall acquire by deed, eminent domain or otherwise, the land required for the ramp to be laid out as a state highway in the following described parcels of land owned by the town: not more than 1.95 acres of the town's land described as parcels 1, 2 and 3 on that plan of land entitled "Plan of Land Parcels in Kingston, Massachusetts to be Exchanged between the Town of Kingston and the Massachusetts Department of Highways," dated August 6, 2007. The deed or release shall also include such easements in said parcels 1, 2, 3 and 5 as described on the plan as the department requires in connection with the construction and operation of the ramp. The department, in accordance with section 7A of chapter 81 of the General Laws, on behalf of the town of Kingston, shall alter Cranberry road

to create its extension as approved by the planning board of the town of Kingston as a roadway to the ramp. The extension shall be located within said parcels 2 and 5 as shown on the plan. The extension of Cranberry road shall be designed and constructed in accordance with the design standards adopted under the town of Kingston smart growth zoning by-law and approved by the planning board of the town of Kingston.

SECTION 4. The board of selectmen of the town of Kingston shall apply for the permits and approvals required from the department of environmental protection to use the lands described in section 3 for the purposes provided in section 1 and said section 3. The route 3 southbound ramp shall be designed to meet desirable state and federal standards and to operate at acceptable levels of service.

SECTION 5. Notwithstanding any general or special law to the contrary, upon completion of the ramp in accordance with the approvals issued by the Massachusetts Department of Transportation, the department shall notify the town of the completion and shall take control of and operate the ramp as part of the department's highway system.

SECTION 6. The plan referred to in section 3 shall be kept on file with the chief engineer of the Massachusetts Department of Transportation and with the town administrator of the town of Kingston.

Approved November 23, 2009.

Chapter 166. AN ACT ESTABLISHING FISCAL STABILITY MEASURES FOR FISCAL YEAR 2010.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith fiscal stability measures for fiscal year 2010, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 3A of chapter 23A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of "Certified project" and inserting in place thereof the following definition:-

"Certified project", an expansion, enhanced expansion or manufacturing retention project that has been approved by the economic assistance coordinating council for participation in the economic development incentive program pursuant to section 3F.

SECTION 2. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by inserting after the definition of "Economic target area", the following 6 definitions:-

“Enhanced expansion project”, a facility that in its entirety and as of the project proposal date: (i) is located or will be located within the commonwealth; (ii) generates substantial sales from outside of the commonwealth; and (iii) generates a net increase of at least 100 full-time employees within 2 years after project certification, and which shall be maintained for a period of not less than 5 years; provided, however, that in the case of a facility that as of the project proposal date is already located in the commonwealth, “enhanced expansion project” shall refer only to a facility at which the controlling business has proposed to expand the number of permanent full-time employees at such facility to occur after the project proposal date and the expansion shall represent: (1) an increase in the number of permanent full-time employees employed by the controlling business within the commonwealth; and (2) not a replacement or relocation of permanent full-time employees employed by the controlling business at any other facility located within the commonwealth; and provided further, that in the case of a facility to be located within the commonwealth after the project proposal date, “enhanced expansion project” shall refer only to a facility that is: (a) the first facility of the controlling business to be located within the commonwealth; or (b) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth; or an expansion of an existing facility of the controlling business that results in an increase in permanent full-time employees.

“Enhanced expansion project proposal”, a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation of a project as an enhanced certified project, provided that: (i) the proposal is submitted in a timely manner, in such form and with such information as is prescribed by the EACC, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the controlling business; (ii) the proposal includes specific targets by year for the subsequent 5 calendar year period relative to the projected increase in the number of permanent full-time employees of the controlling business to be employed by and at the project from among residents of the commonwealth; provided further, that in the case of a project that is a new facility within the meaning of clause (b) of the definition of enhanced expansion project, such proposal shall include, in addition, the number of permanent full-time employees employed by the controlling business at other facilities located in the commonwealth.

“Expansion project”, a facility that in its entirety and as of the project proposal date: (i) is located or will be located within an EOA; (ii) generates substantial sales from outside of the commonwealth; and (iii) generates a net increase of full-time employees within 2 years after project certification, and which shall be maintained for a period of not less than 5 years; provided, however, that in the case of a facility that as of the project proposal date is already located in an EOA, “expansion project” shall refer only to a facility at which the controlling business has proposed to expand of the number of permanent full-time employees at such facility to occur after the project proposal date and the expansion shall represent: (1) an increase in the number of permanent full-time employees employed by the controlling business within the commonwealth; and (2) not a replacement or relocation of permanent full-time

employees employed by the controlling business at any other facility located within the commonwealth; and provided further, that in the case of a facility to be located within an EOA after the project proposal date, “expansion project” shall refer only to a facility which is: (a) the first facility of the controlling business to be located within the commonwealth; or (b) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth or an expansion of an existing facility of the controlling business that results in an increase in permanent full-time employees.

“Expansion project EOA”, the EOA within which an expansion project is located or will be located.

“Expansion project ETA”, the ETA within which an expansion project is located or will be located, determined with reference to the project EOA.

“Expansion project proposal”, a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation of a project as a certified expansion project, provided that: (i) the proposal is submitted in a timely manner, in such form and with such information as is prescribed by the EACC, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the controlling business; (ii) the proposal includes specific targets by year for the subsequent 5 calendar year period relative to the projected increase in the number of permanent full-time employees of the controlling business to be employed by and at the project from among residents of the project ETA; and provided further, that in the case of a project that as of the project proposal date is already located in the project EOA, such projected increase shall not be less than 25 per cent over the subsequent 5-year period; and (iii) in the case of a project that is a new facility within the meaning of clause (b) of the definition of expansion project, such proposal shall include the number of permanent full-time employees employed by the controlling business at other facilities located in the commonwealth.

SECTION 3. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of “Facility,” and inserting in place thereof the following 4 definitions:-

“Facility”, the physical location, in real property, which may include multiple buildings, owned or leased by a business of a commercial, manufacturing or industrial activity, division or component controlled by that business, or any real estate project which involves the construction or renovation of real property to serve such purpose, or any combination of the foregoing, at which are employed, or are projected to be employed, permanent full-time employees of the controlling business.

“Gateway municipality”, a municipality with a population greater than 35,000, a median household income below the commonwealth’s average and educational attainment rates that are below the commonwealth’s average.

“Manufacturing retention project”, a manufacturing facility that in its entirety and as of the project proposal date: (i) is located or will be located within a gateway municipality; (ii) generates a net increase or retention of a minimum of at least 100 permanent full-time

positions; provided, however, that if the controlling business increases the number of full-time positions at the facility, it shall be within 2 years after certification of the project and the controlling business shall make a commitment that the positions created or retained are to be maintained for at least a 5-year period; and (iii) generates substantial sales from outside of the commonwealth; provided, however, that in the case of a facility that as of the project proposal date is already located in the gateway municipality, "manufacturing retention project" shall refer only to a facility for which there is a proposed expansion or retention of the number of permanent full-time employees at such facility by the controlling business, to occur after the project proposal date and the expansion shall represent a retention or increase of at least 100 permanent full-time employees employed by the controlling business within the project and shall not represent a replacement or relocation of permanent full-time employees employed by the controlling business at any other facility located within the commonwealth; and provided further, that in the case of a facility to be located after the project proposal date, the "manufacturing retention project" shall refer only to a facility that is: (1) the first facility of the controlling business to be located within the commonwealth; or (2) a new facility of such business and not a replacement or relocation of an existing facility of such controlling business located within the commonwealth.

"Manufacturing retention project proposal", a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation of a project as a certified manufacturing retention project; provided that: (i) the proposal is submitted in a timely manner, in such form and with such information as is prescribed by the EACC, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the controlling business; (ii) includes specific targets by year for the subsequent 5 calendar year period relative to any projected increase in the number of permanent full-time employees of the controlling business to be employed by and at the project from among residents of the gateway municipality and the commonwealth; provided further, that in the case of a project which is a new facility within the meaning of clause (2) of the definition of manufacturing retention project, such proposal shall include the number of permanent full-time employees employed by the controlling business at other facilities located in the commonwealth.

SECTION 4. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of "Project" and inserting in place thereof the following definition:-

"Project", an expansion project, enhanced expansion project or a manufacturing retention project.

SECTION 5. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definitions of "Project EOA" and "Project ETA"

SECTION 6. Said section 3A of said chapter 23A, as so appearing, is hereby further amended by striking out the definition of "Project proposal" and inserting in place thereof the following definition:-

“Project proposal”, a proposal submitted by a controlling business to the EACC pursuant to section 3F for designation as a certified expansion project, enhanced expansion project, or manufacturing retention project.

SECTION 7. Section 3F of said chapter 23A, as so appearing, is hereby amended by inserting after the word “certified”, in line 2, the following words:- expansion, enhanced expansion or manufacturing retention.

SECTION 8. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 6, the word “receipt” and inserting in place thereof the following words:- in the case of expansion project proposals and manufacturing retention project proposals, receipt.

SECTION 9. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 7, the word “EOA”.

SECTION 10. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 15, the word “is” and inserting in place thereof the following words:- if the proposal is for an expansion project, that it is.

SECTION 10A. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 19, 33, 39, 46, 58 and 104, the word “project” and inserting in place thereof the following words:- expansion project.

SECTION 11. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by inserting after the word “EOA”, in line 19, the following words:- or municipality.

SECTION 12. Clause (b) of subsection (1) of said section 3F of said chapter 23A, as so appearing, is hereby amended by striking out subclause (iii) and inserting in place thereof the following subclause:-

(iii) the project proposal includes a workable plan, with precise goals and objectives, by which the controlling business proposes to realize the increased employment objectives for the project and the business’ plan to employ aggressive affirmative action goals, objectives and identification and recruitment techniques and, in the case of an expansion project, the plan for increased employment from among residents of the expansion project ETA; and.

SECTION 13. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 33, the word “EOA” and inserting in place thereof the following word:- area.

SECTION 14. Clause (b) of subsection (1) of said section 3F of said chapter 23A, as so appearing, is hereby amended by striking out subclause (v) and inserting in place thereof the following subclause:-

(v) the expansion, enhanced expansion or manufacturing retention project as described in the proposal, together with the municipal resources committed thereto, will, if certified, have a reasonable chance of increasing or retaining employment opportunities for

residents of the project area, ETA or municipality as applicable, as advanced in said proposal; and.

SECTION 15. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 45, the words “or (ii) the” and inserting in place thereof the following words:- ; or (ii) if the designation is for an expansion project, the.

SECTION 16. Clause (d) of subsection (1) of said section 3F of said chapter 23A, as so appearing, is hereby amended by striking out subclause (ii) and inserting in place thereof the following subclause:-

(ii) the project as described in the proposal, and as further described in the written determination of the municipality made pursuant to clause (b) will, if certified, have a reasonable chance of increasing or retaining employment opportunities for residents of the project area, ETA or municipality, as applicable; and.

SECTION 17. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by striking out subsections (2) and (3) and inserting in place thereof the following 2 subsections:-

(2) A certified project shall retain its certification for the period specified by the EACC in its certification decision; provided, however, that such specified period shall be not less than 5 years from the date of certification nor more than: (i) 20 years from such date; or (ii) for an expansion project, the number of years remaining on the duration of the designation of the project EOA, including any renewals thereof; or (iii) the number of years requested by the municipality approving the project proposal, whichever is lesser, unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the EACC and only upon: (a) the petition of the municipality that approved the project proposal, if applicable, if the petition satisfies the authorization requirements for a municipal application, or the petition of the director of economic development; and (b) the independent investigation and determination of the EACC that representations made by the controlling business in its project proposal are materially at variance with the conduct of the controlling business subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance; provided, that the EACC shall review such certified project at least once every 2 years; provided, however, that for an expansion project where the actual number of permanent full-time employees employed by the controlling business at the project is less than 50 per cent of the number of such permanent full-time employees projected in the project proposal, then this shall be deemed a material variance for the purposes of a revocation determination. Upon such a revocation, the commonwealth, and the municipality, in the case of a certified expansion project, shall have causes of action against the controlling business for the value of any economic benefit received by the controlling business prior or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the EACC determines that a material variance commenced. The commissioner of revenue may, as of the effective date of the revocation, disallow any credits, exemptions or

other tax benefits allowed by the original certification under this section. The department shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Any such revocation shall only be applied prospectively and shall not apply to, nor revoke any benefits due to the project that relate to years prior to the year in which the revocation determination is made, unless the EACC determines that the controlling business of the project made a material misrepresentation in its project proposal, in which case both the commonwealth and the municipality shall have causes of action against the controlling business for the value of any economic benefits received subsequent to the date on which such material misrepresentation was made. Annually, on or before the first Wednesday in December, the EACC shall file a report detailing its findings of the review of all certified projects that it evaluated in the prior fiscal year to the commissioner of revenue, to the chairs of the joint committee on revenue and the chairs of the joint committee on economic development and emerging technologies.

(3) The EACC shall evaluate and either grant or deny a project proposal within 90 days of its project proposal date and failure to do so by the EACC shall result in approval of the project for a term of 5 years. Approval of a project under this section shall not constitute an approval by the EACC of any tax incentives provided for under chapters 62 and 63.

SECTION 18. Said section 3F of said chapter 23A, as so appearing, is hereby further amended by adding the following 2 subsections:-

(5) The EACC may award to a certified project tax credits available under subsection (g) of section 6 of chapter 62 and section 38N of chapter 63. The amount and duration of the credit awarded shall be based on the following factors:

(a) for expansion projects:

(i) the degree to which the project is expected to generate net new economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise;

(ii) the degree to which the project is expected to increase employment opportunities for residents of the project ETA and of the commonwealth; and

(iii) the economic need of the project ETA as measured by the income and employment levels of the ETA;

(b) for enhanced expansion projects:

(i) the degree to which the project is expected to generate net economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise; and

(ii) the degree to which the project is expected to increase employment opportunities for residents of the commonwealth;

(c) for manufacturing retention projects:

(i) the degree to which the project is expected to generate economic activity within the commonwealth by generating substantial sales from outside of the commonwealth, or otherwise; and

(ii) the degree to which the project is expected to retain or increase manufacturing employment opportunities for residents in the project gateway municipality and the commonwealth.

(6) The EACC may, in consultation with the department of revenue, limit any incentive or credit available to a project pursuant to subsection (g) of section 6 of chapter 62 and section 38N of chapter 63 to a specific dollar amount or time duration or in any other manner deemed appropriate by EACC.

SECTION 19. Paragraph (a) of subdivision (2) of section 7 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:-

(ii) A yearly amount of pension equal to 72 per cent of the annual rate of his regular compensation on the date such injury was sustained or such hazard was undergone, or equal to 72 per cent of the average annual rate of his regular compensation for the 12-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however, that if an individual was in a temporary or acting position on the date such injury was sustained or hazard undergone, the amount to be provided under this paragraph shall be based on the annual rate of regular compensation in his permanent position on the date such injury was sustained or such hazard was undergone, or the average annual rate of his regular compensation in his permanent position for the 12-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however, that for any employee who was not a member in service on or before January 1, 1988 or who has not been continuously a member in service since that date, the total yearly amount of the sum of such pension and the annuity as determined in accordance with clause (i) shall not exceed 75 per cent of the annual rate of regular compensation as determined in this paragraph; and provided further, that no individual who was a member in service on January 1, 1988, whose allowance is limited by the 75 per cent limitation as established in this paragraph, shall receive an amount of pension that is less than 72 per cent of such individual's regular compensation on January 1, 1988; and.

SECTION 20. Chapter 62 of the General Laws is amended by inserting after section 5A the following section:-

Section 5C. An unincorporated association within the definition of and electing to be treated as a homeowners' association under section 528(c) of the Code for a taxable year shall be subject to tax under this chapter on its income as a resident individual for the taxable year. Its gross income shall be calculated under subsection (a) of section 2, and its taxable income shall be defined as in section 528(d)(1), (3) of the Code, to the extent consistent with the laws of the commonwealth. No such association shall be allowed the deductions or exemptions under section 3. The modifications under section 528(d)(2) of the Code shall not apply in determining taxable income for purposes of this chapter.

SECTION 21. Subsection (g) of section 6 of said chapter 62, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent authorized by the economic assistance coordinating council established in section 3B of chapter 23A, up to an amount equal to 50 per cent of such liability in any taxable year; provided, however, that the 50 per cent limitation shall not apply where the credit is refundable under paragraph (5): (i) for certified expansion projects and certified enhanced expansion projects, as defined in sections 3A and 3F of said chapter 23A, an amount up to 10 per cent, and (ii) for certified manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of property that would qualify for the credit allowed by section 31A of chapter 63 if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and used exclusively in a certified project as defined in said sections 3A and 3F of said chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease. If such property is disposed of or ceases to be in qualified use within the meaning of said section 31A of said chapter 63 or if such property ceases to be used exclusively in a certified project, as defined in said sections 3A and 3F of said chapter 23A, before the end of its useful life, the recapture provisions of subsection (e) of said section 31A of said chapter 63 shall apply and an amount determined thereunder shall be added to the tax imposed by this chapter.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year pursuant to this section and section 38N of chapter 63 shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year pursuant to this section or said section 38N of said chapter 63; (2) nonrefundable credits granted during the year pursuant to this section or said section 38N of said chapter 63, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to this section or said section 38N of said chapter 63, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A, and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A. Any portion of the \$25,000,000 annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall provide the commissioner of revenue with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

As used in this paragraph, "EACC" shall mean the economic assistance coordinating council established in section 3B of chapter 23A. A credit allowed under this subsection may be taken only after the taxpayer completes a report signed by an authorized representative of the taxpayer, and files the report with the EACC within 2 years after the initial project certification by the EACC and annually thereafter. The report shall contain pertinent employment data needed to determine whether the taxpayer has reasonably satisfied the employment projections set forth in its original project proposal granted pursuant to section 3F of said chapter 23A. Paragraph (3) of section 3F of chapter 23A shall apply to any tax benefits awarded under this section. Nothing in this subsection shall limit the authority of the commissioner to make adjustments to a taxpayer's liability upon audit.

SECTION 22. Said subsection (g) of said section 6 of said chapter 62, as so appearing, is hereby further amended by adding the following paragraph:-

(5) If a credit allowed under clause (ii) of paragraph (1) for certified manufacturing retention projects exceeds the tax otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer and to the extent authorized pursuant to the economic assistance coordinating council, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover provisions of paragraph (2) shall not apply.

SECTION 23. Section 38N of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) A corporation subject to tax under this chapter that participates in a certified project as defined in sections 3A and 3F of chapter 23A, may take a credit against the excise imposed by this chapter to the extent authorized by the economic assistance coordinating council established by section 3B of said chapter 23A, in an amount not to exceed 50 per cent of such liability in a taxable year; provided, however, that the 50 per cent limitation shall not apply if the credit is refundable under subsection (b): (i) for certified expansion projects and certified enhanced expansion projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 10 per cent; and (ii) for certified manufacturing retention projects, as defined in said sections 3A and 3F of said chapter 23A, an amount up to 40 per cent of the cost of any property that would qualify for the credit allowed by section 31A if the property were purchased by a manufacturing corporation or a business corporation engaged primarily in research and development and is used exclusively in a certified project as defined in said sections 3A and 3F of said chapter 23A. A lessee may be eligible for a credit pursuant to this subsection for real property leased pursuant to an operating lease.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year pursuant to subsection (g) of section 6 of chapter 62 and this section shall not exceed \$25,000,000 and shall include: (1) refundable credits granted during the year pursuant to said subsection (g) of said section 6 of said chapter 62 or this section; (2) nonrefundable credits granted during the year pursuant to said subsection

(g) of said section 6 of said chapter 62 or this section, to the extent that such nonrefundable credits are estimated by the commissioner to offset tax liabilities during the year; and (3) carryforwards of credits from prior years pursuant to said subsection (g) of said section 6 of said chapter 62 or this section, to the extent that such credit carryforwards are estimated by the commissioner to offset tax liabilities during the year. Of the \$25,000,000 in allowable credits, the economic assistance coordinating council may award not more than \$5,000,000 in a calendar year to certified enhanced expansion projects as defined in sections 3A and 3F of chapter 23A and not more than \$5,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A. Any portion of the \$25,000,000 annual cap not awarded by the economic assistance coordinating council in a calendar year shall not be applied to awards in a subsequent year. The economic assistance coordinating council shall provide the commissioner with any documentation that the commissioner deems necessary to confirm compliance with the annual cap and the commissioner shall provide a report confirming compliance with the annual cap to the secretary of administration and finance and the secretary of housing and economic development.

The credit allowed under this section may be taken by an eligible corporation; provided, however, that the credit allowed by section 31A or section 31H shall not be taken by such corporation. For purposes of this paragraph, the corporation need not be a manufacturing corporation or a business corporation engaged primarily in research and development. If such property is disposed of or ceases to be in qualified use within the meaning of said section 31A or if such property ceases to be used exclusively in a certified project before the end of its useful life, the recapture provisions of subsection (e) of said section 31A shall apply.

As used in this paragraph, "EACC" shall mean the economic assistance coordinating council established in section 3B of chapter 23A. A credit allowed under this section may be taken only after the taxpayer completes a report signed by an authorized representative of the corporation and files the report with the EACC within 2 years after the initial project certification by the EACC and annually thereafter. The report shall contain pertinent employment data needed to determine whether the taxpayer has reasonably satisfied the employment projections set forth in its original project proposal granted pursuant to section 3F of said chapter 23A. Paragraph (3) of section 3F of said chapter 23A shall apply to tax benefits awarded under this section. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit.

(b) If a credit allowed to a taxpayer under clause (ii) of subsection (a) exceeds the excise otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer and to the extent authorized by the economic assistance coordinating council, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, the credit carryover provisions of subsection (d) shall not apply. The amount of credit eligible to be refunded shall be determined without regard to the limitations in subsections (a) and (c).

SECTION 24. Said section 38N of said chapter 63, as so appearing, is hereby further amended by inserting after the word “paragraph”, in lines 56, 66 and 69, each time it appears, the following words:- (a) or paragraph (c).

SECTION 25. Section 68C of said chapter 63, as so appearing, is hereby amended by striking out clause (9) and inserting in place thereof the following 2 clauses:-

(9) an unincorporated entity within the definition of, and electing to be treated as, a homeowners’ association under section 528(c) of the Code and subject to tax for the taxable year as provided in section 5C of chapter 62; or

(10) a business corporation otherwise expressly exempted from the excise under this chapter by any other general law.

SECTION 26. The second paragraph of section 4 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following 2 sentences:- For purposes of such determination, the sales price of any motor vehicle, except a motor vehicle purchased from a vendor registered under this chapter who is regularly engaged in the business of making sales at retail of such motor vehicles, shall be the actual amount paid by the purchaser to the vendor for the motor vehicle or the clean trade-in value of the motor vehicle, whichever is greater, regardless of the actual condition of the vehicle. “Clean trade-in value” for a motor vehicle shall mean the clean trade-in value or equivalent or successor values listed in the National Automobile Dealers Association used car guide or other value guides, whether published in print or electronically, or default values as determined jointly by the commissioner and registrar.

SECTION 27. Section 4A of said chapter 64I, as so appearing, is hereby amended by striking out the table, in lines 26 to 32, inclusive, and inserting in place thereof the following table:-

MA AGI Per Return	Use Tax Liability
\$0 - \$25,000	\$ 0.00
\$25,001 - \$40,000	\$20.00
\$40,001 - \$60,000	\$31.00
\$60,001 - \$80,000	\$44.00
\$80,001 - \$100,000	\$56.00
Above \$100,000	(Multiply MA AGI by .000625)

SECTION 28. Chapter 90 of the General Laws is hereby amended by inserting after section 30A the following section:-

Section 30A½. Notwithstanding section 30A or any other general or special law to the contrary, the registrar may, in the interest of seeking cost efficiencies, avoiding disruptions and continuing to provide registry services for residents, enter into agreements with third party entities based in the commonwealth to perform functions on behalf of the registry of motor vehicles. The registrar shall enter into agreements only with entities existing as of November 1, 2009 that provide automobile-related services to the general public including, but not limited to, automobile-related associations, insurance companies

and their authorized producers and producer associations and service carriers, and that maintains business offices that are open to the public during hours and at locations convenient for registry customers and in areas where a continuing need exists to provide registry services; provided, however, that an entity entering into any such agreement with the registrar shall only provide registry services to its own members or clients; provided further, that agreements entered into by the registrar and insurance companies or their authorized producers and producer associations and service carriers may authorize such entities to perform registry services that do not require issuance of new plates and that are currently originated by those entities; and provided further, that as part of any such agreement, the registrar shall provide each entity with a secure password to transact those services on behalf of its members or clients.

The registrar may provide necessary inventories, equipment, electronic connections and training in regard to such agreements to provide for the provision of registry-related services by the third party. The registrar may help to defray the expenses of the third party as part of the agreement if necessary to provide such services, but only if the overall effect of such agreement results in cost efficiencies to the registry. The registrar shall not enter into an agreement that results in the loss of employment with the commonwealth of any person who was performing services related to the agreement as a registry employee within the 30 days before the effective date of the agreement.

The registrar shall annually or more frequently if required by the agreement, review the third party's most recent performance under the agreement and if the cost efficiencies and other purposes for which the agreement has been entered into are not being realized, the registrar may terminate the agreement and recover all inventories, equipment, monies due and other items provided to the third party. An agreement may be amended from time to time.

All employees of a third party performing registry-related functions or having access to registry data or equipment shall be subject to all state and federal laws and regulations governing the protection of personal information. Fees collected by the third party on behalf of the registrar shall be deposited in the treasury of the commonwealth pursuant to section 34. An agreement shall ensure that the third party's performance of registry-related functions is subject to periodic audits by registry staff and the state auditor.

SECTION 29. Chapter 111 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out section 25I and inserting in place thereof the following section:-

Section 25I. The commissioner shall promulgate regulations requiring that either a resident or consultant pharmacist in a health care facility shall return all unused medication to the pharmacy from which it was purchased provided that such medication is sealed in unopened, individually-packaged units and within the recommended period of shelf life and provided that such medication is not a schedule I or II controlled substance as defined in chapter 94C. Medication returned pursuant to this section shall be accepted by such pharmacies regardless of whether such medications are included on any list of unit-dose drugs issued

by the department or by the division of medical assistance. The rules and regulations promulgated by the commissioner shall permit the pharmacy to which such medication is returned to restock and redistribute that medication. The pharmacy shall be required to reimburse or credit the purchaser for any such returned medication.

SECTION 29A. Section 68B of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Nothing in this section shall prevent the department from using or providing alternative placements and employing alternative measures which, in its discretion, will reasonably assure the appearance of the children before the court.

SECTION 30. Subsection (2) of section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out paragraph (A) and inserting in place thereof the following paragraph:-

(A) Every contract or procurement for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency estimated to cost: (i) less than \$5,000, shall be obtained through the exercise of sound business practices; provided, however, that the public agency shall make and keep a record of each such procurement; and provided further, that the record shall, at a minimum, include the name and address of the person from whom the services were procured; or (ii) \$5,000 or greater but less than \$10,000, shall be awarded to the responsible person offering to perform the contract at the lowest price quotation; provided, however, that the public agency shall seek written price quotations from not fewer than 3 persons customarily providing the work for which the contract is being made available. When seeking written quotations pursuant to clause (ii), the public agency shall make and keep a record of the names and addresses of all persons from whom price quotations were sought, the names of the persons submitting price quotations and the date and amount of each price quotation.

SECTION 31. The last paragraph of chapter 7 of the resolves of 2008 is hereby amended by striking out the figure "2009" and inserting in place thereof the following figure:- 2010.

SECTION 32. Subsection (c) of chapter 498 of the acts of 2008 is hereby amended by striking out the words "March 1, 2010" and inserting in place thereof the following words:- July 1, 2010.

SECTION 33. Item 0321-1510 of section 2 of chapter 27 of the acts of 2009 is hereby amended by striking out the figure "\$2,000,000" and inserting in place thereof the following figure:- \$2,500,000.

SECTION 34. Item 0411-1000 of said section 2 of said chapter 27 is hereby amended by striking out the figure "\$4,952,646" and inserting in place thereof the following figure:- \$4,605,961.

SECTION 35. Item 0699-9100 of said section 2 of said chapter 27 is hereby amended by striking out the figure "\$52,104,529" and inserting in place thereof the following figure:- \$27,931,384.

SECTION 35A. Item 4403-2000 of said section 2 of said chapter 27 is hereby amended by striking out the words “60 days before promulgating any eligibility or benefit changes” and inserting in place thereof the following:- 90 days before promulgating any eligibility or benefit changes.

SECTION 35B. Said section 2 of said chapter 27 is hereby further amended by inserting after the item 4513-1002 the following item:-

4513-1010 For the department of public health; provided, that said department may expend not more than \$2,000,000 in revenue received from the collection of federal financial participation for early intervention services delivered to Medicaid-eligible children by developmental educators and professionals in related disciplines; provided further, that nothing in this item shall give rise to or shall be construed as giving rise to enforceable legal rights to any such services or an enforceable entitlement to the services funded in this item; and provided further, that the revenue may be used to pay for current and prior year claims \$2,000,000

SECTION 36. Item 7004-9024 of said section 2 of said chapter 27 is hereby amended by striking out the figure “\$29,997,061” and inserting in place thereof the following figure:- \$32,897,061.

SECTION 37. Item 7004-9316 of said section 2 of said chapter 27 is hereby amended by striking out the figure “\$3,060,000” and inserting in place thereof the following figure:- \$160,000.

SECTION 38. Said section 2 of said chapter 27 is hereby further amended by striking out item 8315-1020 and inserting in place thereof the following item:-

8315-1020 For the department of public safety, which may expend not more than \$2,478,869 in revenues collected from fees for annual elevator and amusement park ride inspections for the operation of the department and to address the existing elevator inspection backlog; provided, that the department shall make efforts to employ inspectors to perform overnight and weekend inspections as their regular work shift; provided further, that the department may collect and retain reimbursement for overtime costs associated with overnight and weekend inspections; provided further, that the department shall provide a full waiver of the inspection fee for an individual who requires a wheelchair lift as a medical necessity and whose annual income does not exceed the maximum allowable federal Supplemental Security Income benefit, or \$7,236 a year, whichever is greater; and provided further, that notwith-

standing any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lesser of this authorization or the most recent revenue estimate as reported in the state accounting system\$2,478,869

SECTION 39. Section 10 of chapter 61 of the acts of 2009 is hereby amended by striking out the last sentence, added by section 6 of chapter 102 of the acts of 2009, and inserting in place thereof the following sentence:- Each county, and in the case of Suffolk county the city of Boston, shall, not later than June 30, 2010, appropriate and pay to the commonwealth an amount equal to 51.25 per cent of the minimum obligations to fund from its own revenues in fiscal year 2009 the operations of the office of the sheriff; provided, however, that such payment shall not exceed one-half of the correction's share of the county's fiscal year 2010 retirement assessment.

SECTION 40. Clause (b) of chapter 64 of the acts of 2009 is hereby amended by striking out the figure "\$7,000,000" and inserting in place thereof the following figure:-\$18,004,810.

SECTION 41. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may direct the comptroller to transfer not more than \$30,000,000 from the General Fund to the Medical Security Trust Fund, established in subsection (k) of section 14G of chapter 151A of the General Laws, in fiscal year 2010, to be available to pay for health insurance coverage provided under said section 14G of said chapter 151A if the unemployment health insurance contributions required under said section 14G of said chapter 151A will be inadequate to fund the health insurance coverage. The secretary of administration and finance may later direct the comptroller to transfer not more than \$30,000,000 from the Medical Security Trust Fund to the General Fund to repay the General Fund for the transfer authorized by the preceding sentence.

SECTION 42. Notwithstanding any general or special law to the contrary, the comptroller shall, on or before June 30, 2010, transfer \$35,791,289 to the General Fund from the Commonwealth Stabilization Fund, including portions of the amounts transferred to the Commonwealth Stabilization Fund by clause (ii) of subsection (a) of section 1 of chapter 56 of the acts of 2009, but the comptroller shall instead transfer a lesser amount if the secretary of administration and finance requests in writing. The comptroller, in consultation with the secretary, may take the overall cash flow needs of the commonwealth into consideration in determining the timing of such transfer. The comptroller shall provide a schedule of transfers to the secretary and to the house and senate committees on ways and means.

SECTION 43. (a) 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 shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect 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. 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 program. The scope of the program, including the particular tax types and periods covered, including any limited look-back period for unfiled returns, shall be determined by the commissioner.

(b) The amnesty program shall be established for 2 consecutive months within fiscal year 2010 to be determined by the commissioner, such period to expire not later than June 30, 2010, and all required payments shall be made on or before June 30, 2010, in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30, 2010, the commissioner shall retain any payments made and shall apply those payments against the outstanding liability, and the provisions of the tax amnesty program, other than the additional penalty authorized by section 2, shall not apply.

(c) 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 an unpaid self-assessed liability or who have been assessed a tax liability, whether before or after the filing of a return, which assessed liability remains unpaid.

(d) 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) of said section 32 of said chapter 62C 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. The taxpayer and the commissioner shall then proceed with all administrative appeal rights that the taxpayer wishes to pursue with respect to the assessment.

(e) 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.

(f) 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 for amnesty-eligible taxpayers at the conclusion of the tax amnesty program 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, 2010; 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.

(g) A taxpayer who is eligible for the amnesty program based upon the criteria established by the commissioner and who fails to come forward under the tax amnesty program and make payments before June 30, 2010 shall, in addition to all other penalties provided by chapter 62C of the General Laws, be subject to an additional penalty not to exceed \$500 per taxpayer, which shall be calculated and assessed according to rules determined by the commissioner and which may be subject to de minimis or other exceptions that the commissioner may consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and become part of the tax due. The commissioner may waive the penalty provided by this subsection for reasonable cause as provided in subsection (f) of section 33 of said chapter 62C.

SECTION 44. Notwithstanding any general or special law to the contrary, the office of the state comptroller shall continue to process all payroll deductions authorized by employees who are members of the State Police Commissioned Officers Association of Mass., Inc.

SECTION 44A. Notwithstanding any general or special law to the contrary, not less than \$25,401,925 shall be appropriated to item 4180-0100 of section 2 of chapter 27 of the acts of 2009 in fiscal year 2010.

SECTION 44B. Notwithstanding any general or special law to the contrary, not less than \$19,044,046 shall be appropriated to item 4190-0100 of section 2 of chapter 27 of the acts of 2009 in fiscal year 2010.

SECTION 44C. Notwithstanding any general or special law to the contrary, not less than \$2,503,336 shall be appropriated to item 4510-0810 of section 2 of chapter 27 of the acts of 2009 in fiscal year 2010.

SECTION 45. Section 19 shall take effect as of July 1, 2009.

SECTION 46. Sections 20 and 25 shall be effective for tax years beginning on or after January 1, 2009.

SECTION 47. Sections 21 to 24, inclusive, and section 27 shall be effective for tax years beginning on and after January 1, 2010.

This bill was returned on November 22, 2009, 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 29, 35B, 44A, 44B, 44C.

The remainder of the bill was approved by the Governor on November 24, 2009 at two o'clock and thirty-one minutes, P.M.

Chapter 167. AN ACT EXTENDING SIMULCASTING.

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

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words “and until December 31, 2009”, inserted by section 1 of chapter 290 of the acts of 2008, and inserting in place thereof the following words:- and until July 31, 2010.

SECTION 2. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words “December 31, 2009”, inserted by section 2 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 3. The introductory paragraph of section 13 of said chapter 494 is hereby amended by striking out the words “and until December 31, 2009”, inserted by section 3 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

SECTION 4. Section 15 of said chapter 494 is hereby amended by striking out the words “and until December 31, 2009”, inserted by section 4 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

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, 2009”, inserted by section 5 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

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, 2009”, inserted by section 6 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

SECTION 7. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words “December 31, 2009”, inserted by section 7 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 8. The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words “and until December 31, 2009”, inserted by section 8 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

SECTION 9. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words “December 31, 2009”, inserted by section 9 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 10. The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words “and until December 31, 2009”, inserted by section 10 of said chapter 290, and inserting in place thereof the following words:- and until July 31, 2010.

SECTION 11. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out the words "December 31, 2009", inserted by section 11 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 12. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out the words "December 31, 2010", inserted by section 12 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 13. Section 20 of chapter 449 of the acts of 2006 is hereby amended by striking out the words "December 31, 2009", inserted by section 13 of said chapter 290, and inserting in place thereof the following words:- July 31, 2010.

SECTION 14. Notwithstanding section 2 of chapter 128A of the General Laws and sections 1, 2 and 2A of chapter 128C of the General Laws or any other general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county licensed to conduct live racing pursuant to said chapter 128A and simulcast wagering pursuant to said chapter 128C in calendar year 2009, shall remain licensed as greyhound racing meeting licensees until July 31, 2010; provided, however, that the days between January 1, 2010, and July 31, 2010, shall be dark days pursuant to said chapter 128C and said licensees shall continue to be precluded from conducting live racing during that period and as provided in chapter 388 of the acts of 2008; provided further, that all simulcasts shall comply with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3001 et seq. or other applicable federal law; provided further, that all simulcasts from states which have racing associations that do not require approval in compliance with the Interstate Horse Racing Act of 1978, 15 U.S.C. Sec. 3004 (a) (1) (A), except simulcasts during the month of August, shall require the approval of the New England Horsemen's Benevolent and Protective Association prior to being simulcast to a racing meeting licensee within the commonwealth; and provided further, that if the association agrees to approve the simulcast for 1 racing meeting licensee, it shall approve the simulcast for all otherwise eligible racing meeting licensees.

SECTION 15. Notwithstanding section 5 of chapter 128A of the General Laws or any other general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall not be eligible for purse assistance pursuant to clause (6) of subsection (h) of said section 5 of said chapter 128A.

SECTION 16. Notwithstanding section 2 of chapter 128C of the General Laws or any other general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall pay all premiums received pursuant to said section 2 of said chapter 128C to the Racing Stabilization Fund established in section 20.

SECTION 17. Notwithstanding chapter 128C of the General Laws or any other general or special law or rule or regulation to the contrary, simulcast revenues generated by the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county and otherwise dedicated to purse accounts at the licensees or to be

distributed to breeders' associations at guest dog tracks shall be dedicated to the Racing Stabilization Fund established in section 20.

SECTION 18. Notwithstanding chapters 128A and 128C of the General Laws or any other general or special law or rule or regulation to the contrary, amounts from unclaimed winnings and breaks generated by the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall be dedicated to the Racing Stabilization Fund established in section 20.

SECTION 19. Notwithstanding any general or special law or rule or regulation to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall, unless otherwise provided in this act, be subject to chapter 128A of the General Laws, chapter 128C of the General Laws and chapter 139 of the acts of 2001.

SECTION 20. Notwithstanding any general or special law or rule or regulation to the contrary, there shall be a Racing Stabilization Fund that shall be administered by the executive office for administration and finance. The fund shall consist of all revenues dedicated pursuant to this act; provided, however, that in fiscal year 2010, the secretary of administration and finance shall transfer funds totaling not less than \$300,000 to the department of public health for a compulsive gamblers' treatment program; provided further, that not more than \$300,000 may be expended to assist efforts to secure alternative employment and retaining opportunities for displaced worker impacted by the passage of chapter 388 of the acts of 2008; provided further, that the state racing commission, or a successor agency, shall report to the executive office for administration and finance and the house and senate committees on ways and means not later than the last day of each month, the projected program revenue, program expenses and operating costs associated with overseeing simulcasting through July 31, 2010. In the event of a deficit, the secretary of administration and finance may transfer funds not to exceed \$100,000 for the operating costs of the said commission. Any balance in the fund at the end of the fiscal year shall not revert to the General Fund; provided, however, that the secretary shall distribute to owners of greyhound dogs who have raced in calendar year 2009 for the humane care, maintenance and adoption of those greyhound dogs, a sum equal to 1 per cent of the total amount wagered at each racing meeting licensee within the commonwealth acting as a guest track and simulcasting a live greyhound race from a host track from outside the commonwealth; provided further, that before any amount is distributed, the secretary shall develop a method and criteria by which to distribute such funds in an equitable manner amongst dog owners.

SECTION 21. Notwithstanding section 12A of chapter 494 of the acts of 1978 or any other general or special law or rule or regulation to the contrary, on January 1, 2010, the comptroller shall transfer all monies deposited in the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund, each established under said section 12A of said chapter 494, to the Racing Stabilization Fund established in section 20. After January 1, 2010, the comptroller shall transfer any revenues deposited into the Greyhound

Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund into the Racing Stabilization Fund within 10 days after receipt of those revenues.

SECTION 22. Notwithstanding any general or special law to the contrary, the greyhound meeting licensee located in Bristol county and the greyhound meeting licensee located in Suffolk county shall report monthly to the state racing commission, or a successor agency, on their net and gross revenue, including an itemization of premiums received, fees received and any amounts dedicated to purse accounts, the Greyhound Capital Improvements Trust Fund and the Greyhound Promotional Trust Fund. The report shall include the number of part-time and full-time staff employed by the licensees at the close of the previous month. The report shall also include the total amount of premiums paid to the harness horse meeting licensees located in Norfolk county and the running horse meeting licensee located in Suffolk county. Failure to file the report on the tenth day of each month shall be cause for suspension of the greyhound meeting license. The state racing commission, or a successor agency, shall forward all such reports to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development.

SECTION 23. Notwithstanding any general or special law, rule or regulation to the contrary, monies in the Racing Stabilization Fund established in section 20 may be used to assist efforts to secure alternative employment and retraining opportunities for displaced workers impacted by the passage of chapter 388 of the acts of 2008 including, but not limited to, coordinating the delivery of available state and federal resources and services; provided, however, that such funds from the fund shall only be expended after all federal funds from the Workforce Investment Act and the American Reinvestment and Recovery Act have been exhausted provided further, that state funds shall be distributed in accordance with section 20; provided further, that the secretary of labor and workforce development shall develop a plan to implement this section and submit a copy of the plan to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies and the joint committee on labor and workforce development not later than December 15, 2009.

SECTION 24. This act shall expire on July 31, 2010.

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 16, 17, 18, 20, 21, and 23.

The remainder of the bill was approved by the Governor on November 24, 2009 at two o'clock and thirty-two minutes, P.M.

Chapter 168. AN ACT AUTHORIZING AN EXCHANGE OF CERTAIN PARCELS OF LAND FOR MARTHA'S VINEYARD HOSPITAL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for an exchange of certain parcels of land for Martha's Vineyard 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. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may, in consultation with the commissioner of mental health, may convey to the Martha's Vineyard Hospital a certain parcel of land containing 1.7 acres more or less, located on Eastville avenue in the town of Oak Bluffs and shown as lot 151 on Assessor's Map 4, presently under the care and control of the department of mental health and more particularly described in a deed to the commonwealth recorded in Book 303, Page 516 in the county of Dukes County registry of deeds.

SECTION 2. In consideration for the conveyance authorized in section 1, the commissioner of capital asset management and maintenance shall receive not less than the fair market value of the property to be conveyed. The commissioner may acquire by deed on behalf of the department of mental health, title to certain property located at 364 State road in the town of Tisbury, consisting of 0.38 acres more or less and more particularly described in a deed recorded in Book 565, Page 745 in the county of Dukes County registry of deeds, or such other real property as the commissioner, in consultation with the department of mental health, may deem appropriate. The commissioner shall receive any additional consideration as necessary to make up the difference between the full and fair market value of the parcel of land described in section 1 and the full and fair market value of the parcel to be received as consideration under section 2. The commonwealth shall not be obligated to pay any additional consideration to the grantee. The full and fair market value of both properties shall be determined by the commissioner on the basis of independent appraisals commissioned by said commissioner.

The inspector general shall review and approve any such appraisals, including the methodology utilized for them. The commissioner shall, 30 days before the conveyances authorized in this act, submit the appraisals and a report thereon to the inspector general. The inspector general shall prepare a report of his review and approval of the appraisals and file the report with the commissioner, and copies thereof shall be filed with the house and senate committees on ways and means and with the house and senate chairs of the joint committee on state administration at least 15 days before execution.

SECTION 3. At the option of the commissioner of capital asset management and maintenance, in consultation with the commissioner of mental health, the additional consideration to be paid by Martha's Vineyard Hospital may be provided by in-kind contribution in the form of goods or services, including construction or renovation services;

provided, however, that any such in-kind contributions by the hospital shall be exempt from the General Laws relative to procurement and construction. Any funds paid to the commonwealth for the conveyances authorized in this act shall be deposited into the General Fund.

SECTION 4. Martha's Vineyard Hospital shall be responsible for all costs that the commissioner of capital asset management and maintenance deems necessary in connection with the conveyances provided for in sections 1 and 2 including, but not limited to, the costs of appraisals, surveys, deeds and other document preparation, recording or filing fees and any other expenses incurred in connection with the conveyances.

Approved November 30, 2009.

Chapter 169. AN ACT REGULATING THE SPORT OF MIXED MARTIAL ARTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 22 of the General Laws is hereby amended by striking out section 12, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 12. There shall be in the department a commission, to be known as the state athletic commission, which shall consist of the commissioner of the department of public safety or his designee, and 4 persons to be appointed by the governor who shall serve for terms of 3 years. At least 1 person shall have a background in the sport of boxing and at least 1 person shall have a background in the sport of mixed martial arts. Mixed martial arts shall have the same meaning as defined in section 32 of chapter 147.

The governor shall from time to time designate 1 member as chair. The members shall receive their traveling expenses necessarily incurred in the performance of their duties and shall be allowed such sums for clerical assistance as the governor and council may approve. The department shall provide administrative support to the commission. The commission may deputize 1 or more persons to represent the commission and to be present at a match or exhibition held under sections 32 to 51, inclusive, of chapter 147; provided, however, that such deputies shall be compensated in the amount of \$75 for each match or exhibition attended pursuant to this section; provided, further, that deputies shall not receive compensation for travel and incidental expenses necessarily incurred in the discharge of their duties.

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

Section 2AAAA. There shall be established and set up on the books of the commonwealth a separate fund to be known as the State Athletic Commission Fund, hereinafter in this section referred to as the fund, to be administered by the department of public safety. The fund shall consist of any monies from licensing fees or other fees and fines collected pursuant to sections 32 to 35, inclusive, sections 40, 40A and 42 of chapter

147 and section 12 of chapter 265. The amounts credited to the fund shall be available for expenditure without further appropriation by the department of public safety up to an amount not to exceed \$200,000 each fiscal year for the costs of operating and administering the state athletic commission; provided, however, that if the amount credited to the fund exceeds \$200,000, the excess amount shall be deposited into the General Fund. For the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expense and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 3. Chapter 147 of the General Laws is hereby amended by striking out sections 32 and 33, as so appearing, and inserting in place thereof the following 2 sections:-

Section 32. (a) In this section and in sections 33 to 51, inclusive, the following words shall, unless a different meaning is clearly required by the context, have the following meanings:-

“Boxing”, the art of attack and defense with gloved fists practiced as a sport limited to legal blows above the waist and on the front or sides of the opponent.

“Commission”, the state athletic commission established in section 12 of chapter 22.

“Kickboxing”, a form of competition in which a person delivers blows with any part of the arm below the shoulder, including the hand and any part of the leg below the hip, including the foot.

“Mixed martial arts”, any form of unarmed combat involving the use of a combination of techniques including, but not limited to, grappling, kicking and striking, commonly associated with boxing, kickboxing, wrestling and various disciplines of the martial arts including, but not limited to, karate, kung fu, tae kwon-do, Jiu-Jitsu or any combination thereof.

“Unarmed combative sport”, any form of competition in which a blow is usually struck which may reasonably be expected to inflict injury and no weapon is used; provided, however, that “unarmed combative sport” shall not include professional wrestling.

“Toughman”, a boxing or unarmed combative sporting match or exhibition in which combatants do not qualify for licensure by the commission as a professional combatant or for amateur status by a commission-approved amateur organization; provided, however, that “toughman” shall not include matches or exhibitions conducted pursuant to section 50A.

(b) No boxing, kickboxing, mixed martial arts or other unarmed combative sporting event or sparring match or exhibition for a prize or purse, or at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, whether professional or amateur, shall take place or be conducted except in accordance with a license granted as hereinafter provided by the commission. Applications for a license shall be accompanied by the fee, as established annually by the commissioner of administration and finance pursuant to section 3B of chapter 7, which may take into consideration the population of the city or town or the seating capacity of the building or place in which the match or exhibition is to

be held; provided, however, that a license, the fee for which is established on the basis of seating capacity of a building or place as aforesaid, shall be exercised only in such building or place. Tough-man or similar type matches or exhibitions shall be prohibited. In the case of exhibitions or bouts held in accordance with the rules and regulations of amateur organizations as may be approved by the commission, the commission may issue special licenses without the requirement of a bond as provided in section 34 or payment of the annual fee.

(c) Any persons holding, conducting, promoting or participating in a match or exhibition held without a license, as provided in section 33, or a toughman or similar type match or exhibition, shall be punished by imprisonment in the house of corrections for not more than 3 months or by a fine of not more than \$5,000, or both such fine and imprisonment.

(d) Matches or exhibitions under the governance of the Massachusetts Interscholastic Athletic Association, the National Collegiate Athletic Association or any equivalent school or college organization shall be exempt from the requirements of this section if the competitors are amateurs.

Section 33. The commission may, subject to sections 32 to 47, inclusive, issue licenses to conduct boxing, kickboxing, mixed martial arts or other unarmed combative sporting events, sparring matches and exhibitions. The license shall be valid only for the date approved by the commission. The commission may revoke the license at any time in the interest of public safety. No license shall be issued for a toughman competition or similar event.

SECTION 4. Section 34 of said chapter 147, as so appearing, is hereby amended by striking out, in line 3, the words "five thousand dollars" and inserting in place thereof the following figure:- \$50,000.

SECTION 5. Said section 34 of said chapter 147, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "one thousand dollars" and inserting in place thereof the following figure:- \$10,000.

SECTION 6. Said chapter 147 is hereby further amended by striking out sections 35 to 40A, inclusive, as so appearing, and inserting in place thereof the following in 10 sections:-

Section 35. No person shall act, directly or indirectly, as a physician, promoter, referee, judge, timekeeper, professional boxer, kickboxer, mixed martial arts contestant or other unarmed combative sport contestant, or as manager, trainer or second of such a contestant, at a match or exhibition or as a matchmaker therefor, unless licensed by the commission upon receipt of the classified fee to be determined annually by the commissioner of administration and finance under section 3B of chapter 7. The commission shall set minimum requirements for licensure based upon skill or other fundamental prerequisites deemed necessary to adequately and safely execute the functions of the respective position. The commission may refuse to license any individual who does not meet those requirements or whose safety and well-being it determines will be put at substantial risk by engaging in

their respective position. Whoever acts in such capacity, without being so licensed shall be punished by a fine of not more than \$10,000. Any official who desires to officiate without charge at amateur boxing or sparring matches or exhibitions shall be licensed without charge. No person shall be licensed under this section who is under 18 years of age, except as otherwise provided in section 39.

Section 35A. Notwithstanding section 36, the commission shall, in the conduct of all amateur boxing, mixed martial arts or other unarmed combative sporting events, sparring matches and exhibitions sanctioned by the national governing body and its local affiliate which are appointed and recognized by the United States Olympic Committee for such purposes, acknowledge and follow the rules and regulations of the amateur governing bodies.

No amateur match which is subject to section 32 shall be held unless it is licensed by the commission and sanctioned and supervised by an amateur sanctioning organization approved by the commission.

The commission shall recognize and license, upon receipt of the classified fee to be determined annually by the commissioner of administration and finance under section 3B of chapter 7, the amateur referees, judges and other amateur officials assigned to the amateur matches or exhibitions by the amateur governing bodies and certified under their rules and regulations.

The commission shall cooperate fully with the amateur boxing governing bodies to assure that amateur boxers are eligible to participate and compete for selection to the United States Olympic boxing team.

No contestant in amateur boxing shall compete in more than 2 tournaments in any 7-day period, nor shall the contestant participate in more than 3 contests between 12 noon on any 1 day and 12:30 a.m. on the following day. All amateur boxing or sparring matches or exhibitions shall terminate not later than 12:30 a.m. on the day following the start of the match.

During a contest, contestants in amateur boxing or kickboxing matches or exhibitions shall wear gloves weighing at least 8 ounces each unless otherwise authorized by the amateur boxing governing body. During a contest, contestants in amateur mixed martial arts and other unarmed combative sport matches or exhibitions shall wear gloves weighing at least 4 ounces each unless otherwise authorized by the amateur governing body.

Section 36. At every boxing, kickboxing, mixed martial arts or other unarmed combative sporting event, sparring match or exhibition there shall be in attendance a referee, duly licensed under this section and sections 35 and 35A. There shall also be in attendance at least 3 duly-licensed judges, each of whom shall, at the termination of a match or exhibition, vote for the contestant in whose favor the decision should, in his opinion, be rendered or, for a draw if, in his opinion, neither contestant is entitled to a decision in his favor and the decision shall be rendered in favor of the contestant receiving a majority of the votes or, if neither receives a majority as aforesaid, a decision of a draw shall be rendered. Upon the rendering of a decision, the vote of each judge shall be announced from the ring.

The referee shall have full power to stop the match or exhibition whenever he deems it advisable because of the physical condition of a contestant or when 1 contestant is clearly outclassed by his opponent or for other sufficient reason. The commission shall declare forfeited any prize, remuneration or purse or any part thereof belonging to a contestant if, in the judgment of a majority of the commissioners after consultation with the judges and the referee, the contestant was not competing in good faith. The fees of the referee and other licensed officials shall be fixed by the commission and shall be paid by the licensed organization prior to the match or exhibition.

Section 37. At any boxing, kickboxing, mixed martial arts or other unarmed combative sporting event, sparring match or exhibition there shall be in attendance at least 1 duly licensed physician, whose duty it shall be to observe the physical condition of the contestants and advise the referee or judges with regard thereto. A competent physician who has at least 3 years of experience as a medical practitioner may be licensed. No contestant shall be allowed to enter the ring unless a physician licensed under this section and section 35 certifies in writing that the contestant is physically fit to engage in the proposed contest. The physician's fee, as fixed by the commission, shall be paid by the licensee conducting the match or exhibition.

Section 38. No boxing, kickboxing or other unarmed combative sporting match or exhibition shall exceed 10 rounds; provided, however, if a match is to determine a championship, it may exceed the round limits with the prior approval of the commission. No mixed martial arts match or exhibition shall exceed 3 rounds; provided, however, if a match is to determine a championship, it may exceed the round limits with the prior approval of the commission. No round in a boxing, kickboxing or other unarmed combative sporting match or exhibition shall exceed 3 minutes. No round in a mixed martial arts match or exhibition shall exceed 5 minutes. No contestant in a professional match or exhibition shall participate in more than 10 rounds unless otherwise authorized by the commission, as the case may be, during a 72-hour period. During a contest, contestants in professional boxing and kickboxing matches or exhibitions shall wear gloves weighing at least 8 ounces each unless otherwise authorized by the commission. During a contest, contestants in mixed martial arts and other unarmed combative sporting events, matches or exhibitions shall wear gloves weighing at least 4 ounces each unless otherwise authorized by the commission. Every contestant participating in boxing, kickboxing, mixed martial arts or other unarmed combative sporting event or exhibition shall be required to wear standard protective devices as outlined by regulation by the commission.

Section 39. Except as hereinafter provided, no contestant under 18 years of age or who has reached his thirty-fifth birthday shall be permitted to engage in a boxing, kickboxing, mixed martial arts or other unarmed combative sport event, sparring match or exhibition, except that the age requirement shall not apply to a world boxing champion who is still actively engaged as a professional boxer, or to a former boxing champion of the world who has not been inactive as a professional boxer for more than 2 years from the date of his

last boxing contest; provided, however, an amateur boxer shall be allowed to compete as such at the age of 16. At the discretion of the commission, a professional boxer, kickboxer, mixed martial arts contestant or other unarmed combative sport contestant who has reached his thirty-fifth birthday may be permitted to engage in a match if the contestant has passed a physical examination or is otherwise medically-cleared to participate by a physician selected by the commission. At the discretion of the commission, an amateur boxer who has reached his sixteenth birthday but has not yet reached his eighteenth birthday may be licensed as a professional boxer. The foregoing shall not apply to courses of instruction in boxing, kickboxing, mixed martial arts or other unarmed combative sport sponsored and conducted by recognized boys and girls clubs, youth organizations, private clubs and athletic associations, schools or colleges, municipal or state park or recreational departments, law enforcement organizations or incorporated, private, nonprofit boxing teams, under the supervision of qualified instructors and directors.

No person under the age of 16 shall be admitted to, or be present at, a professional match or exhibition unless accompanied by an adult.

Section 39A. No professional boxer, kickboxer, mixed martial arts contestant or other unarmed combative sport contestant licensed under section 35 who has been knocked out, technically or otherwise, or lost a contest by way of submission, 6 or more times in the preceding 12 months shall take part in a match or exhibition until he has been examined and found fit to take part in such a match or exhibition, by a physician selected by the commission, at a place and time designated by the commission. The cost of conducting the examination shall be borne by the contestant. If a contestant is found unfit to engage in a match or exhibition, he shall be excluded from participation for 3 months, after which time he may make a request to the commission for another physical examination. A license issued to an individual under section 35 shall be immediately suspended for at least 30 days if the individual is knocked out.

Section 39B. A person licensed under section 33 to conduct boxing, kickboxing, mixed martial arts or other unarmed combative sport events, sparring matches or exhibitions, except those persons to whom a special license may be granted thereunder without the requirement of a bond or payment of the annual fee, shall take out a policy of accident insurance on each contestant participating in the match or exhibition in the amount of \$5,000 to compensate him for medical and hospital expenses incurred as the result of injuries received in such match or exhibition and a policy in the amount of \$50,000 to be paid to the estate of the deceased contestant in the event of death to the contestant resulting from participation in the match or exhibition. The premiums on the policies shall be paid by the licensee.

Section 40. Every licensee holding or conducting a boxing, kickboxing, mixed martial arts or other unarmed combative sporting event, sparring match or exhibition shall, before the commencement of the final feature bout of the event, pay to the commission a sum equal to 4 per cent of the total gross receipts from the sale of tickets or from admission fees. The licensee shall pay to the commission an additional sum equal to 2 per cent of the total

gross receipts generated by the sale, lease or other exploitation of the television, pay-per-view, motion picture or other broadcasting rights, regardless of whether the event is broadcast live or in the future, such sum to be paid by the licensee whether or not the licensee ever receives a portion of that amount; provided, however, that if the match or exhibition is conducted as an incidental feature in an event or entertainment of a different character, the portion of the total receipts and the total amount shall be paid to the commonwealth, as the commission may determine or as may be fixed by rule adopted under section 46. If the payment is for a fixed amount, payment shall be made 24 hours prior to the event but in no event shall payment be made later than 48 hours after the live event. Pay-per-view showings of an event more than 48 hours after the live event shall be exempt from the requirements of this section. The broadcasting fee imposed under this section shall be not more than \$75,000 per event. Within 72 hours after its conclusion, the licensee shall furnish to the commission a report, showing the exact number of tickets sold and admission fees collected for the contest, the gross receipts thereof and such other data as the commission may require.

A licensee holding or conducting a boxing, kickboxing, mixed martial arts or other unarmed combative sporting event, sparring match or exhibition shall, at least 48 hours before a licensed contest or exhibition, file with the commission a copy of all contracts entered into for the sale, lease or other exploitation of broadcasting rights for the contest or exhibition. All contracts filed with the commission under this section shall be exempt from disclosure in section 10 of chapter 66. The commission shall enforce this section.

Section 40A. Every licensee holding or conducting any boxing, kickboxing, mixed martial arts, or other unarmed combative sporting event or sparring match or exhibition shall, before the commencement of the feature bout of the event, pay to the state treasurer, in addition to the payment required under section 40, a sum equal to 1 per cent of the total gross receipts from the sale of tickets or from admission fees; provided, however, that if the match or exhibition is conducted as an incidental feature in an event or entertainment of a different character, the portion of the total receipts shall be paid to the commonwealth as the commission may determine or as may be fixed by rule adopted under section 46. The sums shall be credited by the state treasurer to a fund to be known as the Boxers' Fund which shall be administered by the Boxers' Fund board for the use and benefit of a contestant or former contestant in a regulated event under the purview of the commission for funeral expenses or assistance needed as a result of an injury suffered while participating in an event.

SECTION 7. Section 42 of said chapter 147, as so appearing, is hereby amended by adding the following paragraph:-

The commission may suspend a license of a combatant issued under section 35 without a hearing upon a finding that it would be unsafe for the individual to compete until either the passing of a fixed period of time or upon medical clearance. The commission may assess an administrative penalty not to exceed \$2,000 for each violation of sections 32 to 45, inclusive, or the commission's rules and regulations committed by an individual required to be licensed under this chapter.

SECTION 8. Section 45 of said chapter 147, as so appearing, is hereby amended by striking out, in lines 4, 6 and 10, and in lines 14 and 15 the words “boxing or sparring”.

SECTION 9. Said chapter 147 is hereby further amended by striking out section 46, as so appearing, and inserting in place thereof the following section:-

Section 46. The commission may make such rules and regulations for the administration and enforcement of sections 32 to 50A, inclusive, and to promote and regulate the sports of boxing, kickboxing, mixed martial arts and other unarmed combative sports, as deemed necessary, including defining any terms requiring definition under said sections 32 to 50A, inclusive. The rules and regulations may provide for and regulate the granting of special permits for exhibitions where no decision is to be rendered, no admission fee is to be charged and where skilled combatants merely demonstrate the mechanics of their respective discipline. The commission shall make an annual report in January to the general court of the acts of the commission.

SECTION 10. Said chapter 147 is hereby further amended by inserting after section 47 the following section:-

Section 47A. The commission shall notify a municipality in writing of the issuance of a license for an event scheduled to take place therein within 24 hours of its issuance. At its option, a municipality may prohibit an event licensed by the commission under section 33. The prohibition shall be by a majority vote of the city council with approval of the mayor in a city or by a majority vote of the board of selectmen in a town. The municipal option shall be exercised within 7 days of issuance of a license by the commission. The municipality shall notify the commission within 24 hours of any such action. Upon receipt of such notice, the commission shall immediately notify the promoter of the determination of the municipality and the license shall be revoked.

SECTION 11. Sections 48 to 50, inclusive of said chapter 147 are hereby repealed.

SECTION 12. Said chapter 147 is hereby further amended by striking out section 50A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 50A. Courses of instruction in boxing, kickboxing, mixed martial arts and other unarmed combative sports, or sparring matches or exhibitions sponsored and conducted by recognized boys and girls clubs, youth organizations, private clubs and athletic associations, schools and colleges, law enforcement agencies or municipal or state parks and recreation departments, under the supervision of qualified instructors and directors, may be conducted in a city or town without requiring a license under section 33.

SECTION 13. Section 51 of said chapter 147, as so appearing, is hereby amended by inserting after the word “boxing”, in line 3, the following words: , kickboxing, mixed martial arts or other unarmed combative sporting event.

SECTION 14. Chapter 180 of the General Laws is hereby amended by striking out section 28, as so appearing, and inserting in place thereof the following section:-

Section 28. If a person is convicted of a violation of section 12 of chapter 265 for engaging in, giving or promoting a public or private boxing, kickboxing, mixed martial arts

or other unarmed combative sporting match or sparring exhibition, the contestants who have received or were promised a pecuniary reward, remuneration or consideration on the premises of or under the auspices of a club or organization described in section 4, the commissioner of public safety, the city council or mayor in a city where the club or organization is situated, the board of selectmen or the board of aldermen in a town where the club or organization is situated, or the police commissioner of the city of Boston if the club or organization is situated in Boston shall immediately give notice to the state secretary who, upon receipt thereof, shall declare the charter of the club or organization void. The state secretary shall publish a notice in at least 1 newspaper published in the city or town wherein the club or organization is situated that the charter of the club or organization is void.

SECTION 15. Chapter 265 of the General Laws is hereby amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. Whoever directly or indirectly, except as provided in sections 32 to 50A, inclusive, of chapter 147, gives, promotes or engages in a public boxing, kickboxing, mixed martial arts or other unarmed combative sporting match or sparring exhibition, or engages in a private boxing, kickboxing, mixed martial arts or other unarmed combative sporting event match or sparring exhibition, for which the contestants have received or have been promised any pecuniary reward, remuneration or consideration whatsoever shall be punished by imprisonment in the house of corrections for not more than 3 months or by a fine of not more than \$5,000, or both such fine and imprisonment.

SECTION 16. Notwithstanding any general or special law to the contrary, an existing member of the state boxing commission, appointed as provided in section 12 of chapter 22 of the General Laws prior to the effective date of this act, shall continue in office for the remainder of his unexpired term and shall be eligible for reappointment to the state athletic commission created in section 1.

Approved November 30, 2009.

Chapter 170. AN ACT RELATIVE TO THE PROVISION OF SERVICES TO THE CITY OF CAMBRIDGE BY THE CAMBRIDGE ENERGY ALLIANCE.

Be it enacted, etc., as follows:

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

“City”, the city of Cambridge.

“Corporation”, the Cambridge energy alliance, a not-for-profit corporation incorporated under chapter 180 of the General Laws and created and controlled by the Cambridge public health commission.

“Commission”, the Cambridge public health commission established in chapter 147 of the acts of 1996.

“Department”, the department of energy resources.

“Energy conservation projects”, energy conservation projects as defined in section 3 of chapter 25A of the General Laws.

“Energy management services”, energy management services as defined in section 3 of chapter 25A of the General Laws.

“Municipal buildings”, buildings and structures owned or operated by the city or a department thereof or by the Cambridge public health commission.

“Municipal energy advisory services”, 1 or more of the following services: (i) providing access to the forward-capacity energy market and similar programs to realize the benefits of the city’s conservation and clean energy efforts; (ii) providing advice and assistance in evaluating and documenting measures to reduce energy and water consumption in municipal buildings, including performing energy audits, monitoring energy and water consumption in municipal buildings, and optimizing operating procedures of municipal buildings and installations therein for the purpose of reducing, measuring or controlling energy or water consumption; (iii) providing advice and assistance to the city in its procurement and administration of energy management services; (iv) providing advice and assistance in identifying, obtaining and administering grants or other funding sources of financing programs for clean energy and energy and water conservation in the city; and (v) providing energy management services to the city, including design services, provided, however, that “municipal energy advisory services” shall not include the actual installation or construction of energy conservation projects in municipal buildings.

SECTION 2. Notwithstanding the provisions of chapter 25A, chapter 30B or any other general or special law relative to public procurement processes to the contrary, the city may enter into an agreement, or a series of agreements, with the corporation for the provision of municipal energy advisory services for a maximum contract term subject to section 6 of this act. Payments under an agreement for the provision of such services may be based in whole or in part on any revenues gained due to energy or water conservation or demand reduction measures undertaken with respect to municipal buildings for which advisory services were performed by the corporation.

SECTION 3. The city shall provide to the department and the office of the inspector general, within 90 calendar days of the close of each applicable fiscal year, a report detailing any agreements the city has entered into with the corporation for the provision of municipal energy advisory services. The report shall include, but not be limited to, without limitation: a detailed schedule of services provided to the city, and the compensation payable to the corporation for such services; and a certification from the chief executive officer or treasurer of the corporation that the entirety of the revenues and carbon credits or similar benefits received on account of municipal energy advisory services provided to the city in excess of the costs necessary to provide such municipal energy advisory services, including staff and

administrative costs, has been paid or set aside by the corporation for 1 or more of the following purposes: (i) undertaking conservation education for residents and businesses in the city; (ii) promoting energy and water conservation within the city; and (iii) subsidizing energy audits, energy conservation measures or energy conservation projects in low-income residences in the city or in municipal buildings.

SECTION 4. In the event that any agreement between the city and the corporation for the provision of municipal energy advisory services provides for revenues to be paid to the city, including the proceeds of any forward-capacity energy market credits, the city may establish a revolving fund and may deposit such revenues into such revolving fund. Monies held in this revolving fund may be expended for the purpose of (a) paying for municipal energy advisory services; (b) paying the costs of energy conservation projects or debt service payments for energy conservation projects financed with municipal obligations; or (c) reinvesting a portion of such revenues into conservation and clean energy programs in the city, including outreach services, technical assistance and direct incentives.

SECTION 5. If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of the act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6. The provision of this act shall expire 10 years following the date of its passage unless reenacted by the Legislature. The expiration of this act shall not affect the validity of any contract executed under this act prior to such expiration and all provisions of this act shall continue to apply to those contracts for the remainder of the term of those contracts.

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

Approved December 4, 2009.

Chapter 171. AN ACT AUTHORIZING THE CITY OF MELROSE TO ESTABLISH TRAFFIC SAFETY ZONES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 2 of chapter 85 of the General Laws or any other general or special law, rule or regulation to the contrary, the city of Melrose may establish by traffic regulation, on public ways under the care and custody of the city of Melrose, traffic safety zones which shall be restricted to roadways within the collector street system and the local street system as described in the Federal Highway Administration Functional Classification System Guidelines, areas adjacent to a park or playground, a facility which may be publicly or privately-owned and used as senior citizen housing, a hospital, nursing home or assisted living facility, a community center of which senior activities are conducted on a regular basis or a congregate elderly facility approved as a planned

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unit development by the city of Melrose. A traffic safety zone shall not begin more than 300 feet in advance of the playground or facility.

SECTION 2. In a traffic safety zone, the city of Melrose may, by traffic regulation, by the traffic commission of the city of Melrose, take necessary action to reduce vehicular speed by reducing speed limits to not less than 20 miles per hour, by installing signals or appropriate signs and by restriping roadways. The traffic commission of the city of Melrose may adopt and amend rules and regulations to carry out this act.

SECTION 3. The city of Melrose shall notify the state traffic engineer upon the establishment of a traffic safety zone. The city shall notify the state traffic engineer of a reduction of speed on a functionally-classified collector roadway and local roadway.

SECTION 4. This act shall not apply to a state highway, numbered route or functionally-classified arterial.

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

Approved December 4, 2009.

**Chapter 172. AN ACT AUTHORIZING THE TOWN OF PLYMOUTH TO
CONDUCT A REFERENDUM ELECTION ON JANUARY 19, 2010.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 6-3 of chapter 5 of the town of Plymouth's charter, as appearing in chapter 358 of the acts of 2004, or any other general or special law, by-law or charter provision to the contrary, the town of Plymouth may hold a referendum election on January 19, 2010.

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

Approved December 4, 2009.

**Chapter 173. AN ACT RELATIVE TO THE APPOINTMENT OF A CERTAIN
CIVIL SERVICE CLASS AS FIREFIGHTERS IN THE CITY OF
BOSTON.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law to the contrary regulating the civil service appointment of firefighters, the next original appointments to the lowest title in the regular fire department in the city of Boston shall be made from the class designated as Fire Fighter Certification #28-0786, dated August 12, 2008 and August 15, 2008.

SECTION 2. This act shall take effect upon its passage and shall expire on June 30, 2011.

Approved December 4, 2009.

Chapter 174. AN ACT ESTABLISHING A LAND ACQUISITION FUND IN THE TOWN OF MIDDLEBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be established in the town of Middleborough a Land Acquisition Fund into which shall be deposited all roll-back taxes paid to the town pursuant to section 7 of chapter 61, section 13 of chapter 61A and section 8 of chapter 61B of the General Laws and all conveyance taxes paid to the town pursuant to section 6 of said chapter 61, section 12 of said chapter 61A and section 7 of said chapter 61B.

SECTION 2. Any money deposited in the Land Acquisition Fund may be expended by the Middleborough board of selectmen upon authorization by vote of the town meeting to purchase the fee or other rights in land for purposes of recreation, conservation, agricultural, open space or other municipal use.

SECTION 3. Any income derived from the Land Acquisition Fund shall be credited to the Land Acquisition Fund.

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

Approved December 9, 2009.

Chapter 175. AN ACT PERTAINING TO THE ISSUANCE OF BONDS OR NOTES BY THE CITY OF WORCESTER.

Be it enacted, etc., as follows:

SECTION 1. The city of Worcester may borrow from time to time such sums of money as may be necessary to pay the costs of shade tree replacement necessitated by Asian longhorned beetle eradication efforts in said city. Bonds or notes issued under this act shall be issued for a term not to exceed 15 years from their date or dates of issue, and the maturities of bonds issued by the city under this act either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the city treasurer and collector of taxes, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal.

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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, and, except as otherwise provided in this act, shall be subject to said chapter 44.

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

Approved December 14, 2009.

Chapter 176. AN ACT DESIGNATING POLISH AMERICAN CONGRESS DAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith Polish American Congress Day, therefore it is hereby declared to 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 15LLLLL, inserted by chapter 71 of the acts of 2009, the following section:-

Section 15MMMMM. The governor shall annually issue a proclamation setting apart October thirtieth as Polish American Congress Day, in recognition of the capacity of the Polish American Congress established in 1944 to represent the domestic and international concerns of Americans of Polish descent at both the state and federal levels of government in the United States, and recommending that said day be observed in an appropriate manner by the people.

Approved December 14, 2009.

Chapter 177. AN ACT VALIDATING THE ACTS, VOTES AND PROCEEDINGS OF THE 2009 SPRING ANNUAL TOWN MEETING AND THE 2009 SPRING SPECIAL TOWN MEETING OF THE TOWN OF WESTMINSTER.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 10 of chapter 39 of the General Laws or any other general or special law or town by-law to the contrary, all acts, votes and proceedings taken by the town of Westminster at its spring 2009 annual town meeting and 2009 spring special town meeting on May 2, 2009, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrants for those town meetings had been posted and published in full compliance with the General Laws and town by-laws.

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

Approved December 14, 2009.

Chapter 178. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DEBORAH KOTARBA, 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 Deborah Kotarba, an employee of the Fall River 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 Deborah Kotarba. 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. Whenever Deborah Kotarba terminates employment with the trial court or requests to dissolve the sick leave bank, any time remaining in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved December 14, 2009.

Chapter 179. AN ACT ESTABLISHING SICK LEAVE BANKS FOR LORI POLSON AND ERIC POLSON, EMPLOYEES OF THE DEPARTMENT OF CORRECTION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith sick leave banks for certain employees of the 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:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Lori Polson, 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 Lori Polson in the case of her daughter's illness. 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. Whenever Lori Polson 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.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, the department of correction shall establish a sick leave bank for Eric Polson, 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 Eric Polson in the case of his daughter's illness. 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. Whenever Eric Polson 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 December 14, 2009.

Chapter 180. 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.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city of Salem may grant 1 additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Green Land Café, LLC for a restaurant to be located at 87 Washington street in said city. The license shall be subject to all of said chapter 138 except said section 17.

Notwithstanding any general or special law, or any rule or regulation to the contrary, the licensing authority of the city of Salem shall not approve the transfer of the license to any other location but the license may be reissued to a new applicant at the same location if the applicant files with the authority a letter from the department of revenue indicating that the license is in good standing with said 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 14, 2009.

Chapter 181. AN ACT AUTHORIZING THE TOWN OF CHARLTON TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Charlton may grant 4 additional licenses for the sale of all alcoholic beverages to be drunk on the premises to the following entities: Masonic Health System of Massachusetts, Inc., Overlook Masonic Health Center, Inc., Overlook Communities, Inc. and Overlook Catering, Inc. The licenses shall be subject to all of said chapter 138 except said section 17. Once issued, the licensing authority shall not approve the transfer of any of the licenses 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 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.

Upon issuance of the all alcoholic beverages license to Masonic Health System of Massachusetts, Inc., Masonic Health System shall return to the town the license it currently holds for the sale of wines and malt beverages to be drunk on the premises.

Approved December 14, 2009.

Chapter 182. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF TAUNTON AS THE SERGEANT SHANE DUFFY BRIDGE.

Be it enacted, etc., as follows:

The bridge on route 44 in the city of Taunton, Winthrop street, spanning the Three Mile river shall be designated and known as the Sergeant Shane Duffy Bridge, in honor of the late Sergeant Shane Duffy who served his country in Iraq. The Massachusetts department of transportation shall erect and maintain suitable markers bearing said designation in compliance with the standards of the department.

Approved December 14, 2009.

Chapter 183. AN ACT EXTENDING THE DEADLINE FOR MAILING QUARTERLY TAX BILLS.

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

is to provide forthwith an extension of the deadline to mail certain tax bills in cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding section 57C of chapter 59 of the General Laws, for fiscal year 2010, an actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for a preliminary tax payment previously made, shall be due and payable in 2 installments in the case of cities and towns with quarterly payments and 1 installment in the case of cities and towns with semi-annual payments. For cities and towns with quarterly payments, the first installment shall be due and payable on February 1, 2010, or 30 days after the actual real estate tax bills are mailed, whichever is later, and the second installment shall be due and payable on May 1, 2010, after which dates, if unpaid, they shall become delinquent. For cities and towns with semi-annual payments, the installment shall be due and payable on April 1, 2010, after which date, if unpaid, it shall become delinquent.

If the actual tax bill issued in fiscal year 2010 is not mailed by January 30, 2010, then, upon the establishment of the tax rate, there shall be a single actual tax bill due and payable on May 1, 2010 or 30 days after the date of mailing, whichever is later. That tax bill shall represent the full balance owed after credit is given for the preliminary tax payments previously made.

This act shall apply to a city or town that accepts it by vote of its city or town council, subject to its municipal charter, or its board of selectmen.

Approved December 15, 2009.

Chapter 184. AN ACT RELATIVE TO THE BOARD OF REGISTRATION OF SOCIAL WORKERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section 80, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 80. There shall be a board of registration of social workers hereinafter called the board, which shall consist of 9 members to be appointed by the governor. Members of the board shall be residents of the commonwealth and citizens of the United States. Six members of the board shall be licensed under the provisions of sections 130 to 137, inclusive, of chapter 112; provided, however, that 3 members shall be licensed independent

clinical social workers, 1 of whom shall be a licensed certified social worker, 1 of whom shall be a licensed social worker and 1 of whom shall be a licensed social work associate; and provided further, that 1 member shall be an active member of an organized labor organization representing social workers. Three members shall be selected from and shall represent the general public. At least 1 licensed social work member and 1 member representing the general public shall be from a minority group, as defined by the federal Department of Health and Human Services. No more than 6 members of the board shall belong to any 1 political party.

SECTION 2. Section 81 of said chapter 13, as so appearing, is hereby amended by adding the following sentence:- Each member of the board shall serve for a term of 3 years and may continue to serve until replaced. No member shall be appointed to more than 2 consecutive full terms; provided, however, that a member appointed for less than a full term may serve 2 full terms in addition to the part of a full term. All board members shall be subject to chapter 268A and 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 3. Said chapter 13 is hereby further amended by striking out section 84, as so appearing, and inserting in place thereof the following section:-

Section 84. The board shall at its first meeting and, annually thereafter, elect from among its members, by majority vote, a chairman, vice-chairman and secretary. The officers shall serve until their successors are elected and qualified. The board shall meet at least once every 6 months and may hold additional meetings as necessary to discharge its duties. A majority of the serving members shall constitute a quorum.

The board shall be under the supervision of the division of professional licensure and have the following powers and duties: (1) to administer and enforce sections 130 to 137, inclusive, of chapter 112; (2) to adopt rules and regulations governing the licensure of social workers and the practice of social work to promote the public health, welfare and safety of citizens of the commonwealth; (3) to establish standards of professional and ethical conduct; (4) to establish standards for continuing education reflecting acceptable national standards; and (5) to investigate complaints, conduct inspections, review billing and treatment records, and set and administer penalties as defined in sections 61 to 65E, inclusive, of said chapter 112 and sections 130 to 137, 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; provided, however, that conduct which places into question the holder's competence to practice social work shall include, but not be limited to: (i) committing fraud or misrepresentation in obtaining a license; (ii) criminal conduct which the board determines to be of such a nature as to render the person unfit to practice as a social worker, as evidenced by criminal proceedings which resulted in a conviction, guilty plea, or plea of nolo contendere, or an admission of sufficient facts; (iii) violating any rule or regulation of the board; and (iv) failing to reasonably cooperate with the board or its agents in the conduct of an inspection or investigation.

The board may issue orders to licensees directing them to cease and desist from unethical or unprofessional conduct if the board finds, after the opportunity for a hearing, that the licensee has engaged in such conduct. No person filing a complaint, reporting or providing information under this section or assisting the board at its request in any manner in discharging its duties and functions, shall be liable in a cause of action arising out of the complaints, reporting or providing of information or assistance; provided, however, that the person making the complaint or reporting or providing information or assistance does so in good faith.

Licensing and application fees collected by the board shall be as prescribed by the executive office of administration and finance under section 3B of chapter 7 and shall be deposited into the Division of Professional Licensure Trust Fund established in section 35V of chapter 10.

Approved December 17, 2009.

**Chapter 185. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF
MALDEN AS THE DIPAOLO BROTHERS VETERANS BRIDGE.**

Be it enacted, etc., as follows:

Bridge #M-01-006 on Clifton street in the city of Malden shall be designated and known as the DiPaola Brothers Combat Veterans Memorial Bridge, in honor of John J. DiPaola, USAF, Arthur P. DiPaola, USMC, and Rocco V. DiPaola, USN, and all siblings who serve simultaneously in combat in the United States military in defense of our country. The department of transportation shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department.

Approved December 17, 2009.

**Chapter 186. AN ACT MAKING APPROPRIATIONS FOR FISCAL YEAR 2010 TO
PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING
APPROPRIATIONS.**

Whereas, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2010 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 2010, 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, 2010. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-0101 \$41,862,177

SECTION 2A.

TREASURER AND RECEIVER GENERAL

Office of the Treasurer and Receiver General

0612-0105 For payment of the public safety employee killed in the line of duty benefit authorized by section 100A of chapter 32 of the General Laws; provided, that the state treasurer office shall provide immediate written notification to the secretary of administration and finance and the house and senate committees on ways and means upon the expenditure of the funds appropriated herein \$100,000

SECTION 3. Notwithstanding any general or special law to the contrary, the water pollution abatement trust established in section 2 of chapter 29C of the General Laws may establish such terms and conditions for any loan or other form of financial assistance made under said chapter 29C as the board of trustees of the trust shall determine to be in the best interests of the commonwealth and as required to comply with federal law including, without limitation, the interest rate, repayment period, number of payments to be made and amount of principal to be repaid on such loan or other form of financial assistance. The trustees shall exercise the authority conferred by this section only to the extent necessary to comply with federal law.

Approved December 18, 2009.

Chapter 187. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF TISBURY TO GRANT LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES OF CERTAIN RESTAURANTS, INNS AND HOTELS.

SECTION 1. 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 Tisbury may place upon the official ballot at the next annual town election the following question:

"Shall the board of selectmen of the town of Tisbury be authorized to grant 19 licenses for the sale of wines and malt beverages to be drunk on the premises to restaurants, including restaurants within inns and hotels, with seating capacities of not less than 30 persons, to be consumed with meals only, and only to patrons who are seated at dining tables, and to grant seasonal licenses for the same as the selectmen may determine?"

If a majority of the votes cast in answer to the question is in the affirmative, the town shall be taken to have authorized the sale of wines and malt beverages to be drunk on the premises of certain restaurants with seating capacities of not less than 30 persons, to be consumed with meals only as required by this act and to grant seasonal licenses for the same. The board of selectmen may from time to time issue regulations for the granting of licenses under this act and to define terms appropriate for that purpose.

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

Approved December 22, 2009.

Chapter 188. AN ACT AUTHORIZING THE TOWN OF TYNGSBOROUGH 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 Tyngsborough may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to Tyngsboro Sports Center, Inc. located at 18 Progress avenue in the town of Tyngsborough 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 but it may grant the license 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 section is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority which may then grant the license to a new applicant at the same location under the same conditions as specified in this act.

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

Approved December 22, 2009.

Chapter 189. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHRISTOPHER SANDIFORD 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, rule or regulation to the contrary, the department of transitional assistance shall establish a sick leave bank for Christopher Sandiford, 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 Christopher Sandiford. 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. Whenever Christopher Sandiford 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 December 22, 2009.

Chapter 190. AN ACT RELATIVE TO THE APPOINTMENT OF THE MEMBERS OF THE DALTON REDEVELOPMENT AUTHORITY.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, upon the expiration of the initial terms of the 4 members of the Dalton redevelopment authority appointed by the board of selectmen as provided in section 5 of chapter 121B of the General Laws, members of the redevelopment authority shall be appointed and removed upon recommendation of the town manager subject to ratification by the board of selectmen in the same manner as provided in section 4 of chapter 137 of the acts of 1995.

Approved December 22, 2009.

Chapter 191. AN ACT VALIDATING A CERTAIN VOTE TAKEN BY THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. The vote of the town of Belmont passed June 3, 2009 appropriating and authorizing a borrowing of \$39,764,430 for the design and construction of a new Wellington Elementary School, located at 121 Orchard street, is hereby ratified, validated and confirmed in all respects and the amounts required to pay for any bonds or notes issued pursuant to such vote shall be exempt from the limitation on total taxes imposed by section 21C of chapter 59 of the General Laws, notwithstanding any discrepancy in the descriptions of the purpose of such borrowing authorization contained in the June 3, 2009 vote and the vote of the town passed at the June 8, 2009 special town election.

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

Approved December 22, 2009.

Chapter 192. AN ACT ESTABLISHING THE OFFICE OF TREASURER-COLLECTOR FOR THE TOWN OF WHITMAN.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the town of Whitman an office of treasurer-collector. The treasurer-collector shall have the power, perform the duties and be subject to the liabilities and penalties now or hereafter conferred or imposed by law on town treasurers and town collectors of taxes.

SECTION 2. Notwithstanding section 1, the incumbents in the offices of town treasurer and collector, upon the effective date of this act, shall continue to hold such offices and perform the duties thereof until the 2011 annual town election. The first treasurer-collector shall be elected at the 2011 annual town election; provided, however, that if the same person holds both the treasurer and collector offices on the effective date of this act, then the position of treasurer-collector shall be established effective immediately upon the approval of the board of selectmen, and the term thereof shall expire on the date of the 2011 annual town election.

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

Approved December 29, 2009.

Chapter 193. AN ACT ESTABLISHING A SICK LEAVE BANK FOR WILLIAM SINCLAIR, AN EMPLOYEE OF THE DEPARTMENT OF CORRECTION.

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

is to establish forthwith a sick leave bank for a certain employee of the department of correction, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of correction shall establish a sick leave bank for William Sinclair, 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 William Sinclair. 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. Whenever William Sinclair 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 December 29, 2009.

Chapter 194. AN ACT ESTABLISHING A SICK LEAVE BANK FOR VANESSA WILLIAMS, AN EMPLOYEE OF THE OFFICE OF MEDICAID.

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 office of medicaid, 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 office of medicaid shall establish a sick leave bank for Vanessa Williams, an employee of the office of medicaid. Any employee of the office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Vanessa Williams. 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 office. Whenever Vanessa Williams 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 extended illness leave bank.

Approved December 29, 2009.

Chapter 195. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 at 183-185 Turnpike road 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 but the licensing authority may grant the license 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 December 29, 2009.

Chapter 196. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOHN BEVELAQUA, AN EMPLOYEE OF THE DEPARTMENT OF ENERGY RESOURCES.

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 energy resources, 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 energy resources shall establish a sick leave bank for John Bevelaqua, 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 John Bevelaqua. 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. Whenever John Bevelaqua 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 December 29, 2009.

Chapter 197. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138 to Spyro Economou d/b/a/ Westborough House of Pizza at 36 East Main 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 but the licensing authority may grant the license 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 and under the same conditions as specified in this act.

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

Approved December 29, 2009.

Chapter 198. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF RAYNHAM AS THE SFC JARED C. MONTI BRIDGE.

Be it enacted, etc., as follows:

The bridge No. R-02-009=T010413P9 on US Route 44 Cape Highway, over the Taunton river, in the town of Raynham, shall be designated and known as the SFC Jared C. Monti Bridge, a Congressional Medal of Honor Recipient, in honor of the late Sergeant First Class Jared C. Monti who served his country in Afghanistan. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved December 29, 2009.

**Chapter 199. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF
TAUNTON AS THE SSG ADELINO PAULO BRIDGE.**

Be it enacted, etc., as follows:

The High street bridge No. T-01-010 in the city of Taunton shall be designated and known as the SSG Adelino “Pete” Paulo Bridge, in honor of Staff Sergeant Adelino Paulo who served his country in World War II. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved December 29, 2009.

**Chapter 200. AN ACT AUTHORIZING THE TOWN OF SHARON TO GRANT
LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES
AT A FOOD STORE, NOT TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of section 1 of chapter 471 of the acts of 2008 is hereby amended by inserting after the sixth sentence the following sentence:- The licensed premises may also be located in the Business District A; provided, however, that such use as a grocery store or food store is allowed by right or by special permit in the Business District A, and the licensed premises may also be located upon land in the town of Sharon identified by assessors map 69, parcel 227 in the Business District B as Sharon Heights Shopping Mall, 362 South Main street in the town of Sharon.

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

Approved January 5, 2009.

**Chapter 201. AN ACT DESIGNATING A CERTAIN TRAFFIC CIRCLE IN THE
CITY OF LOWELL AS THE MICKY WARD ROTARY.**

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the traffic circle located on Industrial avenue, near the intersection of Reiss avenue, in the city of Lowell, shall be designated and known as the Micky Ward Rotary. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department and historic or preservation guidelines or statutes.

Approved January 5, 2009.

Chapter 202. AN ACT DESIGNATING A CERTAIN BICYCLE PATH IN THE CITY OF FALL RIVER AND THE TOWN OF SOMERSET AS THE ARMY PRIVATE MICHAEL E. BOUTHOT BICYCLE PATH.

Be it enacted, etc., as follows:

The bicycle path to be built on the new bridge on state highway route 6, spanning the Taunton river and connecting the city of Fall River and the town of Somerset, shall be designated and known as the Army Private Michael E. Bouthot Bicycle Path. The Massachusetts department of transportation shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department.

Approved January 5, 2009.

Chapter 203. AN ACT AUTHORIZING THE ABATEMENT OF CERTAIN PROPERTY TAX ASSESSMENTS IN THE TOWN OF LEXINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 2A, 2D, 18 and 38 of chapter 59 of the General Laws or any other general or special law to the contrary, the town of Lexington, acting by and through its board of assessors, shall abate or refund a portion of the taxes assessed for fiscal year 2009 on any real estate that decreased in assessed valuation by over 50 per cent as the result of fire or natural disaster that occurred during fiscal year 2009. The post-fire or post-natural disaster valuation shall be considered the assessed valuation of the property as of January 1, 2008 for purposes of assessing taxes for the fiscal year beginning on July 1, 2008.

SECTION 2. Applications for an abatement or refund shall be filed with the Lexington board of assessors on or before January 1, 2011.

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

Approved January 10, 2010.

Chapter 204. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JEANETTE ROSS, 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:

Chap. 204

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Jeanette Ross, an employee of the Dorchester division of the Boston municipal 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 Jeanette Ross. 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. Whenever Jeanette Ross terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank.

Approved January 10, 2010.

Chapter 1. RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION RELATIVE TO MUNICIPAL RELIEF.

Resolved, That the special commission established under section 97 of chapter 173 of the acts of 2008, is hereby revived and continued; provided, however, that 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.

Approved April 15, 2009.

**SUMMARY OF THE ACTS AND RESOLVE APPROVED, APPROVAL
WITHHELD, AND AN ACT DECLARED EMERGENCY LAW BY THE
GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION.**

During the first session of the General Court held in 2009, 204 Acts were enacted of which 202 Acts and one Resolve received the Governor's approval.

Chapter 45 was not approved by the Governor within the ten days prescribed by the Constitution. It was 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, this act has the force of law and has been so certified.

This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

One Act, Chapter 92, was declared to be an emergency law by the Governor under Article XLVIII of the Amendments to the Constitution.

Chapter 4, An Act Reorganizing Certain Agencies of the Executive Department, not having been disapproved by the General Court, was adopted as provided in Article LXXXVII of the Amendments to the Constitution.

The 2009 session of the General Court was dissolved at midnight on Tuesday January 5, 2010 the session having lasted 364 days



William Francis Galvin
Secretary of the Commonwealth

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS November 30, 2010

I hereby certify that the Acts and Resolve contained in this volume are true copies of the originals on file with this department.

I further certify that the Index and the Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of M.G.L. c. 3, section 52.

A handwritten signature in cursive script, reading "William Francis Galvin". The ink is dark and the signature is fluid, with the first and last names being more prominent than the middle name.

William Francis Galvin
Secretary of the Commonwealth

**AGGREGATE VOTE ON PROPOSED LAWS SUBMITTED TO THE PEOPLE AT
THE NOVEMBER 4, 2008 ELECTION**

Statement of the Secretary in Compliance with M.G.L. c. 5, § 2(6)

Question	Yes	No	Blank
1. State Personal Income Tax	914,420	2,070,699	117,876
2. Possession of Marihuana	1,949,704	1,038,523	114,768
3. Dog Racing	1,662,352	1,303,708	136,935

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, 2009.

CHAPTER 1 - Jurisdiction of the Commonwealth and of the United States.

CHAPTER 2 - Arms, Great Seal and Other Emblems of the Commonwealth.

CHAPTER 3 - The General Court.

§ 39 Definition of “client” revised, 2009, 28 § 1; Definition of “Executive agent” revised and definition “Executive lobbying” inserted, 2009, 28 § 2; Definition of “Legislative agent” revised and definition of “Legislative lobbying” inserted, 2009, 28 § 3

§ 41 amended, 2009, 28 § 4; last paragraph revised 2009, 28 § 5

§ 42 revised, 2009, 28 § 6

§ 43 amended, 2009, 28 § 7; third paragraph revised, 2009, 28 § 8; amended, 2009, 28 § 9; second sentence fourth paragraph revised, 2009, 28 § 10

§ 44, second paragraph revised, 2009, 28 § 11

§ 45 revised, 2009, 28 § 12

§ 47 amended, 2009, 28 § 13; second paragraph amended, 2009, 28 § 14

§ 48 amended, 2009, 28 § 15

§ 49 amended, 2009, 28 § 16

§ 68, subsection (a) revised, 2009, 27 § 4

CHAPTER 4 - Statutes.

CHAPTER 5 - Printing and Distribution of Laws and Public Documents.

CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library.

§ 15LLLLL added, 2009, 71

§ 15MMMMM added, 2009, 176

§ 17 amended, 2009, 4 § 26 (See 2009, 4 § 82); amended, 2009, 25 § 1 (See 2009, 26 § 60)

§ 17A amended, 2009, 25 § 2 (See 26 § 60)

§ 48 revised, 2009, 4 § 25 (See § 82)

§ 57 repealed, 2009, 25 § 3 (See 26 § 60)

CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library. - continued

- § 58 repealed, 2009, 25 § 3 (See 26 § 60)
- § 59 repealed, 2009, 25 § 3 (See 26 § 60)
- § 98 revised, 2009, 10 § 1
- § 116E revised, 2009, 26 § 3
- § 172K inserted, 2009, 43 § 1 (See 43 § 2)

CHAPTER 6A - Executive Offices.

- § 8C, subsection (a) amended, 2009, 25 § 4 (See 26 § 60)
- § 16G amended, 2009, 4 § 27 (See § 82)
- § 19 repealed, 2009, 25 § 5 (See 26 § 60)
- § 19½ repealed, 2009, 25 § 5 (See 26 § 60)
- § 19A repealed, 2009, 25 § 5 (See 26 § 60)
- § 103 repealed, 2009, 25 § 6 (See 26 § 60)
- § 104 repealed, 2009, 25 § 7 (See 26 § 60)

CHAPTER 6B - Acute Hospital Finance.
(Chapter repealed, 1996, 151 § 32)

CHAPTER 6C - Massachusetts Department of Transportation
(Chapter inserted, 2009, 25 § 8 (See 26 § 51-60))

- § 1, definition of "Independent agencies" revised, 2009, 120 § 3
- § 10 amended, 2009, 120 § 4
- § 18 amended, 2009, 120 § 5
- § 22, subsection (c) revised, 2009, 25 § 9 (See 26 § 60)
- § 181A inserted, 2009, 26 § 59

CHAPTER 7 - Executive Office for Administration and Finance.

- § 4A, paragraph (a) amended, 2009, 27 § 6 (See § 82)
- § 22B½ amended, 2009, 4 § 28 (See § 82); amended, 2009, 25 § 10 (See 26 § 60)
- § 22G amended, 2009, 25 § 11 (See 26 § 60)
- § 38F, subsection (d) revised, 2009, 120 § 6
- § 40B amended, 2009, 120 § 7; amended, 2009, 120 § 8
- § 53 amended, 2009, 25 § 12 (See 26 § 60); amended, 2009, 27 § 7

CHAPTER 7A - Office of the Comptroller.

- § 12 revised, 2009, 26 § 4

CHAPTER 8 - State Superintendent of Buildings, and State House.

CHAPTER 9 - Department of the State Secretary.

CHAPTER 9A - Address Confidentiality Program.

CHAPTER 10 - Department of the State Treasurer.

§ 9A amended, 2009, 25 § 13 (See 26 § 60)

§ 24A amended, 2009, 27 § 8

§ 35V replaced, 2009, 5 § 3

§ 35FF amended, 2009, 158 § 1

§ 35LL inserted, 2009, 27 § 9 (See § 161)

§ 35MM inserted, 2009, 27 § 9 (See § 161); repealed, 2009, 32 § 1

§ 35NN inserted, 2009, 161 § 1

§ 59 amended, 2009, 27 § 10

§ 61 amended, 2009, 120 § 9; amended, 2009, 120 § 10

§ 63 repealed, 2009, 25 § 14 (See 26 § 60)

§ 63½ inserted, 2009, 120 § 11

§ 63A amended, 2009, 25 § 15 (See 26 § 60); subsection (c) amended, 2009, 25 § 16 (See 26 § 60); repealed, 2009, 25 § 17 (See 26 § 60)

CHAPTER 11 - Department of the State Auditor.

CHAPTER 12 - Department of the Attorney General, and the District Attorneys.

§ 3 amended, 2009, 27 § 11

CHAPTER 12A - Office of the Inspector General.

CHAPTER 12B - State Gambling and Advisory Commission.

CHAPTER 13 - Division and Boards of Registration.

§ 9 subsection (b) amended, 2009, 4 § 29 (See § 82)

§ 9B subsection (e) amended, 2009, 4 §§ 30 (See § 82), 31 (See § 82)

§ 80 revised, 2009, 184 § 1

§ 81 amended, 2009, 184 § 2

§ 84 amended, 2009, 184 § 3

CHAPTER 14 - Department of Revenue.

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- CHAPTER 15 - Department of Education.**
- CHAPTER 15A - Public Education.**
- 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.**
- CHAPTER 16 - Department of Highways.**
- § 1 repealed, 2009, 25 § 18 (See 26 § 60)
§ 2 repealed, 2009, 25 § 18 (See 26 § 60)
§ 3 repealed, 2009, 25 § 18 (See 26 § 60)
§ 4 repealed, 2009, 25 § 18 (See 26 § 60)
§ 4A repealed, 2009, 25 § 18 (See 26 § 60)
§ 4B repealed, 2009, 25 § 18 (See 26 § 60)
§ 9 repealed, 2009, 25 § 18 (See 26 § 60)
§ 13 repealed, 2009, 25 § 18 (See 26 § 60)
§ 14 repealed, 2009, 25 § 18 (See 26 § 60)
- CHAPTER 17 - Department of Public Health.**
- CHAPTER 18 - Department of Transitional Assistance.**
- § 2 amended, 2009, 4 §§ 34 (See § 83), 35 (See § 83), 36 (See § 83)
- CHAPTER 18A - Department of Youth Services.**
- CHAPTER 18B - Department of Social Services.**
- CHAPTER 18C - Office of Child Advocate.
(New chapter inserted, 2008, 176 § 46)**
- CHAPTER 19 - Department of Mental Health.**
- CHAPTER 19A - Department of Elder Affairs.**
- CHAPTER 19B - Department of Developmental Services.**

CHAPTER 19C - Disabled Persons Protection Commission.

CHAPTER 19D - Assisted Living.

CHAPTER 20 - Department of Food and Agriculture.

CHAPTER 21 - Department of Environmental Management.

§ 16 repealed, 2009, 4 § 1 (See § 80)

CHAPTER 21A - Executive Office of Energy and Environmental Affairs.

§ 2A inserted, 2009, 26 § 5

§ 11A amended, 2009, 25 §§ 19 (See 26 § 60), 20 (See 26 § 60)

CHAPTER 21B - Mining Regulation and Reclamation.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.

CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.

CHAPTER 21F - Coastal Facilities Improvement.

CHAPTER 21G - Massachusetts Water Management Act.

§ 14 amended, 2009, 4 § 2 (See § 80).

§ 20 added, 2009, 4 § 3 (See § 80).

CHAPTER 21H - Solid Waste Facilities.

CHAPTER 21I - Massachusetts Toxics Use Reduction Act.

CHAPTER 21J - Underground Storage Tank Petroleum Product Cleanup Fund.

CHAPTER 21K - Mitigation of Hazardous Material.

CHAPTER 21L - Environmental Endangerment Act.

§ 1, definition of “Buzzards bay” inserted, 2009, 101 § 1; definition of “Tank vessel” inserted, 2009, 101 § 2

§ 4, subsection (f) revised, 2009, 101 § 3

CHAPTER 21M - Vessel Traffic Service.

§ 1, definitions of “Rescue tug” and “Response time” revised, 2009, 101 § 4; definition of “State-provided tugboat escort” inserted, 2009, 101 § 5
§ 9 revised, 2009, 101 § 6 (See 101 § 7)

CHAPTER 21N - Climate Protection and Green Economy.

CHAPTER 21O- Operation and Removal of Underground Storage Tanks.
(chapter inserted, 2009, 4 § 6 (See § 81))

CHAPTER 22 - Department of Public Safety.

§ 12 revised, 2009, 169 § 1
§ 13A amended, 2009, 25 § 21 (See 26 § 60)

CHAPTER 22A - Central Register for Missing Children.

CHAPTER 22B - Capitol Police.

CHAPTER 22C - The Department of State Police.

§ 29 amended, 2009, 25 §§ 22 (See 26 § 60), 23 (See 26 § 60), 24 (See 26 § 60), 25 (See 26 § 60)
§ 61 repealed, 2009, 25 § 26 (See 26 § 60)

CHAPTER 22D - Department of Fire Services.

CHAPTER 22E - State DNA Database.

CHAPTER 23 - Executive Office of Labor and Work Force Development.

§ 11W revised, 2009, 27 § 12

CHAPTER 23A - Department of Economic Development.

§ 3A, definition of “Certified project” revised, 2009, 166 § 1; definitions of “Enhanced expansion project,” “Enhanced expansion project proposal,” “Expansion project,” “Expansion project EOA,” “Expansion project ETA” and “Expansion project proposal” inserted, 2009, 166 § 2; definition of “Facility” revised and definitions of “Gateway municipality,” “Manufacturing retention project” and “Manufacturing retention project proposal” inserted, 2009, 166 § 3; definition of “Project” revised, 2009, 166 § 4; definitions of “Project EOA” and “Project ETA” stricken out, 2009, 166 § 5; definition of “Project proposal” revised, 2009, 166 § 6

CHAPTER 23A - Department of Economic Development. - continued

- § 3F amended, 2009, 166 §§ 7, 8, 9, 10, 10A, 11; subclause (iii) of clause (b) of subsection (1) revised, 2009, 166 § 12; amended, 2009, 166 § 13; subclause (v) of clause (b) of subsection (1) revised, 2009, 166 § 14; amended, 2009, 166 § 15; subclause (ii) of clause (d) of subsection (1) revised, 2009, 166 § 16; subsections (2) and (3) revised, 2009, 166 § 17; subsections (5) and (6) added, 2009, 166 § 18
- § 3I amended, 2009, 25 § 28 (See 26 § 60)
- § 13C amended, 2009, 25 § 29 (See 26 § 60)
- § 45 amended, 2009, 25 § 30 (See 26 § 60)

CHAPTER 23B - Department of Housing and Community Development.

- § 30 inserted, 2009, 4 § 37 (See § 83); amended, 2009, 27 § 13; paragraph (B) amended, 2009, 27 § 14; paragraph (C) amended, 2009, 27 § 15; paragraph (F) amended, 2009, 27 § 16.

CHAPTER 23C - Board of Conciliation and Arbitration.
(Chapter repealed, 2007, 145, § 6)

CHAPTER 23D - Massachusetts Industrial Service Program.

- § 8 amended, 2009, 27 § 17
- § 9 amended, 2009, 27 § 18
- § 10 revised, 2009, 27 § 19

CHAPTER 23E - Division of Industrial Accidents.

CHAPTER 23F - The Economic Diversification Program.

CHAPTER 23G - The Massachusetts Development Finance Agency.

CHAPTER 23H - Workforce Development.

CHAPTER 23I - Economic Investments.

CHAPTER 23J - Massachusetts Clean Energy Technology Center.

- § 1, definitions of “Director” and “Executive director” inserted, 2009, 158 § 2; definition of “Trust fund” added, 2009, 158 § 3
- § 2, subsection (b) revised, 2009, 158 § 4; subsection (e) amended, 158 § 5
- § 3 amended, 2009, 158 §§ 6, 7, 8, 9
- § 9 inserted, 2009, 158 § 10 (corrective change needed)

CHAPTER 23J - Massachusetts Clean Energy Technology Center. - continued

§ 10 inserted, 2009, 158 § 10

§ 11 inserted, 2009, 158 § 10

**CHAPTER 24 - Department of Industrial Accidents.
(Chapter repealed, 1953, 314 § 14)**

CHAPTER 24A - Office of Consumer Affairs and Business Regulation.

§ 1 amended, 2009, 4 § 32 (See § 82)

CHAPTER 25 - Department of Public Utilities.

§ 4B inserted, 2009, 133 § 1

§ 4C inserted, 2009, 133 § 1

§ 20 amended, 2009, 158 §§ 11, 12, 13

§ 124 revised, 2009, 120 § 40

CHAPTER 25A - Division of Energy Resources.

§ 10 amended, 2009, 158 § 14

§ 11H, subsection (c) amended, 2009, 27 § 20

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.

CHAPTER 25C - Department of Telecommunications and Cable.

CHAPTER 26 - Department of Banking and Insurance.

CHAPTER 27 - Department of Correction.

§ 138 subsection (a) amended, 2009, 32 § 2

**CHAPTER 28 - Metropolitan District Commission.
(Chapter repealed, 2003, 26 § 125 (See 2003, 26 § 715))**

CHAPTER 28A - Office of Child Care Services.

CHAPTER 29 - State Finance.

§ 1 amended, 2009, 25 § 31 (See 26 § 60)

§ 2E repealed, 2009, 25 § 32 (See 26 § 60)

CHAPTER 29 - State Finance. - continued

- § 2DD repealed, 2009, 25 § 34 (See 26 § 60)
- § 2ZZZ inserted, 2009, 25 § 35 (See 26 § 60); revised, 2009, 35 § 1 (See 35 §§ 2 & 5)
- § 2AAAA inserted, 2009, 169 § 2
- § 9B amended, 2009, 1 §§ 1 (See 2009, 1 § 6), 2 (See 2009, 1 § 6)
- § 20 revised, 2009, 25 § 33 (See 2009, 26 § 60)
- § 23 amended, 2009, 120 § 12
- § 31 amended, 2009, 25 § 36 (See 26 § 60)
- § 64 amended, 2009, 25 § 37 (See 26 § 60)
- § 64A amended, 2009, 25 § 38 (See 26 § 60)

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.

CHAPTER 29D - The Health Care Security Trust.

- § 4, subsection (d) revised, 2009, 26 § 6

CHAPTER 30 - General Provisions Relative to State Departments, Commissions, Officers and Employees.

- § 7 amended, 2009, 4 § 33 (See § 82)
- § 39M½ amended, 2009, 25 § 39 (See 26 § 60)

CHAPTER 30A - State Administrative Procedure.

- § 11A repealed, 2009, 28 § 17 (See 2009, 28 § 106)
- § 11A½ repealed, 2009, 28 § 17 (See 2009, 28 § 106)
- § 18 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 19 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 20 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 21 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 22 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 23 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 24 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 25 inserted, 2009, 28 § 18 (See 2009, 28 § 106)

CHAPTER 30B - Uniform Procurement Act.

- § 1 amended, 2009, 25 § 40 (See 26 § 60); clause (32A) of subsection (b) inserting, 2009, 25 § 41 (See 26 § 60)
- § 2 definition of “Bid” amended, 2009, 25 § 42 (See 26 § 60); definition of “Designer” amended, 2009, 25 § 43 (See 26 § 60); definition of “Purchase description” amended, 2009, 25 § 44 (See 26 § 60)
- § 21 inserted, 2009, 25 § 45 (See 26 § 60)
- § 21, subsection (a) definition of “Agency” revised, 2009, 120 § 12A (See 120 § 58); subsection (a) definition of “Project” revised, 2009, 120 § 12B (See 120 § 58); subsection (c) amended, 2009, 120 § 12C (See 120 § 58)

CHAPTER 31 - Civil Service.

CHAPTER 31A - Municipal Personnel Systems.

CHAPTER 32 - Retirement Systems and Pensions.

- § 1 amended, 2009, 21 § 1 (See § 24); definition of “Regular compensation” amended, 2009, 21 § 2; definition of “Wages” added, 2009, 21 § 3 (See § 15 of Ch. 130 of the acts of 2008); amended, 2009, 25 §§ 46 (See 26 § 60), 47 (See 26 § 60)
- § 2 amended, 2009, 25 § 48 (See 26 § 60)
- § 4 amended, 2009, 21 § 4; paragraph (o) of subdivision (1) revised and paragraph (o ½) of subdivision (1) repealed, 2009, 21 § 5 (See § 25)
- § 5 amended, 2009, 21 § 6; paragraph (e) of subdivision (2) inserted, 2009, 21 § 7; amended, 2009, 25 § 49 (See 26 § 60)
- § 7 amended, 2009, 21 § 8; clause (ii) of paragraph (a) or subdivision (2) revised, 2009, 166 § 19 (See 166 § 45); amended, 2009, 25 § 50 (See 26 § 60)
- § 10 amended, 2009, 21 §§ 9, 10, 11, 12, 13
- § 11, paragraph (d) of subdivision (1) inserted, 2009, 21 § 14; amended, 2009, 25 § 51 (See 26 § 60)
- § 12D inserted, 2009, 21 § 15
- § 13 subdivision (1) amended, 2009, 21 § 16
- § 14 amended, 2009, 25 § 52 (See 26 § 60)
- § 15 amended, 2009, 25 § 53 (See 26 § 60)
- § 19A, first paragraph revised, 2009, 21 § 17
- § 20, subdivision (4½) stricken out, 2009, 25 § 54 (See 26 § 60); amended, 2009, 25 § 55 (See 26 § 60)
- § 22, paragraph (e) of subdivision (7) stricken out, 2009, 25 § 56 (See 26 § 60)
- § 22C, subdivision (1) amended, 2009, 27 § 23
- § 22D, amended, 2009, 21 § 18
- § 22E inserted, 2009, 21 § 19

CHAPTER 32 - Retirement Systems and Pensions. - continued

§ 23 amended, 2009, 25 § 57 (See 26 § 60)
§ 24 amended, 2009, 25 § 58 (See 26 § 60)
§ 25 amended, 2009, 25 § 59 (See 26 § 60)
§ 28 amended, 2009, 25 §§ 60 (See 26 § 60), 61 (See 26 § 60)
§ 91 amended, 2009, 21 §§ 20, 21
§ 102 amended, 2009, 25 § 62 (See 26 § 60)
§ 111 revised, 2009, 21 § 22

CHAPTER 32A - Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.

§ 2 amended, 2009, 25 § 64 (See 26 § 60)
§ 24, subsection (a) revised, 2009, 26 § 7; subsections (f), (g) and (h) inserted, 2009, 26 § 8

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and Their Dependents.

CHAPTER 33 - Militia.

§ 67A inserted, 2009, 132 § 1

CHAPTER 34 - Counties and County Commissioners.

§ 9F repealed, 2009, 28 § 19 (See 2009, 28 § 106)
§ 9G repealed, 2009, 28 § 19 (See 2009, 28 § 106)

CHAPTER 34A - County Charter Procedures.

CHAPTER 34B - Abolition of County Government.

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

CHAPTER 36 - Registers of Deeds.

CHAPTER 37 - Sheriffs.

§ 17 amended, 2009, 61 § 1

CHAPTER 38 - Medical Examiners.

§ 2 amended, 2009, 26 §§ 9, 10

CHAPTER 39 - Municipal Government.

§ 23A repealed, 2009, 28 § 20 (See 2009, 28 § 106)

§ 23B repealed, 2009, 28 § 20 (See 2009, 28 § 106)

§ 23C repealed, 2009, 28 § 20 (See 2009, 28 § 106)

CHAPTER 40 - Powers and Duties of Cities and Towns.

CHAPTER 40A - Zoning Regulations.

§ 3 amended, 2009, 33 §§ 1, 2

CHAPTER 40B - Regional Planning.

§ 24 amended, 2009, 25 § 65 (See 26 § 60)

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

CHAPTER 40E - Massachusetts Industrial Development Authority.

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

CHAPTER 40G - Massachusetts Technology Development Corporation.

CHAPTER 40H - Community Economic Development Assistance Corporation.

CHAPTER 40I - The Bay State Skills Corporation Act.

(Chapter repealed, 1996, 151 § 196) (See 1996, 151 § 690)

CHAPTER 40J - Massachusetts Technology Park Corporation.

§ 3 amended, 2009, 158 § 15

§ 4 amended, 2009, 158 § 16

§ 4A amended, 2009, 158 § 17

§ 4B amended, 2009, 158 §§ 18, 19

§ 4E repealed, 2009, 158 § 20

§ 6A amended, 2009, 158 § 21

§ 6B amended, 2009, 33 §§ 3, 4; subsection (d) amended, 2009, 33 § 5

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- 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.**
- CHAPTER 40O - Business Improvement Districts.**
- CHAPTER 40P - The Massachusetts Rent Control Prohibition Act.**
- CHAPTER 40Q - District Improvement Financing.**
- CHAPTER 40R - Smart Growth Zoning and Housing Production.**
- CHAPTER 40S - Smart Growth School Cost Reimbursement.**
- CHAPTER 40T - Publically Assisted Affordable Housing.**
(Chapter inserted, 2009, 159 § 1)
- CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.**
- CHAPTER 42 - Boundaries of Cities and Towns.**
- CHAPTER 43 - City Charters.**
- CHAPTER 43A - Standard Form of Representative Town Meeting Government.**
- CHAPTER 43B - Home Rule Procedures.**
- CHAPTER 43C - Optional Forms of Municipal Administration Act.**
- CHAPTER 43D - Expedited Permitting.**
- CHAPTER 44 - Municipal Finance.**
§ 21B inserted, 2009, 120 § 13
- CHAPTER 44A - Qualified Bond Act.**

CHAPTER 44B - Community Preservation.

CHAPTER 45 - Public Parks, Playgrounds and the Public Domain.

CHAPTER 46 - Return and Registry of Births, Marriages and Death.

CHAPTER 47 - Infirmarys.

CHAPTER 48 - Fires, Fire Departments and Fire Districts.

CHAPTER 49 - Fences, Fence Viewers, Pounds and Field Drivers.

CHAPTER 49A - Use of Certain Animals for Scientific Investigation, Experiment or Instruction.

CHAPTER 50 - General Provisions Relative to Primaries, Caucuses and Elections.

CHAPTER 51 - Voters.

§ 4, subsection (d) amended, 2009, 132 § 2

CHAPTER 52 - Political Committees.

CHAPTER 53 - Nominations, Questions to be Submitted to the Voters, Primaries and Caucuses.

§ 9 amended, 2009, 28 §§ 21, 22

CHAPTER 54 - Elections.

§ 95 third paragraph revised, 2009, 132 § 3; amended, 2009, 132 § 4

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.

§ 1 definition of "Candidate's committee" inserted, 2009, 28 § 23 (See 2009, 28 § 105); definition of "Electioneering communication" inserted, 2009, 28 § 24 (See 2009, 28 § 105); definition of "Independent expenditure" inserted, 2009, 28 § 25 (See 2009, 28 § 105)

CHAPTER 55 - Disclosure of Campaign Expenditures and Contributions and Election Inquests. - continued

- § 3 amended, 2009, 28 §§ 26 (See 2009, 28 § 105), 27 (See 2009, 28 § 105), 28 (See 2009, 28 § 105); § 29 (See 2009, 28 § 105); 30 (See 2009, 28 § 105)
- § 5, ninth paragraph amended, 2009, 28 § 31 (See 2009, 28 § 105)
- § 6 amended, 2009, 28 § 32 (See 2009, 28 § 105)
- § 8 amended, 2009, 28 § 33 (See 2009, 28 § 105)
- § 10A, clause (1) of subsection (d) revised, 2009, 28 § 34 (See 2009, 28 § 105)
- § 18, first paragraph revised, 2009, 28 § 35 (See 2009, 28 § 105); amended, 2009, 28 § 36 (See 2009, 28 § 105); third paragraph amended, 2009, 28 § 37 (See 2009, 28 § 105); thirteenth paragraph amended, 2009, 28 § 38 (See 2009, 28 § 105); amended, 2009, 28 §§ 39 (See 2009, 28 § 105), 40 (See 2009, 28 § 105)
- § 18A revised, 2009, 28 § 41 (See 2009, 28 § 105)
- § 18C clause (4) to (9), inclusive, of subsection (b) inserted, 2009, 28 § 42 (See 2009, 28 § 105)
- § 18E inserted, 2009, 28 § 43 (See 2009, 28 § 105)
- § 18F inserted, 2009, 28 § 43 (See 2009, 28 § 105)
- § 19 amended, 2009, 28 §§ 44 (See 2009, 28 § 105), 45 (See 2009, 28 § 105); subsection (g) inserted, 2009, 28 § 46 (See 2009, 28 § 105)
- § 22 amended, 2009, 28 §§ 47 (See 2009, 28 § 105), 48 (See 2009, 28 § 105), 49 (See 2009, 28 § 105), 50 (See 2009, 28 § 105), 51 (See 2009, 28 § 105)
- § 24 amended, 2009, 28 §§ 52 (See 2009, 28 § 105), 53 (See 2009, 28 § 105)
- § 26 amended, 2009, 28 §§ 54 (See 2009, 28 § 105), 55 (See 2009, 28 § 105)
- § 29 revised, 2009, 28 § 56 (See 2009, 28 § 105)

CHAPTER 55A - The Massachusetts Clean Election Law.

CHAPTER 55B - The State Ballot Law Commission.

CHAPTER 55C- Limited Public Financing of Campaigns for Statewide Elective Office.

- § 4 amended, 2009, 28 § 57 (See 2009, 28 § 105)
- § 6 amended, 2009, 28 § 58 (See 2009, 28 § 105)

CHAPTER 56 - Violations of Elections Laws.

CHAPTER 57 - Congressional, Councilor and Senatorial Districts, and Apportionment of Representatives.

CHAPTER 58 - General Provisions Relative to Taxation.

CHAPTER 58A - Appellate Tax Board.

CHAPTER 59 - Assessment of Local Taxes.

§ 5 clause thirty-eighth revised, 2009, 25 § 66 (See 26 § 60)

§ 5K amended, 2009, 27 § 24

§ 18 clause fifth amended, 2009, 27 § 25 (2009, 27 § 149)

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

CHAPTER 60B - Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.

CHAPTER 61 - Classification and Taxation of Forest Lands and Forest Products.

CHAPTER 61A - Assessment and Taxation of Agricultural and Horticultural Land.

CHAPTER 61B - Classification and Taxation of Recreational Land.

CHAPTER 62 - Taxation of Incomes.

§ 1 amended, 2009, 27 § 26 (See 2009, 27 § 151)

§ 2, paragraph (1) of subsection (d) amended, 2009, 27 § 27 (See 2009, 27 § 152); amended, 2009, 28 § 59 (See 2009, 28 § 105)

§ 5C inserted, 2009, 166 § 20 (See 166 § 46)

§ 6, paragraph (8) of subsection (l) inserted, 2009, 27 § 28 (See 2009, 27 § 158); paragraph (4) of subsection (o) amended, 2009, 27 § 29; paragraph (1) of subsection (g) revised, 2009, 166 § 21 (See 166 § 47); paragraph (5) of subsection (g) inserted, 2009, 166 § 22 (See 166 § 47)

§ 6I amended, 2009, 159 § 2

§ 6L subsections (a) and (b) revised, 2009, 27 § 30

CHAPTER 62A - Simplified Method of Computing Individual Income Taxes.

CHAPTER 62B - Withholding of Taxes on Wages and Declaration of Estimated Income Tax.

CHAPTER 62C - Administrative Provisions Relative to State Taxation.

§ 16 amended, 2009, 27 § 32 (See 2009, 27 § 156); subsection (l) added, 2009, 27 § 33
§ 21 clauses (24) and (25) of subsection (b) inserted, 2009, 27 § 34
§ 25 amended, 2009, 27 § 35
§ 31A amended, 2009, 27 § 36 (See 2009, 27 § 156)
§ 37 amended, 2009, 27 § 37
§ 40, subsection (b) amended, 2009, 5 § 4 (See § 21)
§ 66 amended, 2009, 27 § 38
§ 67 amended, 2009, 27 § 39
§ 88 added, 2009, 27 § 40

CHAPTER 62D - Set-off Debt Collection.

CHAPTER 62E - Wage Reporting System.

§ 1 amended, 2009, 4 § 39 (See § 84); definition of “Employer” in sixth paragraph revised, 2009, 4 § 40 (See § 84); definition of “Employer” in seventh paragraph revised, 2009, 4 § 41 (See § 84) ; definition of “Reporting system” revised and definitions of “Wage records” and “Wage reporting system” in last paragraph inserted, 2009, 4 § 42 (See § 84)
§ 2 amended, 2009, 4 §§ 43 (See § 84), 44 (See § 84), 45 (See § 84)
§ 2A inserted, 2009, 4 § 46 (See § 84)
§ 3 amended, 2009, 4 §§ 47 (See § 84), 48 (See § 84), 49 (See § 84), 50 (See § 84), 51 (See § 84), 52 (See § 84), 53 (See § 84), 54 (See § 84)
§ 4 paragraph (f) revised, 2009, 4 § 55 (See § 84)
§ 5 amended, 2009, 4 §§ 56 (See § 84), 57 (See § 84), 58 (See § 84), 59 (See § 84); § 60 (See § 84)
§ 6 amended, 2009, 4 § 61 (See § 84)
§ 6B amended, 2009, 4 § 62 (See § 84)
§ 7 amended, 2009, 4 § 63 (See § 84)
§ 7A amended, 2009, 4 § 64 (See § 84)
§ 8 amended, 2009, 4 § 65 (See § 84)
§ 9 amended, 2009, 4 § 66 (See § 84)
§ 10 repealed, 2009, 4 § 67 (See § 84)
§ 11 amended, 2009, 4 § 68 (See § 84), § 69 (See § 84), 70 (See § 84)
§ 12 amended, 2009, 4 § 71 (See § 84), 72 (See § 84), 73 (See § 84), 74 (See § 84), 75 (See § 84)
§ 13 repealed, 2009, 4 § 76 (See § 84)

CHAPTER 62F - Limitation on the Growth of State Tax Revenues.

CHAPTER 63 - Taxation of Corporations.

- § 1 definition of "Gross income" amended, 2009, 27 § 41 (See 2009, 27 § 153); definition of "Net income" amended, 2009, 27 § 42 (See 2009, 27 § 152)
- § 30, paragraph 3 amended, 2009, 27 § 43 (See 2009, 27 § 153); paragraph 4 amended, 2009, 27 § 44 (See 2009, 27 § 152)
- § 31H amended, 2009, 159 § 3
- § 32E, subsections (a) and (b) revised, 2009, 27 § 45
- § 38N, subsections (a) and (b) revised, 2009, 166 § 23 (See 166 § 47); amended, 2009, 166 § 24 (See 166 § 47)
- § 38X amended, 2009, 27 § 46 (See 2009, 27 § 158)
- § 38Z, subsection (d) amended, 2009, 27 § 47
- § 52A amended, 2009, 27 § 48 (See 2009, 27 § 153); paragraph (b) of subsection (1) amended, 2009, 27 § 49 (See 2009, 27 § 152)
- § 68C, clause (9) revised and clause (10) inserted, 2009, 166 § 25 (See 166 § 46)

CHAPTER 63A - Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.

CHAPTER 63B - Declaration of Estimated Tax by Corporations.

**CHAPTER 63C - Taxation of Income of Certain Corporations.
(Chapter repealed, 1985, 593 § 24)**

CHAPTER 64 - Taxation of Stock Transfers.

CHAPTER 64A - Taxation of Sales of Gasoline.

- § 7 amended, 2009, 25 § 67 (See 26 § 60)
- § 13 amended 2009, 25 § 68 (See 26 § 60)

CHAPTER 64B - Excise upon Charges for Meals Served to the Public.

CHAPTER 64C - Cigarette Excise.

CHAPTER 64D - Excise on Deeds, Instruments and Writings.

- § 11 revised, 2009, 61 § 2
- § 12 revised, 2009, 61 § 2
- § 13 stricken out, 2009, 61 § 2

CHAPTER 64E - Taxation of Special Fuels Used in the Propulsion of Motor Vehicles.

§ 5 amended, 2009, 25 § 69 (See 26 § 60)

§ 13 revised, 2009, 25 § 70 (See 26 § 60)

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§ 3 amended, 2009, 25 § 71 (See 26 § 60)

§ 14 revised, 2009, 25 § 72 (See 26 § 60)

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§ 2, clause (b) amended, 2009, 27 § 50 (See 2009, 27 § 154)

§ 3A amended, 2009, 27 §§ 51 (See 2009, 27 § 154), 52 (See 2009, 27 § 154)

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§ 2 amended, 2009, 27 § 53 (See 2009, 27 § 155)

§ 4 revised, 2009, 27 § 54 (See 2009, 27 § 155)

§ 6 amended, 2009, 27 § 55 (See 2009, 27 § 157)

§ 25A revised, 2009, 25 § 73 (See 26 § 60)

§ 30A amended, 2009, 27 § 56 (See 2009, 27 § 155)

CHAPTER 64I - Tax on Storage, Use or Other Consumption of Certain Tangible Personal Property.

§ 2 amended, 2009, 27 § 57 (See 2009, 27 § 155)

§ 4 amended, 2009, 166 § 26

§ 4A amended, 2009, 166 § 27 (See 166 § 47)

§ 5 revised, 2009, 27 § 58 (See 2009, 27 § 155)

§ 26A amended, 25 § 74 (See 26 § 60)

§ 31A amended, 2009, 27 § 59 (See 2009, 27 § 155)

CHAPTER 64J - Taxation of Fuels Used in the Propulsion of Aircraft.

CHAPTER 64K - Controlled Substances Tax.

CHAPTER 64L- Local Option Meals Excise.

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(Chapter inserted, 2009, 27 § 61) (See 2009, 27 § 150)

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- CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.**
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- § 2 amended, 2009, 158 § 22
§ 6, subsection (d) amended, 2009, 27 § 62
§ 10 amended, 2009, 27 § 63; subsection (a) revised, 2009, 27 § 64
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- § 91 added, 2009, 27 § 65.
- CHAPTER 71A - English Language Education in Public Schools.**
- CHAPTER 71B - Children with Special Needs.**
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- CHAPTER 81 - State Highways.**
§ 1 amended, 2009, 25 § 74A (See 26 § 60)

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(Chapter repealed, 2009, 25 § 75) (See 26 § 60)

§ 4 amended, 2009, 10 § 2

CHAPTER 82 - The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.

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CHAPTER 83 - Sewers Drains and Sidewalks.

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§ 7A amended, 2009, 25 § 76 (See 26 § 60)

§ 11C revised, 2009, 26 § 11

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CHAPTER 87 - Shade Trees.

CHAPTER 88 - Ferries, Canals and Public Landings.

CHAPTER 89 - Law of the Road.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 1 amended, 2009, 25 § 77 (See 26 § 60)

§ 1A amended, 2009, 25 § 78 (See 26 § 60)

§ 2, fifteenth paragraph revised, 2009, 48 § 1 (See 48 § 2)

§ 7A amended, 2009, 25 § 79 (See 26 § 60)

§ 20G amended, 2009, 25 § 80 (See 26 § 60)

§ 23 amended, 2009, 27 § 67

§ 30A½ inserted, 2009, 166 § 28

§ 33 amended, 2009, 27 §§ 68, 69

§ 34 revised, 2009, 25 § 81 (See 26 § 60)

§ 34½ repealed, 2009, 25 § 82 (See 26 § 60)

§ 34J amended, 2009, 27 § 70

§ 35 amended, 2009, 25 §§ 83 (See 26 § 60), 84 (See 26 § 60)

§ 50 amended, 2009, 25 § 85 (See 26 § 60)

CHAPTER 90A - The Highway Safety Act.

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§ 8, paragraph (4) of subsection (a) amended, 2009, 27 § 71

§ 34 amended, 2009, 27 § 72

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§ 1 amended, 2009, 25 § 86 (See 26 § 60)

§ 3 amended, 2009, 27 §§ 73, 74

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§ 1 amended, 2009, 25 §§ 87 (See 26 § 60), 88 (See 26 § 60)

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§ 1 amended, 2009, 25 §§ 89 (See 26 § 60), 90 (See 26 § 60)

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§ 35, first paragraph amended, 2009, 25 § 91 (See 26 § 60)

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§ 25I revised, 2009, 166 § 29
§ 51H amended, 2009, 27 § 75
§ 142M amended, 2009, 120 §§ 15, 16, 17, 18, 19

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CHAPTER 111M - Individual Health Coverage.

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§ 51 amended, 2009, 70 § 1.

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§ 6 amended, 2009, 27 § 77

§ 39 amended, 2009, 27 § 78

CHAPTER 118H - Commonwealth Care Health Insurance Program.

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§ 68B amended, 2009, 166 § 29A

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§ 1A amended, 2009, 25 § 92 (See 26 § 60)

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§ 2 amended, 2009, 120 §§ 20, 21

§ 3 amended, 2009, 27 § 79; amended, 2009, 120 § 22

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CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.

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§ 1, definition of "Commissioner" revised, 2009, 161 § 2; definition of "Department" revised, 2009, 161 § 3; definition of "Recreational saltwater fishing" inserted, 2009, 161 § 4

§ 1A amended, 2009, 161 § 5

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§ 17A, second paragraph stricken out, 2009, 161 § 7

§ 17C inserted, 2009, 161 § 8

§ 17D inserted, 2009, 161 § 8

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§ 40A amended, 2009, 25 § 93 (See 26 § 60)

§ 45 amended, 2009, 25 § 94 (See 26 § 60)

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§ 21 amended, 2009, 25 § 95 (See 26 § 60)

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§ 1 definition of “Administrator” stricken out, 2009, 4 § 8 (See § 81)

§ 2 amended, 2009, 4 § 9 (See § 81)

§ 7 amended, 2009, 4 § 10 (See § 81)

§ 9 amended, 2009, 4 §§ 11 (See § 81), 12 (See § 81)

§ 10 amended, 2009, 4 § 13 (See § 81)

§ 11 amended, 2009, 4 § 14 (See § 81); amended, 2009, 27 § 80

§ 12 amended, 2009, 4 § 15 (See § 81)

§ 13 amended, 2009, 4 § 16 (See § 81)

§ 15 amended, 2009, 4 § 17 (See § 81); amended, 2009, 4 § 18 (See § 81)

§ 16 amended, 2009, 4 § 19 (See § 81)

§ 17 amended, 2009, 4 §§ 20 (See § 81), 21 (See Sec. 81)

§ 18 amended, 2009, 4 § 22 (See § 81)

§ 20 amended, 2009, 4 § 23 (See § 81)

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§ 3A amended, 2009, 25 § 96 (See 26 § 60)

§ 94 amended, 2009, 25 § 97 (See 26 § 60)

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§ 32 revised, 2009, 169 § 3.

§ 33 revised, 2009, 169 § 3.

§ 34 amended, 2009, 169 §§ 4, 5

§ 35 revised, 2009, 169 § 6.

§ 35A revised, 2009, 169 § 6.

§ 36 revised, 2009, 169 § 6.

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- § 37 revised, 2009, 169 § 6
- § 38 revised, 2009, 169 § 6
- § 39 revised, 2009, 169 § 6
- § 39A revised, 2009, 169 § 6
- § 39B revised, 2009, 169 § 6
- § 40 revised, 2009, 169 § 6
- § 40A revised, 2009, 169 § 6
- § 42 amended, 2009, 169 § 7
- § 45 amended, 2009, 169 § 8
- § 46 revised, 2009, 169 § 9
- § 47A inserted, 2009, 169 § 10
- § 48 repealed, 2009, 169 § 11
- § 49 repealed, 2009, 169 § 11
- § 50 repealed, 2009, 169 § 11
- § 50A revised, 2009, 169 § 12
- § 51 amended, 2009, 169 § 13

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- § 38A repealed, 2009, 4 § 5 (See § 81)
- § 38B repealed, 2009, 4 § 5 (See § 81)
- § 38C repealed, 2009, 4 § 5 (See § 81)
- § 38D repealed, 2009, 4 § 5 (See § 81)
- § 38E repealed, 2009, 4 § 5 (See § 81)
- § 38F repealed, 2009, 4 § 5 (See § 81)
- § 38G repealed, 2009, 4 § 5 (See § 81)
- § 38H repealed, 2009, 4 § 5 (See § 81)
- § 38I repealed, 2009, 4 § 5 (See § 81)

CHAPTER 148A - Code Enforcement Officer.

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- § 26 amended, 2009, 132 §§ 5, 6
- § 44½ inserted, 2009, 27 § 81
- § 44A, paragraph (A) of subsection (2) revised, 2009, 166 § 30

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§ 20, subsection (d) inserted, 2009, 25 § 98 (See 26 § 60)

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§ 1, definition of "Employer" amended, 2009, 25 § 99 (See 26 § 60)

§ 7 amended, 2009, 25 § 100 (See 26 § 60)

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§ 14G, subsection (g) stricken out, 2009, 4 § 77 (See § 84)

§ 14P inserted, 2009, 4 § 78 (See § 84)

§ 15, subsection (a) amended, 2009, 4 § 79

§ 30 amended, 2009, 30 §§ 1, 2, 3f

§ 46, subsection (j) inserted, 2009, 27 § 82.

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§ 73 amended, 2009, 25 §§ 101 (See 26 § 60), 102 (See 26 § 60), 103 (See 26 § 60)

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§ 1 amended, 2009, 25 § 104 (See 26 § 60)

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- § 1, definition of "Department" revised, 2009, 25 § 105 (See 26 § 60); definition of "Secretary" revised, 2009, 25 § 106 (See 26 § 60)
- § 5, paragraph (g) amended, 2009, 25 § 107 (See 26 § 60)
- § 7 revised, 2009, 25 § 108 (See 26 § 60)
- § 7A, third paragraph revised, 2009, 25 § 109 (See 26 § 60)
- § 13, subsection (a) amended, 2009, 25 § 110 (See 26 § 60)
- § 20 revised, 2009, 25 § 111 (See 26 § 60)
- § 38 amended, 2009, 25 § 112 (See 26 § 60); second paragraph stricken out, 2009, 25 § 113 (See 26 § 60)
- § 43 amended, 2009, 25 § 114 (See 26 § 60); second paragraph revised, 2009, 25 § 115 (See 26 § 60)

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- § 1, definition of "Department" revised, 2009, 25 § 116 (See 26 § 60); definition of "Secretary" revised, 2009, 25 § 117 (See 26 § 60)

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- § 1, definition of "Secretary" revised, 2009, 25 § 119 (See 26 § 60)
- § 2, definition of "Executive office" revised, 2009, 25 § 118 (See 26 § 60)

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- § 2, definition of "Executive office" revised, 2009, 25 § 120 (See 26 § 60); definition of "Secretary" revised, 2009, 25 § 121 (See 26 § 60)

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- § 1E, subsection (c) revised and subsection (d) stricken out, 2009, 133 § 2
- § 1F amended, 2009, 133 § 3.
- § 1I inserted, 2009, 133 § 4
- § 1J inserted, 2009, 133 § 4 (See 133 § 6)
- § 85B inserted, 2009, 133 § 5.
- § 134 amended, 2009, 158 § 24

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§ 47C amended, 2009, 27 § 83

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§ 1, definition of "Board" inserted, 2009, 9 § 1

§ 7A inserted, 2009, 9 § 2

CHAPTER 175F - Medical Malpractice Self-insurance Trust Funds.

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§ 8B amended, 2009, 27 § 84

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§ 4C third paragraph amended, 2009, 27 § 85

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§ 4 amended, 2009, 27 § 86

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§ 17G amended, 2009, 45 § 1 (See 45 § 2)
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§ 3 amended, 2009, 5 §§ 6 (See § 22), 7 (See § 22)

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- § 1 revised, 2009, 28 § 85; definition of "Gift" inserted, 2009, 105 § 1
- § 4 subsection (a) revised, 2009, 28 § 86; subsection (c) amended, 2009, 28 § 87; subsection (d) amended, 2009, 28 § 88; amended, 2009, 28 § 89; amended, 2009, 28 § 90; amended, 2009, 28 § 91; amended, 2009, 28 § 92; paragraph (l) Inserted, 2009, 28 § 93
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