





**ACTS
AND
RESOLVES**

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

2010

VOLUME II

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH





Chapter 165. AN ACT FURTHER REGULATING PUBLIC CHARITIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to update forthwith the public charities 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. Chapter 12 of the General Laws is hereby amended by striking out section 8E, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 8E. (a) A public charity established, organized or chartered under the laws of the commonwealth or under the laws of any other state shall, before engaging in charitable work or raising funds in the commonwealth, register with the division by filing a copy of its charter, articles of organization, agreement of association or instrument of trust, a true copy of its constitution and by-laws and a one-time initial registration fee of \$100, together with such other information as the director may require. A public charity registered with the division shall also file with the division any amendments to its charter, articles of organization, agreement of association, instrument of trust or constitution, within 30 days after adoption. This section shall not apply to the following public charities: the American National Red Cross; the Grand Army of the Republic; American Veterans of World War II, Korea and Vietnam; Vietnam Veterans of America; AMVETS; the United Spanish War Veterans; the American Legion; the disabled American Veterans of the World War; Military Order of the Purple Heart; the Paralyzed Veterans of America; the Veterans of World War I of the U.S.A.; and the Veterans of Foreign Wars of the United States.

(b) If a public charity fails to comply with the requirements of this section, the director shall notify the delinquent public charity, or any responsible officer or agent of the public charity, by mailing a notice thereof by United States certified or registered mail, or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of mailing, to its last known address or that of any such responsible officer or agent. The notice mailed by the director shall be considered sufficient notice, and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, courier or service receipt of the mailing, shall be considered prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery shall not be a defense to the receipt of the notice.

(c) If a complete registration is not filed within 30 days of the day the notice is mailed, the director may assess a civil penalty against the public charity unless the failure to register is for good cause. Notice of the assessment of the penalty shall be mailed to the public charity or responsible officer or agent in the manner provided above for the initial notice. The civil penalty shall be in an amount of up to \$50 per day for each day subsequent to the end of such 30 day period until a complete registration is filed; provided, however, that the maximum aggregate penalty for failure to register shall not be greater than \$10,000.

(d) A public charity aggrieved by the imposition of a civil penalty pursuant to this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a public charity fails to pay the civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce the penalty or to obtain any other relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring such action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

(e) The penalty that may be imposed on the public charity as provided in this section may be assessed against a responsible officer or agent of the public charity, upon a finding by the director that the responsible officer or agent has the authority to cause the public charity to comply with the registration requirements of this section but has neglected or refused to do so after notice and demand. The president and treasurer of the public charity, and any person authorized in its by-laws, operating agreement, articles of organization, charter, organizational documents or by resolution of its board of trustees or directors to sign documents or filings on behalf of the public charity, shall be rebuttably presumed to have the authority to cause the public charity to comply with the registration requirements of this section.

(f) Before the assessment, the director shall provide the responsible officer or agent with notice of the director's intention to find that person to be a responsible officer or agent and to assess that person the penalties provided for in this section. Notice shall be mailed by United States certified or registered mail, or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of mailing, to the last known address of the person as set forth in any filing made by the public charity or shown in its records, or as otherwise determined by the director. The notice shall be considered a sufficient notice of the division's intention to assess the penalties and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, courier or service receipt of such mailing, shall be considered prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery of the mailing shall not be a defense to the receipt of the notice.

(g) A person served with notice under clause (f) may, within 60 days from the date of the notice, request an opportunity to be heard by the division to present reasons why he should not be determined to be a responsible officer or agent within the meaning of this section. Upon a finding by the division that the person is a responsible officer or agent and has failed, without good cause, to cause the public charity to comply with the registration requirements of this section, a civil penalty that may be assessed against the public charity may, in the alternative, be assessed against that person and that person shall not be entitled to indemnification or reimbursement by or from the public charity for the civil penalty.

(h) A person aggrieved by the imposition of a civil penalty under this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a person fails to pay the civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce such penalty or to obtain any other relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring such action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

SECTION 2. Section 8F of said chapter 12, as so appearing, is hereby amended by inserting after the word “dollars”, in lines 42 and 43, the following words:- but not more than \$1,000,000; (e) \$500, if more than \$1,000,000 but not more than \$10,000,000; (f) \$1,000, if more than \$10,000,000 but not more than \$100,000,000; (g) \$2,000, if more than \$100,000,000.

SECTION 3. Said section 8F of said chapter 12, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following 8 paragraphs:-

If a public charity fails to file a written report for any year, the director shall notify the delinquent public charity, or the responsible officer or agent of the public charity, by mailing a notice thereof by United States certified or registered mail, or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of mailing, to its last known address or that of the responsible officer or agent. The notice mailed by the director shall be considered a sufficient notice, and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, courier or service receipt of the mailing, shall be considered prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery of the mailing shall not be a defense to the receipt of the notice.

If a complete report is not filed within 30 days of the day the notice is mailed, the director may assess a civil penalty against the public charity unless the failure to file is for good cause. Notice of the assessment of the penalty shall be mailed to the public charity or responsible officer or agent in the manner provided above for the initial notice. The civil penalty shall be in an amount of up to \$50 per day for each day subsequent to the end of the 30 day period until a complete report is filed; provided, however, that the maximum aggregate penalty assessed with respect to any report shall not be greater than \$10,000.

A public charity aggrieved by the imposition of a civil penalty under this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a public charity fails to pay any civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce the penalty or to obtain any other relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring

such action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

The penalty that may be imposed on the public charity as provided herein may be assessed against a responsible officer or agent of the public charity upon a finding by the director that the responsible officer or agent has the authority to cause the public charity to comply with the requirements of this section but has neglected or refused to do so after notice and demand. The president and treasurer of the public charity, and any person authorized in its by-laws, operating agreement, articles of organization, charter, organizational documents or by resolution of its board of trustees or directors to sign documents or filings on behalf of the public charity, shall be rebuttably presumed to have the authority to cause the public charity to comply with the requirements of this section.

Before the assessment, the director shall provide the responsible officer or agent with notice of the director's intention to find the person to be a responsible officer or agent and to assess that person the penalties provided for hereunder. Notice shall be delivered by United States certified or registered mail or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of mailing, to the last known address of the person as set forth in any filing made by the public charity or shown in its records, or as otherwise determined by the director. The notice shall be considered a sufficient notice of the division's intention to assess the penalties and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, service or courier receipt of the mailing, shall be considered prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery of that mailing shall not be a defense to the receipt of the notice.

The person may, within 60 days from the date of the notice, request an opportunity to be heard by the division to present reasons why he should not be determined to be a responsible officer or agent within the meaning of this section. Upon a finding by the division that the person is a responsible officer or agent and has failed, without good cause, to cause the public charity to comply with the filing requirements of this section, a civil penalty that may be assessed against the public charity may, in the alternative, be assessed against that person and that person shall not be entitled to indemnification or reimbursement by or from the public charity for the civil penalty.

A person aggrieved by the imposition of a civil penalty under this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a person fails to pay the civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce the penalty or to obtain any other relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring the action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

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A public charity, or an officer or agent of a public charity, who willfully makes, executes or files a report false in any material representation shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

SECTION 4. Section 21 of chapter 68 of the General Laws is hereby repealed.

SECTION 5. Said chapter 68 is hereby further amended by striking out section 23, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 23. Solicitations by professional solicitors and solicitations by commercial co-venturers shall contain, at the time of solicitation, the following disclosures: (1) the name, address and telephone number of the charitable organization and a description of how the contributions raised by the solicitation will be utilized for charitable purposes, or if there is no charitable organization, the name, address and telephone number of the professional solicitor or commercial co-venturer and a description of how the contributions raised by the solicitation will be utilized for charitable purposes; (2) a statement that the solicitation is being conducted by a paid fundraiser; and (3) such other disclosures as required by relevant rules and regulations promulgated under section 29. If the solicitation is for advertising, the disclosure shall also include the geographic distribution and the circulation of the publication in which the advertising will appear.

SECTION 6. Section 24 of said chapter 68, as so appearing, is hereby amended by striking out, in lines 9 to 11, inclusive, the words “(a) professional solicitor, three hundred dollars; (b) professional fund-raising counsel, two hundred dollars; (c) commercial co-venturer, fifty dollars, and inserting in place thereof the following words:- (i) professional solicitor, \$1,000; (ii) professional fundraising counsel, \$400; (iii) commercial co-venturer, \$200.

SECTION 7. Said section 24 of said chapter 68, as so appearing, is hereby further amended by striking out, in lines 17 to 18, the words “ten thousand dollars”, and inserting in place thereof, the following figure:-\$25,000.

SECTION 8. Said section 24 of said chapter 68, as so appearing, is hereby further amended by inserting after the word “bond.”, in line 27, the following sentence:- A professional solicitor shall conduct solicitations only by or through persons who are covered (i) by a consolidated bond under which the professional solicitor is the principal obligor, or (ii) by a bond under which the person is both the principal obligor and independently registered with the division as a professional solicitor under clause (a).

SECTION 9. Section 32 of said chapter 68, as so appearing, is hereby amended by adding the following 7 subsections:-

(f) In addition to any remedies or actions authorized or permitted under subsections (a) to (e), inclusive, if any charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor violates one or more applicable provisions

of section 19, 22 or 24, the director shall notify the delinquent charitable organization, professional fundraising counsel, commercial co-venturer, professional solicitor, or any responsible officer or agent of any of the foregoing by mailing a notice thereof by United States certified or registered mail or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of delivery, to its last known address or that of the responsible officer or agent. The notice mailed by the division shall be considered a sufficient notice, and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, courier or service receipt of the mailing, shall be considered prima facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery of the mailing shall not be a defense to the receipt of the notice.

(g) If the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor fails to correct the violation within 30 days of the day the notice is mailed, the director may assess a civil penalty against the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor unless the failure is for good cause. Notice of the assessment of the penalty shall be mailed to the charitable organization, professional fundraising counsel, commercial co-venturer, professional solicitor or responsible officer or agent in the manner provided above for the initial notice. For charitable organizations the civil penalty shall be in an amount of up to \$50 per day for each day subsequent to the end of the 30 day period until the violation is cured; provided, however, that the maximum aggregate penalty shall not be greater than \$10,000. For a professional fundraising counsel, commercial co-venturer or professional solicitor, the civil penalty shall be in an amount of up to \$500 per day for each day subsequent to the end of the 30 day period until the violation is cured; provided, however, that the maximum aggregate penalty shall not be greater than \$25,000.

(h) A charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor aggrieved by the imposition of a civil penalty pursuant to this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a charitable organization, professional fundraising counsel, commercial co-venturer, professional solicitor or responsible officer or agent fails to pay any civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce the penalty or to obtain any other relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring the action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

(i) The penalty that may be imposed on the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor may be assessed against a responsible officer or agent of the charitable organization, professional fundraising

counsel, commercial co-venturer or professional solicitor, upon a finding by the director that the responsible officer or agent has the authority to cause the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor to comply with the requirements of this chapter, but has neglected or refused to do so after notice and demand. The president and treasurer of the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor, and any person authorized in its by-laws, operating agreement, articles of organization, charter, organizational documents or by resolution of its board of trustees or directors to sign documents or filings on behalf of the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor, shall be rebuttably presumed to have the authority to cause the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor to comply with the requirements of this chapter.

(j) Before the assessment, the director shall provide the responsible officer or agent with notice of the director's intention to find the person to be a responsible officer or agent and to assess that person the penalties provided for hereunder. Notice shall be delivered by United States certified or registered mail or by any other courier or service found by the director to be sufficiently reliable to generate written documentation of mailing, to the last known address of the person as set forth in any filing made by the public charity or shown in its records or as otherwise determined by the director. The notice shall be considered a sufficient notice of the division's intention to assess the penalties and a certificate of the person mailing the notice that it has been mailed in accordance with this section, together with a post office, courier or service receipt of the mailing, shall be considered *prima facie* evidence thereof and shall be admissible in any court of the commonwealth as to the facts contained therein. Refusal of delivery of the mailing shall not be a defense to the receipt of the notice.

(k) A person served with notice under clause (j) may, within 60 days from the date of the notice, request an opportunity to be heard by the division to present reasons why he should not be determined to be a responsible officer or agent within the meaning of this section. Upon a finding by the division that the person is a responsible officer or agent and has failed, without good cause, to cause the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor to comply with the requirements of this chapter, any civil penalty that may be assessed against the charitable organization, professional fundraising counsel, commercial co-venturer or professional solicitor may, in the alternative, be assessed against that person. In the case of a charitable organization, the person shall not be entitled to indemnification or reimbursement by or from the charitable organization for the civil penalty.

(l) A person aggrieved by the imposition of a civil penalty under this section may bring a civil action in the nature of certiorari under section 4 of chapter 249; provided, however, that the action shall be commenced within 60 days of the date of the notice of the civil penalty. If a person fails to pay the civil penalty provided herein, the attorney general may initiate a civil action in the superior court to enforce the penalty or to obtain any other

relief so required. The action by the attorney general may be initiated, if no action is commenced under section 4 of chapter 249, upon the expiration of the 60 day period to bring such action or, if an action is commenced under said section 4 of said chapter 249, the issuance of a final judicial determination thereon.

SECTION 10. Chapter 180 of the General Laws is hereby amended by striking out section 11A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 11A. (a) A charitable corporation constituting a public charity organized under any general or special law, which desires to voluntarily windup and close its affairs, may authorize its dissolution in accordance with this section. This section shall constitute the sole method for the voluntary dissolution of a charitable corporation.

(b) A petition for dissolution shall be authorized by vote of a majority of the corporation's board of directors entitled to vote thereon; provided, however, that if the corporation has 1 or more classes of members, the corporation may, in its articles of incorporation, in a by-law adopted by the incorporators under section 3 or in a by-law adopted by the members, assign the power of authorization to the members acting by majority vote of the members entitled to vote thereon or provide that the exercise of the power shall be subject to approval by the members.

(c) If the corporation has no remaining assets, the petition for dissolution shall be submitted to the division of public charities of the office of the attorney general setting forth in substance the grounds of the application for dissolution together with the forms, affidavits and information as the division from time to time may prescribe. If the division is satisfied that the corporation has or will become inactive and that its dissolution would be in the public interest, the division may approve the dissolution of the corporation.

(d) If the corporation has remaining assets, the petition for its dissolution shall be filed in the supreme judicial court setting forth in substance the grounds for the application for dissolution and requesting the court to authorize the administration of its funds for similar public charitable purposes as the court may determine. The supreme judicial court may, by rule or order, provide that the petition and court authorization are not required for dissolutions approved by the division upon receipt of the forms, affidavits and information as the division may require if the corporation has net assets no greater than such amount as the court may provide in the rule or order or in such other situations as the court may provide.

SECTION 11. Sections 1, 3, 6, 7 and 9 shall take effect on January 1, 2011.

SECTION 12. Section 2 shall apply only to fiscal years ending on or after December 31, 2010.

Approved July 19, 2010.

Chapter 166. AN ACT RELATIVE TO SAFETY REGULATIONS FOR SCHOOL ATHLETIC PROGRAMS.

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

Be it enacted, etc., as follows:

SECTION 1. Chapter 111 of the General Laws is hereby amended by adding the following section:-

Section 222. (a) The department shall direct the division of violence and injury prevention to develop an interscholastic athletic head injury safety training program in which all public schools and any school subject to the Massachusetts Interscholastic Athletic Association rules shall participate. Participation in the program shall be required annually of coaches, trainers and parent volunteers for any extracurricular athletic activity; physicians and nurses who are employed by a school or school district or who volunteer to assist with an extracurricular athletic activity; school athletic directors; directors responsible for a school marching band; and a parent or legal guardian of a child who participates in an extracurricular athletic activity.

In developing the program, the division may use any of the materials readily available from the Centers for Disease Control and Prevention. The program shall include, but not be limited to: (1) current training in recognizing the symptoms of potentially catastrophic head injuries, concussions and injuries related to second impact syndrome; and (2) providing students that participate in any extracurricular athletic activity, including membership in a marching band, the following information annually: a summary of department rules and regulations relative to safety regulations for students participation in extracurricular athletic activities, including the medical protocol for post-concussion participation or participation in an extracurricular athletic activity; written information related to the recognition of symptoms of head injuries, the biology and the short-term and long-term consequences of a concussion.

(b) The department shall develop forms on which students shall be instructed to provide information relative to any sports head injury history at the start of each sports season. These forms shall require the signature of both the student and the parent or legal guardian thereof. Once complete, the forms shall be forwarded to all coaches prior to allowing any student to participate in an extracurricular athletic activity so as to provide coaches with up-to-date information relative to an athlete's head injury history and to enable coaches to identify students who are at greater risk for repeated head injuries.

(c) If a student participating in an extracurricular athletic activity becomes unconscious during a practice or competition, the student shall not return to the practice or competition during which the student became unconscious or participate in any extracurricular athletic activity until the student provides written authorization for such participation, from a licensed physician, licensed neuropsychologist, certified athletic trainer

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or other appropriately trained or licensed health care professional as determined by the department of public health, to the school's athletic director.

If a student suffers a concussion as diagnosed by a medical professional, or is suspected to have suffered a concussion while participating in an extracurricular athletic activity, the student shall not return to the practice or competition during which the student suffered, or is suspected to have suffered, a concussion and shall not participate in any extracurricular athletic activity until the student provides written authorization for such participation, from a licensed physician, licensed neuropsychologist, certified athletic trainer or other appropriately trained or licensed health care professional as determined by the department of public health, to the school's athletic director.

(d) A coach, trainer or volunteer for an extracurricular athletic activity shall not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.

(e) The superintendent of the school district or the director of a school shall maintain complete and accurate records of the district's or school's compliance with the requirements of this section. A school that fails to comply with this section, as determined by the department, shall be subject to penalties as determined by the department.

(f) Nothing in this section shall be construed to waive liability or immunity of a school district or its officers or employees. This section shall not create any liability for a course of legal action against a school district, its officers or employees.

(g) A person who volunteers to assist with an extracurricular athletic activity shall not be liable for civil damages arising out of any act or omission relating to the requirements of this section, unless such person is willfully or wantonly negligent in his act or omission.

(h) The division shall adopt regulations to carry out this section.

SECTION 2. Penalties for noncompliance with the program or regulations promulgated pursuant to said section 222 of said chapter 111 shall not be imposed before January 1, 2011.

Approved July 19, 2010.

Chapter 167. AN ACT RELATIVE TO PROPERTY TAX EXEMPTIONS FOR RENTAL PROPERTIES IN THE TOWN OF WELLFLEET RESTRICTED AS AFFORDABLE HOUSING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, dwelling units, in the town of Wellfleet, occupied by income eligible households and rented for an amount not exceeding the fair market rents established by the United States Department of

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Housing and Urban Development shall be exempt from taxation under chapter 59 of the General Laws.

SECTION 2. Households leasing and occupying the affordable dwelling unit shall upon initial application and annually thereafter, on September first, submit to the town of Wellfleet or its agent, documentation necessary to confirm their eligibility for the dwelling unit. Dwelling units shall be rented to those meeting the guidelines for a low or moderate income family. For the purposes of this act, low income households shall have an income less than 80 per cent of the town of Wellfleet median household income, as established by the United States Department of Housing and Urban Development for Barnstable Town Metropolitan Statistical Area and moderate income households shall have an income between 80 per cent and 120 per cent of the town of Wellfleet median household income as calculated on the basis of the same area median income statistic as determined by the United States Department of Housing and Urban Development published income guidelines, as calculated on the basis of the same area median income statistic.

SECTION 3. Maximum rents shall not exceed fair market rents established by the United States Department of Housing and Urban Development for the period commencing October 1 of the most recent year. Property owners shall submit to the town of Wellfleet or its agent information on the rents to be charged. Each year thereafter, on the first day of September, they shall submit information on annual rents charged and a signed lease to the town or its agent. Forms for this purpose shall be provided.

SECTION 4. The exemption shall be equal to the tax otherwise owed on the property based on the assessed value of the property, including accessory dwelling units, multiplied by the square feet of the living space of all dwelling units on the property that are restricted to occupancy by low or moderate income households, divided by the total square feet of structures on the property. For property with a single dwelling unit, the exemption allowed shall not exceed 50 per cent of the tax otherwise owed. For purposes of determining the assessed value of the property, if by income approach to value, the assessment shall assume that all housing units are rented at fair market rent as determined by the United States Department of Housing and Urban Development. To be eligible for exemption, the housing unit shall be leased to a low or moderate income household at such rents for the entire fiscal year for which the exemption is sought.

SECTION 5. The date of determination as to the qualifying factors required by this act shall be the first day of September of each year.

SECTION 6. This act shall be submitted to the voters of the town of Wellfleet at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election:

“Shall an act passed by the General Court in the year 2010 entitled ‘An Act Relative to Property Tax Exemptions for Rental Properties in the town of Wellfleet Restricted as Affordable Housing’, be accepted?”

If a majority of the votes cast in answer to the question is in the affirmative, then this act shall take effect, but not otherwise.

Approved July 19, 2010

Chapter 168. AN ACT REQUIRING ENGINE COOLANT AND ANTIFREEZE TO CONTAIN A BITTERING AGENT SO AS TO RENDER IT UNPALATABLE.

Be it enacted, etc., as follows:

Chapter 94 of the General Laws is hereby amended by inserting after section 303M the following section:-

Section 303N. Notwithstanding any general or special law, rule or regulation to the contrary, except as may be otherwise provided in this section, engine coolant or antifreeze containing more than 10 per cent ethylene glycol that is manufactured after January 1, 2011 may not be sold in the commonwealth unless said engine coolant and antifreeze shall include denatonium benzoate at a minimum of 30 parts per million and a maximum of 50 parts per million as a bittering agent within the product so as to render it unpalatable.

A manufacturer of a product for sale in the commonwealth subject to this section shall maintain a record of the trade name, scientific name and active ingredients of the bittering agent used pursuant to this section, and that information shall be available to the public upon request.

A manufacturer, processor, distributor, recycler or seller of an engine coolant or antifreeze that is required to contain an aversive agent, as described in the first paragraph, shall not be liable for personal injury or death incurred by a resident of the commonwealth, or for any property damage, or damage to the environment, including natural resources, or economic loss that results from the inclusion of denatonium benzoate in the engine coolant or antifreeze, provided that the inclusion of denatonium benzoate is present in concentrations described and mandated by the first paragraph. The limitation on liability, as provided in this paragraph, shall not apply to a particular liability to the extent that the cause of that liability is found to be unrelated to the inclusion of denatonium benzoate in the engine coolant or antifreeze.

A city or town, or any subdivision thereof, shall not establish or continue in effect a local ordinance or policy concerning retail containers of engine coolant or antifreeze sold in that city or town, which in any manner shall limit or otherwise prohibit the inclusion of a bittering agent in the engine coolant or antifreeze that is in any way different from, or in addition to, the provisions of this section.

This section shall not prevent the sale of a motor vehicle in the commonwealth where engine coolant or antifreeze may be found in the radiator of the motor vehicle that does not

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meet the provisions of the first paragraph of this section. This section shall also not apply to wholesale containers of engine coolant or antifreeze containing 55 gallons or more of engine coolant or antifreeze.

A person who violates this section shall be subject to the penalty set forth in section 303M for each violation.

Approved July 19, 2010.

Chapter 169. AN ACT AUTHORIZING THE TOWN OF NORWOOD TO ACQUIRE A CERTAIN PARCEL OF REAL ESTATE FROM THE VETERANS OF FOREIGN WARS NORWOOD 2452, INC. AND TO LEASE THE SAME TO THE POST AND CERTAIN OTHER VETERANS' ORGANIZATIONS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 30B of the General Laws, but subject to subsections (a), (b) and (g) of section 16 of said chapter 30B, the board of selectmen of the town of Norwood may acquire by purchase or otherwise a certain parcel of land with buildings and improvements thereon located at 193 Dean street in the town of Norwood, owned by the Veterans of Foreign Wars Norwood 2452, Inc.

SECTION 2. Notwithstanding chapter 30B of the General Laws, but subject to subsections (a), (b) and (g) of section 16 of said chapter 30B, the board of selectmen of the town of Norwood may lease the premises described in section 1 to the Veterans of Foreign Wars Norwood 2452, Inc. or other veterans' organizations for a term not to exceed 25 years upon such terms as the board of selectmen considers appropriate.

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

Approved July 22, 2010.

Chapter 170. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF WESTMINSTER AS THE RYAN PATRICK JONES BRIDGE.

Be it enacted, etc., as follows:

The bridge located on the Mohawk Trail on Route 2, spanning Bacon street in the town of Westminster and referenced by the Massachusetts Department of Transportation as "W-28-22" shall be designated and known as the Ryan Patrick Jones Bridge. The department shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department.

Approved July 22, 2010.

Chapter 171. AN ACT RELATIVE TO THE PROVISION OF NOTICE OF THE AVAILABILITY OF THE ANNUAL FINANCE COMMITTEE REPORT.

Be it enacted, etc., as follows:

Chapter 9 of the charter of the town of North Andover, which is on file in the office of the archivist of the commonwealth as provided by section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 9-6-1 and inserting in place thereof the following section:-

9-6-1 The finance committee shall conduct at least 1 public hearing on the proposed budget and capital improvements plan and shall issue printed recommendations, if the recommendations are available, and detailed explanations on all financial articles, including the operating budget and the capital improvements plan in an annual finance committee report. This report shall be made available to all residents of the town at least 21 days prior to the annual town meeting, at town hall, at Stevens memorial library, on the town of North Andover website and, by request, by e-mail and United States mail. Notice of availability shall be published in a newspaper of general circulation. Copies of the annual finance committee report shall also be made available at the annual town meeting. In preparing its recommendations, the committee may require the town manager, any town division, department, office, board, commission or committee to furnish it with appropriate financial reports and budgetary information.

Approved July 22, 2010

Chapter 172. AN ACT RELATIVE TO THE NORTH CARVER WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 124 of the acts of 2008 is hereby amended by striking out the definition of "Bonds" or "bond" and inserting in place thereof the following definition:-

"Bonds", general obligation bonds, notes or other obligations that the town has authorized or issued to finance capital costs prior to the effective date of this act, or that the town of Carver may issue to pay capital costs after said effective date, upon the request of the district by a vote of two-thirds of the members of the commission. Any such bonds shall be issued for terms not to exceed 40 years and shall otherwise be issued in accordance with chapter 44 of the General Laws. A bond issued pursuant to this act shall be arranged so that the amounts payable over a term of years for principal and interest combined shall be as equal as practicable in the opinion of the officers authorized to issue the bonds or, in the alternative, in accordance with a schedule that provides a more rapid amortization of the principal. Notwithstanding any general or special law to the contrary, the district may issue

its bonds only if the commission, in consultation with the local appointing authority, determines that such bonds are required to be issued by the district to the United States Rural Development Administration or to any other similar federal or state agency to qualify for federal or state grants, loans or any other financial assistance with respect to the development of the district's facilities. Bonds issued by the district shall not be included in any debt or other limitation pursuant to any general or special law. Bonds issued by the district in accordance with this act and not paid by the district when they become due and payable shall constitute a pledge of the full faith and credit of the town and shall be a debt of the town within the meaning of section 23 of chapter 59 of the General Laws. Bonds issued by the district pursuant to this act shall be signed by a majority of the commission and acknowledged by the signatures of the town treasurer and by a majority of the selectmen of the town. Bonds issued by the town to pay capital costs of the district shall be signed by such parties as shall be required for other bonds or notes of the town as required by chapter 44 of the General Laws.

SECTION 2. Said section 1 of said chapter 124 is hereby further amended by striking out the definition of "District service area" and inserting in place thereof the following definition:-

"District service area", the area exclusively within the town as shown on the map of the district on file in the town clerk's office as may be amended by a majority vote of each of the commission, the local appointing authority and the town.

SECTION 3. Section 2 of said chapter 124 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Except as otherwise provided in this act, the powers of the commission shall be exercised by a board of 3 members to be elected by the voters of the town for overlapping 3-year terms. Vacancies shall be filled in accordance with section 11 of chapter 41 of the General Laws, except that at the annual town election held by the town in 2009, the initial members of the commission shall be elected to 1-, 2- and 3-year terms, with the candidate receiving the highest number of votes to serve for a 3-year term, the candidate with the second highest number of votes to serve for a 2-year term and the candidate with the third highest number of votes to serve for a 1-year term. Until the initial members of the commission are elected in accordance with this section, the board of selectmen shall appoint 3 registered voters of the town as members. Two members of the commission shall constitute a quorum and the affirmative vote of 2 members shall be necessary for any action requiring a vote of the commission. Any such action shall take effect immediately unless otherwise provided and shall not require publication or posting.

SECTION 4. Subsection (h) of section 4 of said chapter 124 is hereby amended by adding the following words:- in an intermunicipal agreement entered into in accordance with section 4A of chapter 40 of the General Laws, except that the maximum term of any such intermunicipal agreement shall be 50 years.

SECTION 5. Section 5 of said chapter 124 is hereby amended by striking out the introductory paragraph.

SECTION 6. The second sentence of subsection (a) of said section 5 of said chapter 124 is hereby amended by striking out the word “clause” and inserting in place thereof the following word:- subsection.

SECTION 7. The first sentence of subsection (b) of said section 5 of said chapter 124 is hereby amended by striking out the word “clause” and inserting in place thereof, in each instance, the following word:- subsection.

SECTION 8. The first sentence of subsection (c) of said section 5 of said chapter 124 is hereby amended by striking out the word “clauses” and inserting in place thereof the following word:- subsections.

SECTION 9. Said section 5 of said chapter 124 is hereby further amended by adding the following 3 subsections:-

(h) The commission may enter a deferral and recovery agreement with owners of real property who meet the requirements of section 13B of chapter 80 of the General Laws on behalf of the district as though the town has accepted said section 13B of said chapter 80 for that purpose.

(i) Notwithstanding section 15B or section 39B of chapter 40 of the General Laws or any other general or special law requiring local or state approval or vote for the transfer or conveyance of easements taken for water supply purposes, the easements acquired by order of taking dated March 24, 2008, and recorded in the Plymouth county registry of deeds, book 37071, page 257 for water supply purposes as authorized by the vote taken under article 4 of the warrant for the special town meeting held on February 25, 2008, shall be transferred and conveyed to the district for water supply and distribution purposes.

(j) The powers and limitations provided in this section shall be in addition to the powers of the commission that are otherwise provided in this act.

SECTION 10. Section 6 of said chapter 124 is hereby amended by adding the following 2 sentences:- The assessments shall bear interest either at the rate of 5 per cent per annum or, at the election of the commission, at a rate not greater than 2 per cent above the rate of interest chargeable to the town or the district for the water works project to which the assessments relate, from the thirtieth day after assessments have been committed to the collector. An election made prior to the passage of this act by the district or the town is hereby ratified, validated and confirmed.

SECTION 11. This act shall take effect as of June 4, 2008, and all acts taken by the commission between June 4, 2008, and the effective date of this act are hereby ratified, validated and confirmed.

Approved July 22, 2010.

**Chapter 173. AN ACT AUTHORIZING THE TOWN OF WESTWOOD TO GRANT
3 LICENSES FOR THE SALE OF WINES AND MALT BEVERAGES
TO FOOD STORES.**

Be it enacted, etc., as follows:

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SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westwood may grant 3 licenses for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138 to food stores. Except as otherwise provided herein, the licenses shall be subject to all of said chapter 138, except said section 17.

(b) For the purposes of this act, "food store" shall mean a grocery store or supermarket with a floor area of more than 1,000 square feet which sells at retail, food for consumption on or off the gross premises either alone or in combination with grocery items or other nondurable items typically found in a grocery store and sold to individuals for personal family or household use; provided, however, that the food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store shall not be a convenience store, specialty store or a store that sells gasoline; provided, however, that the board of selectmen shall determine whether an applicant is a food store under this act. In making such determination, the board of selectmen shall consider such factors as the volume of sales, actual or proposed, and the extent and range of merchandise offered for sale. A licensee under this act may sell wines and malt beverages alone or in combination with any other items offered for sale and the food store shall be lawfully operating as a commercial business. The amount of any initial or renewal fee for such license shall be determined by the licensing authority.

(c) Notwithstanding any general or special law, rule or regulation to the contrary, the licensing authority shall not approve the transfer of the license to any other location, but the license may be granted to a new applicant at the same location if the applicant 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.

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

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

Approved July 22, 2010.

Chapter 174. AN ACT AUTHORIZING THE TOWN OF SHEFFIELD TO CONTINUE THE EMPLOYMENT OF POLICE CHIEF JAMES M. MCGARRY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, James M. McGarry, chief of the police department of the town of Sheffield, may continue in such position until June 30, 2015 or until the date of his retirement, whichever occurs first, if he is mentally and physically capable of performing the duties of such office. The board of selectmen may, at its own expense, require James M. McGarry to be examined by an impartial physician designated by them to determine such capability. No further deductions shall be made from the regular compensation of James M. McGarry under chapter 32 of the General Laws for service subsequent to January 4, 2011, and upon his retirement he shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on that date.

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

Approved July 22, 2010.

Chapter 175. AN ACT RELATIVE TO THE FINANCING OF WIND ENERGY FACILITIES IN THE TOWN OF FALMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 200 of the acts of 2007 is hereby amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Falmouth may establish a fund, which shall be kept separate and apart from all other monies of the town, into which shall be deposited all revenues from the operation of the wind energy facilities authorized in this act and from any other renewable energy producing facilities which the town is authorized by law to operate and all monies received for the benefit of the wind energy facilities and any other renewable energy facilities, other than the proceeds of bonds or notes issued therefore. The receipts may be appropriated to pay the cost of operation and maintenance of wind energy facilities and any other renewable energy facilities, to pay costs of future improvements and repairs thereto, to offset the other energy or energy related expenses of the town, to pay the principal and interest on any bonds or notes issued therefore and for any other lawful municipal purpose.

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

Approved July 22, 2010.

Chapter 176. AN ACT RELATIVE TO SAVINGS BANK LIFE INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 178A of the General Laws is hereby repealed.

SECTION 2. Notwithstanding any general or special law to the contrary, the domestic stock life insurance company, established by chapter 499 of the acts of 1990, known as The Savings Bank Life Insurance Company of Massachusetts, may adopt restated articles of organization and by-laws as approved by stockholders under section 4 of chapter 178A of the General Laws, which shall provide for the governance and capital structure of the company, including a policyholders advisory board which may make recommendations to the company on maintaining safe low-cost insurance, as the same shall be amended from time to time, in such form and manner as is permissible for other domestic stock life insurance companies under chapter 175 of the General Laws.

SECTION 3. This act shall not be construed in any manner whatsoever to limit the current rights, powers and privileges of The Savings Bank Life Insurance Company of Massachusetts, nor to alter, abridge, amend or modify in any respect the existing assets and liabilities of the company, under any contract, policy or other instrument of any nature. The company shall continue to have the rights, powers and privileges and be subject to all the duties, liabilities and restrictions of a domestic stock insurance company established under the provisions of chapter 175 of the General Laws.

SECTION 4. Section 1 shall take effect upon the date the restated articles of organization, as set forth in section 2, are filed with the state secretary under section 50B of chapter 175 of the General Laws; provided, however, that the restated articles of organization shall be filed by December 31, 2010; provided, further, that the members of the policyholders protective board, established by section 9 of chapter 178A of the General Laws shall serve as members of the policyholders advisory board as set forth in section 2 until each member's term of appointment to the policyholders protective board under said section 9 of said chapter 178A expires; and provided, further, that upon the filing of the restated articles of organization, the state secretary shall, within 30 days, notify the clerks of the senate and the house of representatives that the articles have been adopted and filed.

Approved July 25, 2010.

Chapter 177. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SHARON BAERT, 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.

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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 developmental services shall establish a sick leave bank for Sharon Baert, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Sharon Baert. Whenever Sharon Baert 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 July 26, 2010.

Chapter 178. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JOHN K. RYAN, AN EMPLOYEE OF THE OFFICE OF THE INSPECTOR GENERAL.

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 the inspector general, therefore 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 the inspector general shall establish a sick leave bank for John K. Ryan, an employee of the office. Any employee of the office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by John K. Ryan. Whenever John K. Ryan 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. 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.

Approved July 26, 2010.

Chapter 179. AN ACT RELATIVE TO THE SALE OF ANTIQUE BAROMETERS, THERMOMETERS AND CLOCKS.

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

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is to allow forthwith for the sale of mercury-added antique barometers, antique thermometers and antique clocks, therefore 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 6D of chapter 21H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Subsections (a) and (b) shall not apply: (i) to the sale of mercury-added products if the use of the product is a federal requirement; (ii) to the sale of thermometers if they are determined to be medically necessary by a licensed physician or are ordered by prescription, or (iii) to the sale of mercury-added antique barometers, including antique barometers with attached mercury thermometers, if the barometer was manufactured prior to 1955.

SECTION 2. Section 6J of said chapter 21H, as so appearing, is hereby amended by adding the following subsection:-

(j) This section shall not apply to mercury-added antique barometers, antique thermometers, and antique clocks if the antique barometer, thermometer or clock was manufactured prior to 1955.

SECTION 3. Section 6K of said chapter 21H, as so appearing, is hereby amended by adding the following subsection:-

(f) This section shall not apply to mercury-added antique barometers, antique thermometers, and antique clocks if the antique barometer, thermometer or clock was manufactured prior to 1955. A person who sells a mercury-added antique barometer, thermometer or clock manufactured prior to 1955 shall clearly inform the purchaser, in writing, at the time of sale: (1) that the antique contains mercury; (2) that mercury is a hazardous substance; (3) that mercury is regulated by federal and state law; (4) the proper and commercially available methods for disposal and recycling of the antique; and (5) the proper procedures for cleaning up mercury spills if the antique is broken while in the purchaser's possession.

Approved July 26, 2010.

Chapter 180. AN ACT ESTABLISHING A SICK LEAVE BANK FOR JAMES E. MUNCHBACH, 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.

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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 James E. Munchbach, an employee of the 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 James E. Munchbach. Whenever James E. Munchbach 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 26, 2010.

**Chapter 181. AN ACT RELATIVE TO INTEREST RATES TO BE CHARGED
UPON APPORTIONED BETTERMENT ASSESSMENTS IN THE
TOWN OF WAREHAM.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Wareham, with respect to betterment assessments for projects assessed after the effective date of this act, may assess interest on betterment assessments at the rate of interest set by the town by by-law or by vote with respect to a particular project; provided, however, that no such rate shall exceed the rates authorized in section 13 of chapter 80 of the General Laws; and provided further, that if the town does not elect to set lower rates as authorized in this act, the town shall charge interest at the rates authorized in said section 13 of said chapter 80.

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

Approved July 26, 2010.

**Chapter 182. AN ACT RELATIVE TO THE INTEREST RATE TO BE CHARGED
ON CERTAIN BETTERMENT ASSESSMENTS IN THE TOWN OF
WAREHAM.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Wareham shall assess interest on apportionments of sewer betterment assessments for the

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Weweantic sewer project at the rate of interest of one-half of 1 per cent. The betterment assessment statement for the Weweantic sewer project was recorded with the Plymouth county registry of deeds on November 14, 2003, in book 27023, page 221.

SECTION 2. If on the effective date of this act such assessments have already been apportioned and any portion with interest at the rates authorized in section 13 of chapter 80 of the General Laws has been added to the annual tax assessed with respect to the assessed properties, then from October 1 after the effective date of this act, such 'apportioned assessments shall bear interest at the rate authorized in section 1.

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

Approved July 26, 2010.

Chapter 183. AN ACT RELATIVE TO THE DETERMINATION OF CONDOMINIUM COMMON AREA INTEREST.

Be it enacted, etc., as follows:

SECTION 1. Section 5 of chapter 183A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "units", in line 5, the following words:- and may include determinations of whether and how to weigh a restriction relating to value imposed on 1 or more, but fewer than all, units by covenant, agreement or otherwise.

SECTION 2. Said section 5 of said chapter 183A, as so appearing, is hereby further amended by inserting after the word "therefrom", in line 17, the following words:- ; and provided, further, that readjustment of 1 or more unit's percentage interest solely to reflect release or termination of a restriction previously imposed on the unit by covenant, agreement or otherwise that was a factor for reduction of that percentage interest, with proportionate adjustment only to each other unit's percentage interest, if not otherwise provided for in the master deed, may be made by vote of 75 per cent or such other percentage of unit owners as is required to amend the master deed generally, whichever is less, and the consent of 51 per cent of the number of all mortgagees holding first mortgages on units within the condominium who have given notice of their desire to be notified as provided in clause (5) of section 4 is obtained; provided further, that any such re-adjustment shall be effective on the date the amendment is recorded in the appropriate registry of deeds or land registration office or such later date as may be stated in the amendment; and provided further, that in the case of readjustment following expiration of a term of years stated in the restriction, that readjustment shall be effective on the date as aforesaid or 1 year after termination of the restriction, whichever is later.

SECTION 3. Paragraph (i) of subsection (a) of section 6 of said chapter 183A, as so appearing, is hereby amended by striking out the first sentence and inserting the following

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sentence:- Except as provided in paragraph (ii), all common expenses shall be assessed against all units either in accordance with their respective percentages of undivided interest in the common areas and facilities or, if stated in the master deed or an amendment thereto duly recorded in the approximate relation that the area of the unit bears to the aggregate area of all the units, which may take into account unit location, amenities in the unit, and limited common areas and facilities benefiting the unit; provided, however, that such an amendment shall require the consent of all unit owners whose common expense assessment is materially affected.

Approved July 26, 2010.

Chapter 184. AN ACT RELATIVE TO MINIMUM AGE REQUIREMENT FOR OBTAINING IDENTIFICATION CARDS.

Be it enacted, etc., as follows:

Section 8E of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 1, the figure "16" and inserting in place thereof the following figure:- 14.

Approved July 26, 2010.

Chapter 185. AN ACT RELATIVE TO THE SEWER SERVICE AREA FOR THE TOWN OF LUNENBURG.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding chapter 83 of the General Laws or any other general or special law to the contrary, this act shall be the sewer by-law of the town of Lunenburg.

SECTION 2. For the purposes of this act, the following words shall have the following meanings unless the context clearly requires otherwise:

"Available capacity", flow that is available via intermunicipal agreement or other sources that has not been previously allocated by the sewer commission.

"Bisected lot", property in which the line defining the sewer service area passes through the lot.

"Commission", the board of sewer commissioners.

"Protective by-law", the zoning by-law of the town of Lunenburg.

"Reserve capacity", the flow capacity reserved for use by property owners along the sewered ways.

"Sewer service area", the geographical areas of the Lunenburg sewer service area with boundaries as delineated on the sewer service area map.

“Sewer service area map”, the map approved by the town meeting vote on May 2, 2009, as may be amended from time to time by vote of the town meeting, delineating the sewer service area and sewer service zones.

“Sewer service zone”, an area located within the sewer service area and delineated on the sewer service area map.

1.0 PURPOSE.

It shall be the purpose of this by-law to regulate the connections to and extensions of the town’s sewer system in order to preserve and manage limited treatment capacity pursuant to intermunicipal agreements. Priority shall be given to providing solutions for wastewater problems within the sewer service area including, but not limited to, failed septic systems with poor site conditions for upgrades.

2.0 SEWER SERVICE AREA.

The town of Lunenburg, acting by and through the commission, may lay out, plan, construct, maintain and operate a system of common sewers within the sewer service area. The provision of sewer service within the sewer service area shall be under the jurisdiction and control of the commission. No person shall extend or construct a sanitary sewer intended to be connected to a municipal common sewer to serve property, or any portion of a property, located outside the designated sewer service area. Prior to the initiation of a sewer project in any sewer service zone and prior to submitting an appropriation request to the town, the sewer commission shall survey the landowners in the sewer service area to determine whether a minimum of 2/3 of all affected owners support the installation of sewer service.

3.0 CONNECTION ELIGIBILITY.

Developed parcels of land or portions of parcels of land located within a sewer service zone that abut a public way in which a sewer has been laid shall be eligible to connect existing buildings to the sanitary sewer unless the property is subject to a waiver deed restriction. Any undeveloped single family, commercial or industrial lot or any undeveloped parcel of land created out of a pre-existing developed lot, provided that it has at least 50 feet of frontage along the sewer way located within the sewer district and conforms to the Lunenburg protective by-law, shall be eligible to connect and shall be limited to 330 gallons per day of capacity. Additional capacity for those parcels may be granted by a majority vote of the sewer commission, subject to available capacity. No property or portion of a property, located outside of sewer service zones shall be allowed to extend or construct a sanitary sewer. A lot bisected by a sewer service zone boundary line shall only install a sewer connection that serves buildings that are located within the sewer service zone lines.

4.0 SEWER EXTENSIONS.

Owners of parcels of land or portion of parcels of land located within the sewer service area not presently served by sewer may extend the existing sewer system to serve those parcels but such extension shall be at the discretion of the commission, subject to available capacity, and only if otherwise in compliance with law and with the conditions of

any permits. Prior to granting approval for a sewer extension, the commission may require the applicant to supply, at the applicant's own cost and expense, maps, plans, reports, specifications and other data which properly describe the proposed work. All development and construction shall be monitored in accordance with the "Monitoring and Inspection Procedures and Fee System of the Lunenburg Sewer Commission". Upon approval and prior to the commencement of work, the applicant may be required to post bonds, undertakings, guaranties and insurance policies in forms and amounts acceptable to the commission to guarantee completion of the proposed work and restoration and to indemnify and save harmless the town of Lunenburg and its officers, agents, servants and employees from damage or loss arising out of or in connection with the work.

5.0 RESERVE CAPACITY.

At the time of finalization of the betterment for a sewer project, the 100 per cent build out utilization capacity shall be established consistent with the number of assessments and capacity allotment. Ninety per cent of that total capacity shall be held in reserve by the commission for future use by the assessed properties that are equitably entitled to such capacity.

6.0 ALLOCATION OF CAPACITY FOR CHANGE OR EXPANSION OF USE IN EXISTING FACILITIES.

The commission may allow for increased allocation for the change of use, or expansion of use which results in an increased sewage design flow, in existing facilities within the sewer service area, subject to available capacity and subject to the assessment of privilege fees by the commission under sections 17 and 20 of chapter 83 of the General Laws. For the purposes of this section and section 7.0, a "change of use" or "expansion of a preexisting use" shall mean any undertaking on a property, whether involving material changes to structures or not, which results in an increase of design flow on the property from the existing conditions pursuant to 310 CMR 15.000.

7.0 APPROVAL REQUIRED FOR CHANGE OR EXPANSION OF PROPERTY USE.

Any proposed change of use or expansion of preexisting use which results in an increase in flow allocation or change in type of flow including, but not limited to, residential to commercial, or commercial to industrial, for a property within the sewer service area shall be reviewed by the commission. An application completed by the property owner on a form approved by the commission shall accurately and completely indicate the existing use and the proposed use and the associated flows calculated pursuant to the Title V of 310 C.M.R. 15.000. At the discretion of the commission, applications may be approved by the commission based on available capacity.

8.0 ABANDONMENT OF SEPTIC SYSTEMS AT PROPERTIES TO BE SERVED BY MUNICIPAL SEWER.

Within 30 days after connection to the sewer system, the on-site subsurface sewage disposal system shall be abandoned in accordance with the Lunenburg board of health regulations and Title V of 310 C.M.R. 15.000.

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9.0 AMENDMENTS TO BY-LAW.

This by-law may be amended by vote of the Lunenburg town meeting in the same manner that other general by-laws of the town may be amended.

Approved July 26, 2010.

Chapter 186. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF BILLERICA AS THE JOHN F. LEARY BRIDGE.

Be it enacted, etc., as follows:

The bridge no. B-12-001 spanning the Concord river and located on Nashua road, route 4 in the town of Billerica shall be designated and known as the John F. Leary Bridge. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved July 27, 2010.

Chapter 187. AN ACT RELATIVE TO DETERMINING THE NUMBER OF TOWN MEETING MEMBERS IN EACH PRECINCT IN THE TOWN OF SHREWSBURY.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 553 of the acts of 1953, as most recently amended by section 2 of chapter 81 of the acts of 1981, is hereby further amended by striking out, in lines 3 and 4, the words “which shall be the largest number divisible by three and”.

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

Approved July 27, 2010.

Chapter 188. AN ACT RELATIVE TO MUNICIPAL RELIEF.

Be it enacted, etc., as follows:

SECTION 1. Section 22N of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 60 and 61, and in line 63, the word “December” and inserting in place thereof, in each instance, the following word:- October.

SECTION 2. Section 52 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “fifty-three to fifty-eight” and inserting in place thereof the following words:- 53 to 58A.

SECTION 3. Said chapter 10 is hereby further amended by inserting after section 58 the following section:-

Section 58A. (a) The council shall establish criteria and guidelines for state-designated cultural districts. A cultural district shall be a geographical area of a city or town with a concentration of cultural facilities located within it. Cultural districts shall attract artists and cultural enterprises to a community, encourage business and job development, establish tourist destinations, preserve and reuse historic buildings, enhance property values and foster local cultural development. The council shall assist a city or town if the city or town wishes to develop or foster a cultural district. The council shall develop an application process, with specific guidelines and criteria, for a city or town that wishes to develop or foster a cultural district. Executive branch agencies, constitutional offices and quasi-governmental agencies shall identify programs and services that support and enhance the development of cultural districts and ensure that those programs and services are accessible to such districts. The council shall consult with the Massachusetts historical commission in developing and establishing criteria and guidelines regarding preservation and reuse of historic buildings.

(b) Notwithstanding any general or special law to the contrary, executive branch agencies, constitutional offices and quasi-governmental agencies including, but not limited to, the council and historic preservation programs, shall review and revise regulations and other economic development tools, including the evaluative criteria of such historic preservation programs, in order to support and encourage the development and success of state-designated cultural districts.

SECTION 4. Section 1 of chapter 30B of the General Laws is hereby amended by inserting after the word "section", in line 6, as appearing in the 2008 Official Edition, the following word:- 11C or section.

SECTION 5. Said section 1 of said chapter 30B is hereby further amended by inserting after the word "commonwealth", in line 12, as so appearing, the following words:-, except as pertains to subsection (i) of section 16.

SECTION 6. Said section 1 of said chapter 30B, as most recently amended by section 41 of chapter 25 of the acts of 2009, is hereby further amended by adding the following subsection:-

(f) This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration federal supply schedule that is available for use by governmental bodies.

SECTION 7. Section 2 of said chapter 30B is hereby amended by inserting after the definition of "Contractor", as so appearing, the following 2 definitions:-

"Cooperative purchasing", procurement conducted by, or on behalf of, more than 1 public procurement unit or by a public procurement unit with an external procurement activity.

"Electronic bidding", the electronic solicitation and receipt of offers to contract for supplies and services; provided, however, that offers may be accepted and contracts may be entered into by use of electronic bidding.

SECTION 8. Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Employment agreement”, as so appearing, the following definition:-

“External procurement activity”, (a) a public agency not located in the commonwealth which would qualify as a public procurement unit; (b) buying by the United States government.

SECTION 9. Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Labor relations representative”, as so appearing, the following definition:-

“Local public procurement unit”, a political subdivision or unit thereof which expends public funds for the procurement of supplies.

SECTION 10. Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Proposal”, as so appearing, the following definition:-

“Public procurement unit”, a local public procurement unit or a state public procurement unit.

SECTION 11. Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Request for proposals”, as so appearing, the following definition:-

“Reverse auction”, an internet-based process used to buy supplies and services whereby the sellers of the supplies or services being auctioned anonymously bid against each other until time expires and until the governmental body determines from which sellers it will buy based on the pricing obtained during the process.

SECTION 12. Said section 2 of said chapter 30B is hereby further amended by inserting after the definition of “Services”, as so appearing, the following 2 definitions:-

“Sound business practices”, ensuring the receipt of favorable prices by periodically soliciting price lists or quotes.

“State public procurement unit”, the offices of the chief procurement officers and any other purchasing agency of the commonwealth or any other state.

SECTION 13. Section 4 of said chapter 30B, as so appearing, is hereby amended by striking out, in line 24, the words “generally accepted” and inserting in place thereof the following word:- sound.

SECTION 14. Said chapter 30B is hereby further amended by inserting after section 6, as so appearing, the following section:-

Section 6A. (a) A chief procurement officer may enter into procurement contracts for \$25,000 or more, utilizing reverse auctions for the acquisition of supplies and services. The reverse auction process shall include a specification of an opening date and time when real-time electronic bids shall be accepted and shall provide that the procedure remain open until the designated closing date and time.

(b) All bids on reverse auctions shall be posted electronically on the internet and updated on a real-time basis and shall allow for registered bidders to lower the price of their bid below the lowest bid on the internet.

(c) The chief procurement officer shall require vendors to register before the reverse auction opening date and time and, as part of the registration, agree to any terms and conditions and other requirements of the solicitation.

(d) Any mechanism including, but not limited to, software, developed by the operational services division to conduct reverse auctions by the commonwealth, shall provide for the utilization of that mechanism by municipalities.

(e) The operational services division may assess a municipality utilizing the reverse auction mechanism a reasonable fee, calculated to compensate for any increased cost attributable to such utilization, which shall be credited to the General Fund.

(f) Reverse auctions shall not be subject to clause (1) of subsection (b) or subsection (d) of section 5 but shall be subject to all other provisions of said section 5.

SECTION 15. Said chapter 30B is hereby further amended by adding the following section:-

Section 22. A public procurement unit may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of supplies with public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The public procurement unit conducting the procurement of supplies shall do so in a manner that constitutes a full and open competition.

SECTION 16. Paragraph (f) of subdivision (3) of section 21 of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

An actuarial valuation of each system shall be conducted biennially and experience investigations shall be conducted every 6 years. Actuarial valuation reports and experience studies shall be conducted in such manner as the commissioner of administration, upon advice of the actuary, shall consider appropriate.

SECTION 17. The first paragraph of subdivision (1) of section 22D of said chapter 32, as amended by section 18 of chapter 21 of the acts of 2009, is hereby further amended by inserting after the first sentence, as so appearing, the following sentence:- A funding schedule established under this section shall provide that the payment in any year of the schedule is not less than 95 per cent of the amount appropriated in the previous fiscal year.

SECTION 18. Said chapter 32 is hereby further amended by inserting after section 22E the following section:-

Section 22F. (a) A system, other than the state employees' retirement system and the teachers' retirement system, which conducts an actuarial valuation of the retirement system as of January 1, 2009, or later, may establish a revised retirement system funding schedule, subject to the approval of the actuary, which reduces the unfunded actuarial liability of the system to zero not later than June 30, 2040, as long as: (1) the payment in a year under the revised schedule or a subsequent schedule is not less than the payment in a prior fiscal year under the then current schedule until the system is fully funded; and (2) the increase in the amortization component of the appropriations required by the schedule from year to year does not exceed 4 per cent and is so designed that the funding schedule and any updates to it reduce the unfunded actuarial liability of the system to zero on or before June 30, 2040.

(b) If an updated actuarial valuation allows for the development of a revised schedule with reduced payments, the revised schedule shall be adjusted to reduce the unfunded liability of the system to zero by an earlier date to the extent required to ensure that the appropriation required for a particular year under the new schedule shall not be less than the amount identified for that year under the prior schedule established under this section.

(c) If a schedule established under this section would result in an appropriation in the first fiscal year of the schedule that is greater than 8 per cent more than the appropriation in the previous fiscal year, the requirement of clause (2) of subsection (a) may be adjusted with the approval of the public employee retirement administration commission.

(d) Systems may establish a schedule under this section that provides for an increase in the maximum base amount on which the cost-of-living adjustment is calculated pursuant to section 103, in multiples of \$1,000. Acceptance of this subsection shall be in accordance with paragraph (j) of section 103.

SECTION 19. Section 103 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph: -

(j) Notwithstanding paragraph (a), the board of any system that establishes a schedule pursuant to section 22D or 22F, may increase the maximum base amount on which the cost-of-living adjustment is calculated, in multiples of \$1,000. Each increase in the maximum base amount shall be accepted by a majority vote of the board of such system, subject to the approval of the legislative body. For the purpose of this section, "legislative body" shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a district, the district members, and, in the case of an authority, the governing body. In the case of a county or region, acceptance shall be by the county or regional retirement board advisory council at a meeting called for that purpose by the county or regional retirement board that shall notify council members at least 60 days before the meeting. Upon receiving notice, the treasurer of a town belonging to the county or regional retirement system shall make a presentation to the town's chief executive officer, as defined in paragraph (c) of subdivision (8) of section 22, regarding the impact of the increase in the cost-of-living adjustment base, the failure of which by a treasurer shall not impede or otherwise nullify the vote by the advisory council. Acceptance of an increase in the maximum base amount shall be deemed to have occurred upon the filing of the certification of such vote with the commission. A decision to accept an increase in the maximum base amount may not be revoked.

SECTION 20. Section 11A of chapter 32B of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each employee insured for the minimum amounts of group life and group accidental death and dismemberment insurance provided in section 5, subject to such conditions as the appropriate public authority shall approve, may be insured for amounts of group life insurance and group accidental death and dismemberment insurance in addition to the minimum amounts provided for in said section 5 in an amount not greater than \$150,000.

SECTION 21. Said section 11A of said chapter 32B, as so appearing, is hereby

further amended by striking out, in line 60, the words "outlined in the above schedule".

SECTION 22. Section 3 of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "ten" and inserting in place thereof the following figure:- 30.

SECTION 23. The second paragraph of section 4A of said chapter 40, as so appearing, is hereby amended by adding the following sentence: A decision to enter into an intermunicipal agreement under this section, or to join a regional entity, shall be solely subject to the approval process of the towns' elected bodies.

SECTION 24. Said chapter 40 is hereby further amended by inserting after section 4I the following 2 sections:-

Section 4J. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Agency", the Massachusetts emergency management agency.

"Agreement", the statewide public safety mutual aid agreement established in subsection (b).

"Authorized representative", in the case of a city or town, the mayor, city manager, town manager, town administrator, executive secretary, police chief or on-duty shift commander of the police department, fire chief or on-duty shift commander of the fire department, health director or chairperson of the board of health and the emergency management director and, in the case of a governmental unit that is not a city or town, the chief executive officer or his designee.

"Employee", a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

"Governmental unit", a city, town, county, regional transit authority established under chapter 161B, water or sewer commission or district established under chapter 40N or by special law, fire district, regional health district established under chapter 111, a regional school district or a law enforcement council.

"Incident command system", the standardized national incident management system that establishes an on-scene management system of procedures for controlling personnel, facilities, equipment and communications from different agencies at the scene of an emergency or other event for which mutual aid assistance is provided.

"Law enforcement council", a nonprofit corporation comprised of municipal police chiefs and other law enforcement agencies established to provide: (i) mutual aid to its members pursuant to mutual aid agreements; (ii) mutual aid or requisitions for aid to non-members consistent with section 8G of this chapter or section 99 of chapter 41; and (iii) enhanced public safety by otherwise sharing resources and personnel.

"Mutual aid assistance", the cross-jurisdictional provision of emergency services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

"Party", a governmental unit that has joined the agreement.

"Public safety incident", an event, emergency or natural or man-made disaster, that

threatens or causes harm to public health, safety or welfare and that exceeds, or reasonably may be expected to exceed, the response or recovery capabilities of a governmental unit including, but not limited to, a technological hazard, planned event, civil unrest, health-related event and an emergency, act of terrorism and training and exercise that tests and simulates the ability to manage, respond to or recover from any such event.

"Requesting party", a party that requests aid or assistance from another party pursuant to the agreement.

"Sending party", a party that renders aid or assistance to another party under the agreement.

(b) There shall be a statewide public safety mutual aid agreement to create a framework for the provision of mutual aid assistance among the parties to the agreement in the case of a public safety incident. The assistance to be provided under the agreement shall include, but not be limited to, fire service, law enforcement, emergency medical services, transportation, communications, public works, engineering, building inspection, planning and information assistance, resource support, public health, health and medical services, search and rescue assistance and any other resource, equipment or personnel that a party to the agreement may request or provide in anticipation of, or in response to, a public safety incident.

(c) (1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chairman of the board of selectmen with the approval of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the director of the agency in writing. The municipality shall be a party to the agreement 30 days after receipt by the agency of the written notification.

A city or town that has joined the agreement may opt out of the agreement in the same manner as provided for joining the agreement and by notifying the agency in writing of its intention to opt out. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the director of the agency in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the agency of the written notification.

If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the agency in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the agency of the written notification.

(d)(1) A request by a party to receive mutual aid assistance under the agreement shall be made, either orally or in writing, by an authorized representative of the requesting party and shall be communicated to an authorized representative of the sending party or to the agency; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party or to the agency at the

earliest possible date, but not later than 72 hours after making the oral request. A party to the agreement may request mutual aid assistance during, in anticipation of or as a result of a public safety incident.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

- (i) a description of the public safety incident;
- (ii) the nature, type and amount of personnel, equipment, materials, supplies or other resources being requested;
- (iii) the manner in which the resources shall be used and deployed;
- (iv) a reasonable estimate of the length of time for which the resources shall be needed;
- (v) the location to which the resources shall be deployed; and
- (vi) the requesting party's point of contact.

(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(e) The requesting party shall be responsible for the overall operation, assignment and deployment of resources and personnel provided by a sending party consistent with the incident command system. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

(f)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public safety incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(g) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; and (ii) receive the same

salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses, including overtime.

(h)(1) While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against each other party to the agreement that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

(i) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A or 8G. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

Section 4K. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Advisory committee", the statewide public works municipal mutual aid advisory committee established in subsection (d).

"Agreement", the statewide public works municipal mutual aid agreement established in subsection (b).

"Employee", a person employed full-time or part-time by a governmental unit, a volunteer officially operating under a governmental unit, or a person contractually providing services to a governmental unit.

"Governmental unit", a city, town, county or district, however constituted, or water or sewer commission established under the provisions of chapter 40N or any other general or special law.

"Mutual aid assistance", cross-jurisdictional provision of services, materials or facilities from 1 party to another when existing resources are, or may be, inadequate.

"Party", a governmental unit that has joined the agreement.

"Public works incident", a foreseeable or unforeseeable event, emergency or natural or manmade disaster that affects or threatens to affect the public works operations of a governmental unit.

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"Requesting party", a party that requests aid or assistance from another party pursuant to the agreement.

"Sending party", a party that renders aid or assistance to another party under the agreement.

(b) There shall be a statewide public works municipal mutual aid agreement to facilitate the provision of public works resources across jurisdictional lines in the case of a public works incident that requires mutual aid assistance from 1 or more municipalities. The mutual aid assistance to be provided under the agreement shall include, but not be limited to, services related to public works, personnel, equipment, supplies and facilities to prepare for, prevent, mitigate, respond to and recover from public works incidents.

(c) (1) If a city or town wishes to join the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen, may act on behalf of the city or town to join the agreement by notifying the advisory committee in writing. The municipality shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a city or town has joined the agreement but wishes to opt out of the agreement, the mayor in the case of a city, the city manager in the case of a Plan D or Plan E city, or the town manager, town administrator or chair of the board of selectmen upon approval by a majority vote of the board of selectmen in the case of a town, may act on behalf of the city or town to opt out of the agreement by notifying the advisory committee in writing. The removal of the municipality from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(2) If a governmental unit that is not a city or town wishes to join the agreement, the chief executive officer of the governmental unit may act on its behalf to join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit that is not a city or town has joined the agreement but wishes to opt out of the agreement, the chief executive officer of the governmental unit may act on its behalf to opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit that is not a city or town from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(3) If a governmental unit in a state contiguous to the commonwealth wishes to join the agreement, the governmental unit may join the agreement by notifying the advisory committee in writing. The governmental unit shall be a party to the agreement 30 days after receipt by the advisory committee of the written notification.

If a governmental unit in a state contiguous to the commonwealth has joined the agreement but wishes to opt out of the agreement, the governmental unit may opt out of the agreement by notifying the advisory committee in writing. The removal of the governmental unit from the agreement shall take effect 10 days after receipt by the advisory committee of the written notification.

(d) There shall be a statewide public works municipal mutual aid advisory committee to consist of the secretary of public safety and security or his designee, who shall serve as chair of the committee; and 1 member appointed by the secretary of public safety and security from each of the following: the Massachusetts Highway Association; the New England Chapter of the American Public Works Association, who shall be a resident of the commonwealth; the New England Water Environment Association, who shall be a resident of the commonwealth; the Massachusetts Tree Wardens' and Foresters' Association; the Massachusetts Water Works Association; and the Massachusetts Municipal Association.

The advisory committee shall develop procedural plans, protocols and programs for intrastate and interstate cooperation to be used by public works agencies in response to a public works incident. The advisory committee shall be responsible for the administration and coordination of the statewide mutual aid agreement. The advisory committee shall develop and make available to parties forms to facilitate requests for aid, including a form to track the movement of public works equipment and personnel.

(e) Each party shall identify not more than 3 points of contact to serve as the primary liaison for all issues relating to the agreement.

(f)(1) A request by a party to receive mutual aid assistance shall be made, either orally or in writing, by the chief executive officer of the requesting party or by 1 of its designated points of contact and shall be communicated to the chief executive officer or 1 its designated points of contact from the sending party; provided, however, that if the request is communicated orally, the requesting party shall reduce the request to writing and deliver it to the sending party at the earliest possible date, but not later than 72 hours after making the oral request. (2) A requesting party may request the assistance of 1 or more parties to assist with or manage a public works incident, including recovery-related exercises, testing or training.

(2) An oral or written request for mutual aid assistance under the agreement shall include the following information:

(i) a description of the public works incident response and recovery functions for which assistance is needed;

(ii) the nature, type and amount of public works services, personnel, equipment, materials, supplies or other resources being requested;

(iii) the manner in which the resources shall be used and deployed;

(iv) a reasonable estimate of the length of time for which the resources shall be needed;

(v) the location to which the resources shall be deployed; and

(vi) the requesting party's point of contact.

(3) A party that receives a request for mutual aid assistance shall provide and make available, to the extent reasonable and practicable under the circumstances, the resources requested by the requesting party; provided, however, that a sending party may withhold requested resources to the extent necessary to provide reasonable protection and coverage for its own jurisdiction.

(g) The requesting party shall be responsible for the overall operation, assignment and deployment of resources, equipment and personnel provided by a sending party. The sending party shall retain direct supervision, command and control of personnel, equipment and resources provided by the sending party unless otherwise agreed to by the requesting party and the sending party. During the course of rendering mutual aid assistance under the agreement, the sending party shall be responsible for the operation of its equipment and for any damage thereto unless the sending party and the requesting party agree otherwise.

(h)(1) All expenses incurred by the sending party in rendering mutual aid assistance pursuant to the agreement shall be paid by the sending party; provided, however, that a requesting party and a sending party may enter into supplementary agreements for reimbursement of costs associated with providing mutual aid assistance incurred by a sending party.

(2) A sending party shall document its costs of providing mutual aid assistance under the agreement, including direct and indirect payroll and employee benefit costs, travel costs, repair costs and the costs of materials and supplies. A sending party shall also document the use of its equipment and the quantities of materials and supplies used while providing mutual aid assistance under the agreement.

(3) Except as otherwise agreed to by the parties, the requesting party shall seek reimbursement under any applicable federal and state disaster assistance programs for the costs of responding to the public works incident. The requesting party and each sending party shall receive, based on the documented costs of providing mutual aid assistance, its pro rata share of the disaster assistance reimbursement provided to the requesting party.

(4) While providing mutual aid assistance under the agreement, employees of a sending party shall: (i) be afforded the same powers, duties, rights and privileges as they are afforded in the sending party's geographical jurisdiction or location; (ii) be considered similarly licensed, certified or permitted in the requesting party's jurisdiction if the employee holds a valid license, certificate or permit issued by the employee's governmental unit; and (iii) receive the same salary, including overtime, that they would be entitled to receive if they were operating in their own governmental unit. In the absence of an agreement to the contrary, the sending party shall be responsible for all such salary expenses, including overtime.

(j)(1) While in transit to, returning from and providing mutual aid assistance under the agreement, employees of a sending party shall have the same rights of defense, immunity and indemnification that they otherwise would have under the law if they were acting within the scope of their employment under the direction of their employer. A sending party shall provide to, and maintain for, each of its employees who provide mutual aid assistance under the agreement the same indemnification, defense, right to immunity, employee benefits, death benefits, workers' compensation or similar protection and insurance coverage that would be provided to those employees if they were performing similar services in the sending party's jurisdiction.

(2) Each party to the agreement shall waive all claims and causes of action against all other parties that may arise out of their activities while rendering or receiving mutual aid assistance under the agreement, including travel outside of its jurisdiction.

(3) Each requesting party shall defend, indemnify and hold harmless each sending party from all claims by third parties for property damage or personal injury which may arise out of the activities of the sending party or its employees, including travel, while providing mutual aid assistance under the agreement.

(4) All equipment requested and deployed pursuant to the statewide municipal mutual assistance agreement shall be insured by the sending party.

(k) This section shall not affect, supersede or invalidate any other statutory or contractual mutual aid or assistance agreements involving parties to the agreement including, but not limited to, those established pursuant to section 4A. A party may enter into supplementary mutual aid agreements with other parties or jurisdictions.

SECTION 25. Section 56 of said chapter 40, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the first paragraph, the commissioner may, from time to time, issue a revised schedule for the year in which the commissioner shall certify whether the board of assessors is assessing property at full and fair cash valuation. After the schedule is issued, a city or town may classify in the manner set forth in this section for any year before the next year of certification established in the schedule for the city or town. In arranging the schedule, the commissioner shall, so far as is practicable and appropriate, consider at least the following goals: balancing the number of certification reviews conducted in each year of the triennial period; facilitating and implementing joint or cooperative assessing agreements or districts; assisting the boards of assessors to comply with minimum standards of assessment performance established under section 1 of chapter 58; and producing uniformity in the valuation, classification and assessment of property within each city or town and throughout the commonwealth.

SECTION 26. Chapter 41 of the General Laws is hereby amended by striking out section 30B, as so appearing, and inserting in place thereof the following section:-

Section 30B. (a) Notwithstanding any general or special law or municipal charter, vote, by-law or ordinance, 2 or more cities and towns, by vote of their legislative bodies, may enter into an agreement, for a term not to exceed 25 years, for joint or cooperative assessing, classification and valuation of property. The agreement shall provide for:

(1) the division, merger or consolidation of administrative functions between or among the parties or the performances thereof by 1 city or town on behalf of all the parties;

(2) the financing of the joint or cooperative undertaking;

(3) the rights and responsibilities of the parties with respect to the direction and supervision of the work to be performed and with respect to the administration of the assessing office, including the receipt and disbursement of funds, the maintenance of accounts and records and the auditing of accounts;

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- (4) annual reports of the assessor to the constituent parties;
- (5) the duration of the agreement and procedures for amendment, withdrawal or termination thereof; and
- (6) any other necessary or appropriate matter.

(b) An agreement under this section may also provide for the formation of a single assessing department for the purpose of employing assistant assessors and necessary staff and for performing all administrative functions. An agreement may also vest in 1 person, the board of assessors of 1 of the parties or a regional board of assessors comprised of at least 1 representative from each of the parties and selected in the manner set forth in the agreement all of the powers and duties of the boards of assessors and assessing departments of the parties. In that case, the existing boards of assessors of the other parties, or of all the parties if their assessors' powers and duties are vested in 1 person, shall terminate in accordance with section 2 for the duration of the agreement. Unless the agreement provides for the board of assessors of 1 of the parties to serve as the assessors for all of the parties, or for 1 city or town to act on behalf of all parties, the agreement shall designate an appointing authority representing all of the parties. That appointing authority shall be responsible for the appointment of an assessor, assistant assessors, and other staff, and in the case of withdrawal or termination of the agreement, shall determine the employment of any employee of 1 of the parties that became part of a single assessing department. Subject to the rules and regulations established by the commissioner of revenue pursuant to section 1 of chapter 58, the agreement shall provide for qualifications, terms and conditions of employment for the assessor and employees of the assessor's office. The agreement may provide for inclusion of the assessor and the assessor's employees in insurance, retirement programs and other benefit programs of 1 of the constituent parties, but all parties to the agreement shall be pay a proportionate share of the current and future costs of benefits associated with the appointment or employment of all persons performing services for them during the duration of the agreement. A city or town party to such an agreement shall include employees under the joint assessing agreement in such programs in accordance with the terms of the agreement.

(c) A city or town may become a party to an existing agreement with the approval of the other parties.

(d) No agreement or amendment to an agreement for joint or cooperative assessing made pursuant to this section shall take effect until it has been approved in writing by the commissioner of revenue.

SECTION 27. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by inserting after the word "specified", in line 3, the following words:- or, except for clauses (3C), (11), (16), (18), (19), (21) and (22), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services within the department of revenue.

SECTION 28. The first paragraph of said section 7 of said chapter 44, as so appearing, is hereby amended by inserting after clause (3B) the following clause:-

(3C) For a revolving loan fund established under section 53E¾ to assist in the development of renewable energy and energy conservation projects on privately-held buildings, property or facilities within the city or town, 20 years.

SECTION 29. Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by striking out clause (9) and inserting in place thereof the following clause:-

(9) For the cost of equipment, 5 years.

SECTION 30. Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by inserting after clause (17) the following clause:-

(17A) For dredging of tidal and nontidal rivers and streams, harbors, channels and tidewaters, 10 years.

SECTION 31. Said first paragraph of said section 7 of said chapter 44, as so appearing, is hereby further amended by adding following 3 clauses:-

(32) For the cost of cleaning up or preventing pollution caused by existing or closed municipal facilities not referenced in clause (21) of section 8, including cleanup or prevention activities taken pursuant to chapter 21E or chapter 21H, 10 years; provided, however, that no indebtedness shall be incurred hereunder until plans relating to the project shall have been submitted to and approved by the department of environmental protection.

(33) For the construction or reconstruction of seawalls, riprap, revetments, breakwaters, bulkheads, jetties and groins, stairways, ramps and other related structures, 20 years.

(34) For any other public work, improvement or asset not specified in this section, with a maximum useful life of at least 5 years, determined as provided in this paragraph, 5 years.

SECTION 32. Section 8 of said chapter 44, as so appearing, is hereby amended by inserting after the word "specified", in line 3, the following words:- or except with respect to clauses (1), (2), (3A), (5), (6), (7), (9) and (19), within such longer period not to exceed 30 years based upon the maximum useful life of the public work, improvement or asset being financed, as determined in accordance with guidelines established by the division of local services within the department of revenue.

SECTION 33. Said section 8 of said chapter 44, as so appearing, is hereby further amended by striking out, in lines 77 and 78, the words "a board composed of the attorney general, the state treasurer and the director" and inserting in place thereof the following words: - the municipal finance oversight board.

SECTION 34. Said chapter 44 is hereby further amended by striking out section 19, as so appearing, and inserting in place thereof the following section:-

Section 19. Cities, towns and districts shall not issue any notes payable on demand, but shall provide for the payment of all debts, except temporary loans incurred under sections

4, 6, 6A, 8C, and 17 or under section 3 of chapter 74 of the acts of 1945, by annual payments that will extinguish the same at maturity, and so that the first of these annual payments on account of any serial loan shall be made not later than the end of the next complete fiscal year commencing after the date of the bonds or notes issued for the serial loan, and shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue the bonds or notes or, in the alternative, in accordance with a schedule providing a more rapid amortization of principal; and these annual amounts, together with the interest on all debts, shall, without further vote, be assessed until the debt is extinguished.

SECTION 35. Section 26 of said chapter 44 is hereby repealed.

SECTION 36. Said chapter 44 is hereby further amended by inserting after section 53E½ the following section:-

Section 53E¾. (a) Notwithstanding section 53 to the contrary, a city or town may establish an Energy Revolving Loan Fund to provide loans to owners of privately-held real property in the city or town for energy conservation and renewable energy projects on their properties so as to prioritize energy efficiency as the first step toward reducing greenhouse gas emissions associated with buildings.

(b) The fund shall be established by ordinance or by-law. Before adoption of the ordinance or by-law, the board of selectmen, town council or the city council, as the case may be, shall conduct a public hearing on the question of its adoption. The ordinance or by-law shall designate an administrator for the fund and may provide for rules, regulations and procedures for administration of the fund and eligibility for loans the city or town considers necessary or proper to carry out this section. The administrator may consult with the division of green communities established in section 10 of chapter 25A in developing such regulations, rules and procedures for administration of the fund. The fund administrator may be a board, department or officer, or may consist of 1 or more members from 1 or more boards, departments or officers, of the city or town. A city or town which is a member of a regional planning commission may enter into a cooperative agreement with that commission to perform as administrator for the fund. A regional governmental entity or county, if the county may incur debt under chapter 35 or any other general or special law extending a county's debt limit, may establish a fund subject to this section and may appoint a person to be the administrator of the fund.

(c) As authorized by section 4A of chapter 40, 2 or more municipalities may, in a city by vote of the city council, or, in a town by vote of the board of selectmen, enter into an agreement to jointly establish and administer a common fund.

(d) The fund administrator shall have the following powers and duties:

(1) to make loans to owners of real property to finance or refinance the costs of energy conservation and renewable energy projects on their properties; provided, however, that no loan shall be made unless an energy audit of the property has been conducted on or after July 2, 2008, and any energy conservation measures established by the fund administrator for participation in the program have been implemented;

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(2) to execute and deliver on behalf of the city or town all loan agreements and other instruments necessary or proper to make the loan and secure its repayment;

(3) to record the notice of the agreement required by subsection (f) and any other loan instruments;

(4) to apply for and accept grants or gifts for purposes of the fund; and

(5) to exercise any other powers or perform any other duties that the city or town may grant by ordinance or by-law to carry out this section.

(e) The city or town treasurer shall be the custodian of the fund, which shall be maintained as a separate account and into which shall be deposited:

(1) all monies appropriated and all proceeds from bonds issued under clause (3C) of the first paragraph of section 7 for purpose of providing loans to private property owners for energy conservation and renewable energy projects;

(2) all funds received from the commonwealth or any other source for those purposes;

(3) all repayments of the loans made by property owners under this section and any reserve or other required payments made by the owners in connection with the loans; and

(4) any other amounts required to be credited to the fund by any law.

The city or town treasurer may invest the monies in the manner authorized in section 55 and any interest earned thereon shall be credited to and become part of the fund.

The city or town treasurer shall annually certify, not later than June 30, in writing to the fund administrator and auditor or similar officer in cities or the town accountant in towns having a town accountant, the principal and interest due in the next fiscal year on any bonds issued under clause (3C) of the first paragraph of section 7 and not otherwise provided for, and the amount certified shall be reserved for payment of that debt service without further appropriation. Loans may be made from the fund by the fund administrator without further appropriation, subject to this section; provided, however, that no loans shall be made or liabilities incurred in excess of the unreserved fund balance and unless approved in accordance with sections 52 and 56 of chapter 41.

(f) Whenever a city or town enters into a loan agreement with a property owner under this section, a notice of the agreement shall be recorded as a betterment and shall be subject to chapter 80 relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, the lien shall take effect by operation of law on the day immediately following the due date of the assessment or apportioned part of the assessment and the assessment may bear interest at a rate determined by the city or town treasurer by agreement with the owner at the time the agreement is entered into between the city or town and the property owner. In addition to remedies available under said chapter 80, the property owner shall be personally liable for the repayment of the total costs incurred by the city or town under this section; provided, however, that upon assumption of the personal obligation by a purchaser or other transferee of all of the original owner's interest in the property at the time of conveyance and the recording of the assumption, the owner shall be relieved of the personal liability.

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A betterment loan agreement between an owner and a city or town under this section shall not be considered a breach of limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property.

Notwithstanding any provision of chapter 183A to the contrary, the organization of unit owners of a condominium may enter into a betterment loan agreement under this section to finance an energy conservation and renewable energy project, provided that the project comprises part of the common areas and facilities; provided, however, that section 18 of said chapter 183A shall not apply to any improvements undertaken pursuant to an agreement entered into under this section. Such agreement shall: (i) be approved by a majority of the unit owners benefited by the project; (ii) include an identification of the units and unit owners subject to the agreement and the percentages, as set forth in the master deed, of the undivided interests of the respective units in the common area and facilities; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the city or town, the certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of the agreement shall be recorded as a betterment in the registry of deeds or registry district of the land court wherein the master deed is recorded and shall be otherwise subject to chapter 80 as provided in this section. The assessment under the agreement shall be charged or assessed directly to the benefited unit owners and if unpaid shall be added to the annual tax bill for their units in accordance with section 13 of said chapter 80. The allocable share of the assessment, prorated on the basis of the percentage interests of the benefited units in the common areas and facilities, shall attach as a lien only to the units identified in the recorded notice and benefited by the project and the owners of those units shall also be personally liable for their allocable share of the assessment as provided for in this section. For the purposes of this paragraph, the terms “common areas and facilities”, “common expenses”, “condominium”, “master deed”, “organization of unit owners”, “units” and “unit owners” shall have the same meanings as ascribed to them in section 1 of said chapter 183A.

(g) The fund administrator shall file annually, not later than June 30, a report detailing the amount of money in the fund, loans made and repayments received, and shall also include the types of projects financed. The report shall be filed with the chief executive officer of the city or town, the executive office of administration and finance, the joint committee on municipalities and regional government, the senate and house committees on ways and means and the clerks of the senate and the house of representatives.

SECTION 37. Chapter 53 of the General Laws is hereby amended by inserting after section 18A the following section:-

Section 18B. (a) As used in this section “governing body” shall mean, in a city, the city council or board of aldermen acting with the approval of the mayor subject to the charter of the city, in a town having a town council, the town council, in every other town, the board of selectmen and in a district as provided in sections 113 to 119, inclusive, of chapter 41, the prudential committee, if any, otherwise the commissioners of the district.

(b) The governing body of a city, town or district which accepts this section in the manner provided in section 4 of chapter 4 shall print information relating to each question that shall appear on the city, town or district ballot. The information shall include: (1) the full text of each question; (2) a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote, which shall be prepared by the city solicitor, town counsel or counsel for the city, town or district; and (3) arguments for and against each question as provided in subsections (d) and (e). Not later than 7 days before an election at which the question shall be submitted to the voters in a city, town or district, the information in this subsection shall be sent to each household wherein a person whose name appears on the current voting list for the city, town or district resides.

(c) Not later than the day following the date of the determination that a question shall appear on the ballot in an election, the governing body shall provide written notification to the city solicitor or town or district counsel and to the city or town clerk.

(d) Not later than 7 days after the determination that a question shall appear on the ballot, the city solicitor or town or district counsel, as applicable, shall seek written arguments from the principal proponents and opponents of the question. For the purposes of this section, the principal proponents and opponents of a question shall be those persons determined by the solicitor or counsel to be best able to present the arguments for and against the question. The solicitor or counsel shall provide not less than 7 days' written notice to the opponents and proponents of the date on which the written arguments shall be received. Proponents and opponents shall submit their arguments, which shall be not more than 150 words, to the solicitor or counsel, together with a copy thereof to the city or town clerk or, in a district, to the clerk of each city and town within the district. The arguments and summary shall be submitted by the solicitor or counsel to the governing body not more than 20 days before the election for distribution to voters in accordance with subsection (b). A copy of the arguments and summary shall also be submitted by the solicitor or counsel to the city, town or district clerk.

(e) In determining the principal proponents and opponents of a ballot question, the solicitor or counsel shall contact each ballot question committee, if any, as defined in section 1 of chapter 55. The principal proponents or opponents of a ballot question may include officers of a ballot question committee or officers of a city, town or district office or committee including, but not limited to, a finance committee or a school committee. In addition, the principal proponents or opponents may include the first 10 signers or a majority of the first 10 signers of a petition initiating the placement of such question on the ballot. The solicitor or counsel shall determine, based on a review of arguments received, the person or group best able to present arguments for and against a question. If no argument is received by the solicitor or counsel within the time specified by the solicitor or counsel, the solicitor or counsel shall prepare an argument and submit the argument to the governing body and to the city or town clerk or, in a district, to the clerk of each city and town within the district within the time specified in subsection (d).

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(f) All arguments filed or prepared pursuant to this section and the information prepared pursuant to subsection (b), shall be open to public inspection at the office of city or town clerk or, in a district, at the office of the clerk of each city and town within the district. In addition, each city or town clerk shall make such information available to the voters at all polling places within the city, town or district.

SECTION 38. Section 8 of chapter 58 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 commissioner shall make and from time to time revise, rules, regulations and guidelines necessary for establishing an expedited procedure for granting authority to abate taxes, assessments, rates, charges, costs or interest under this section in such cases as the commissioner determines are in the public interest and shall from time to time for such periods as the commissioner considers appropriate authorize the assessors or the board or officer assessing the tax, assessment, rate or charge to grant these abatements. No abatement authorized by these procedures shall be granted unless the assessors or board or officer shall certify, in writing, under pains and penalties of perjury that the procedures have been followed. The commissioner shall require yearly reports and audits of these abatements by assessors or boards or officers that the commissioner considers necessary to ensure that any authority granted under this paragraph has been properly exercised and shall withdraw this grant of authority to the particular assessors, board or officer upon his written determination that the authority has been improperly exercised. The commissioner may make and from time to time revise, reasonable rules, regulations and guidelines that he considers necessary to carry out this paragraph.

SECTION 39. Section 5 of chapter 59 of the General Laws is hereby amended by inserting after the word “annum”, in line 452, as so appearing, the following words:- or such lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates.

SECTION 40. Said section 5 of said chapter 59 is hereby further amended by striking out in line 754, as so appearing, the words “and are incapable of working”.

SECTION 41. Said section 5 of said chapter 59 is hereby further amended by inserting after the word “years”, in line 1267, as so appearing, the following words:- ; and (4) utilizing income limits on a household basis rather than on a single applicant basis for real estate tax exemptions.

SECTION 42. Said section 5 of said chapter 59, as amended by section 66 of chapter 25 of the acts of 2009, is hereby further amended by adding the following 2 clauses:-

Fifty-sixth. Upon the acceptance of this section by a city or town, the board of assessors may grant, real and personal property tax abatement up to 100 per cent of the total tax assessed to members of the Massachusetts National Guard and to reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the board of assessors.

The authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town.

Fifty-seventh. Upon the acceptance of this section by a city or town, the board of assessors may appropriate monies for and grant property tax rebates in an amount not to exceed annually the amount of the income tax credit set forth under subsection (k) of section 6 of chapter 62.

SECTION 43. Section 5K of said chapter 59, as amended by section '24 of chapter 27 of the acts of 2009, is hereby further amended by adding the following paragraph:-

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption in this clause by: (1) allowing an approved representative, for persons physically unable, to provide such services to the city or town; or (2) allowing the maximum reduction of the real property tax bill to be based on 125 volunteer service hours in a given tax year, rather than \$1,000.

SECTION 44. Section 29 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 20, the words "thirty days after the mailing of the tax bills" and inserting in place thereof the following words:- the last day for filing an application for abatement of the tax.

SECTION 45. Said chapter 59 is hereby further amended by inserting after section 31 the following section:-

Section 31A. For the purpose of verifying that a person required to file a true list of taxable personal property under section 29 has made a complete and accurate accounting of that property, the assessors may at any time within 3 years after the date the list was due, or within 3 years after the date the list was filed, whichever is later, examine the books, papers, records and other data of the person required to file the list. The assessors may compel production of books, papers, records and other data of the person through issuance of a summons served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth, and all provisions of law relative to summonses in such cases shall, so far as applicable, apply to summonses issued under this section. A justice of the supreme judicial court or of the superior court may, upon the application of the assessors, compel the production of books, papers, records and other data in the same manner and to the same extent as before those courts.

SECTION 46. Section 32 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- Lists filed under section 29 and books, papers, records and other data obtained under section 31A shall be open to the inspection of the assessors, the commissioner, the deputies, clerks and assistants of either the assessors or the commissioner and any designated private auditor of the commissioner or the assessors as may have occasion to inspect the lists, books, papers, records and other data in the performance of their official, contractual or designated duties, but so much of the lists, books, papers, records and other data as shows the details of the personal estate shall not be open to any other person

except by order of a court. For purposes of this section, a “designated private auditor” shall be an individual, corporation or other legal entity selected by the commissioner or a city or town to value personal property or perform an audit which includes the assessing department of a city or town under any legal authority, including the examination of records under said section 31A, an audit under sections 40 or 42A of chapter 44 or an investigation under section 46A of said chapter 44 but only if the individual, corporation or other legal entity shall be compensated for the audit work pursuant to an arrangement under which neither the payment nor the amount of their fees and expenses for the work are contingent on either the results of the audit or whether the results withstand any appeal by a taxpayer.

SECTION 47. The second paragraph of section 38D of said chapter 59, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- Failure of an owner or lessee of real property to comply with such request within 60 days after it has been made by the board of assessors shall be automatic grounds for dismissal of a filing at the appellate tax board. The appellate tax board and the county commissioners shall not grant extensions for the purposes of extending the filing requirements unless the applicant was unable to comply with such request for reasons beyond his control or unless he attempted to comply in good faith.

SECTION 48. Said section 38D of said chapter 59, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

If an owner or lessee of Class one, residential property fails to submit the information within the time and in the form prescribed, the owner shall be assessed an additional penalty for the next ensuing tax year in the amount of \$50 but only if the board of assessors informed the owner or lessee that failure to submit such information would result in the penalty.

If an owner or lessee of Class three, commercial or Class four, industrial property fails to submit the information within the time and in the form prescribed, the owner or lessee shall be assessed an additional penalty for the next ensuing tax year in the amount of \$250 but only if the board of assessors informed the owner or lessee that failure to so submit such information would result in the penalty.

SECTION 49. Said chapter 59 is hereby further amended by inserting after section 42 the following section:-

Section 42A. For the purpose of verifying that an owner of a pipeline or a telephone or telegraph company required to make a return under section 38A or section 41 has made a complete and accurate accounting of the property required to be returned, the commissioner shall have all the powers and remedies provided by said section 31A to assessors of cities and towns. If the commissioner reasonably believes, as a result of an examination of the books, papers, records and other data or otherwise, that taxable personal property for a fiscal year was not valued or was incorrectly valued, the commissioner may, not later than 3 years and 6 months after the date the return was due or 3 years and 6 months after the date the return was filed, whichever is later, certify an amended valuation to the owner of the pipeline

or telephone or telegraph company and to the boards of assessors of the cities and towns wherein the property was subject to taxation for that year. Not later than 2 months after the date of the amended certification, the assessors shall assess and commit to the collector with their warrant for collection an additional tax to the owner of the pipeline or telephone or telegraph company. An owner or company aggrieved by the assessment of the additional tax may, within 1 month after the bill or notice of the additional assessment is first sent, appeal the valuation to the appellate tax board. The appeal shall name as appellees the commissioner and the board of assessors. Except as otherwise provided in this section, the hearing and appeal before the appellate tax board shall proceed in the same manner as an appeal of the valuations originally certified by the commissioner.

SECTION 50. Section 61 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 4, the word "twenty-nine", and inserting in place thereof the following words:- 29 and complied with any requests by the assessors to examine books, papers, records and other data under section 31A.

SECTION 51. Said section 61 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 6, the word "twenty-nine", and inserting in place thereof the following words:- 29 or the person has not complied with any requests by the assessors to examine books, papers, records and other data under said section 31A.

SECTION 52. Section 75 of said chapter 59, as so appearing, is hereby amended by striking the first sentence and inserting in place thereof the following 3 sentences:- If a parcel of real property or the personal property of a person has been unintentionally omitted from the annual assessment of taxes due to a clerical or data processing error or some other good faith reason or, if the personal property of a person was omitted from the annual assessment of taxes but discovered upon an examination of the books, papers, records and other data under section 31A, the assessors shall, in accordance with any rules, regulations and guidelines as the commissioner may prescribe, assess such person for such property. Except for personal property found after an examination under said section 31A which shall be made not later than 3 years and 6 months after the date the true list in which such property should have been returned was due or not later than 3 years and 6 months after the date the return was filed, whichever is later, no such assessment shall be made later than June 20 of the taxable year or 90 days after the date on which the tax bills were mailed, whichever is later. The assessors shall annually, not later than June 30 of the taxable year or 100 days after the date on which the tax bills were mailed if mailed after March 22, return to the commissioner a statement showing the amounts of additional taxes so assessed.

SECTION 53. Section 76 of said chapter 59, as so appearing, is hereby amended by inserting after the word "reason", in line 3, the following words:- or due to discovery upon an examination of the books, papers, records and other data under section 31A that the property was not accurately or properly reported.

SECTION 54. Chapter 60 of the General Laws is hereby amended by striking out section 3A, as so appearing, and inserting in place thereof the following section:-

Section 3A. (a) Each bill or notice shall be in a form approved by the commissioner and shall summarize the deadlines under section 59 of chapter 59 for applying for abatements and exemptions. Each bill or notice shall also have printed on it the last date for the assessed owner to apply for abatement and for exemptions under clauses other than those specifically listed in said section 59 of said chapter 59. Except in the case of a bill or notice for reassessed taxes under section 77 of said chapter 59, each bill shall also have printed on it the last date on which payment can be made without interest being due. If a bill or notice contains an erroneous payment or abatement application date that is later than the date established under said chapter 59, the date printed on the bill or notice shall be the deadline for payment or for applying for abatement or exemption, but if the error in the date is the wrong year, the due date shall be the day and month as printed on the bill but for the current year. The commissioner may require, with respect to a city or town, that the tax bill or notice include such information as the commissioner may determine to be necessary to notify taxpayers of changes in the assessed valuation of the property. Each bill or notice for real or personal property tax shall have printed thereon in a conspicuous place the tax rate for each class within the town, as determined by the assessors. In addition, each bill or notice for a tax upon real property shall identify each parcel separately assessed by street and number or, if no street number has been assigned, by lot number, name of property or otherwise, shall describe the land, buildings and other things erected on or affixed to the property and shall state for each such parcel the assessed full and fair cash valuation, the classification, the residential or commercial exemption, if applicable, the total taxable valuation and the tax due and payable on such property. If the assessors have granted the owner an exemption under any clause specifically listed in said section 59 of said chapter 59, the bill or notice of such owner may also show the exemption and the tax, as exempted, that is due and payable on such property.

(b) The collector may issue the bill or notice required by section 3 in electronic form, provided that the electronic bill or notice meets the standards set forth in subsection (a). An electronic bill or notice issued shall be under voluntary programs established by the collector, with the approval of the board of selectmen or mayor, as the case may be. No political subdivision shall require a taxpayer to take part in an electronic billing system or program.

(c) The collector may include in the envelope or electronic message in which a property tax bill is sent those bills or notices for rates, fees and charges assessed by the city or town for water or sewer use, solid waste disposal or collection or electric, gas or other utility services as may be authorized by ordinance or by-law; provided, however, that the bills or notices shall be separate and distinct from the property tax bills. The ordinance or by-law may authorize the collector, upon vote of any municipal water and sewer commission established by the city or town under chapter 40N or by special act, to include bills or notices for rates, fees or charges assessed by the commission for water or sewer use.

(d) The collector may, with the approval of the board of selectmen or mayor, as the case may be, include in the envelope or electronic message in which a property tax bill is sent nonpolitical municipal informational material; provided, however, that if such nonpolitical

municipal informational material is mailed, it shall not be included if the material causes an increase in the postage required to mail the tax bill.

SECTION 55. Section 2 of chapter 60A of the General Laws, as so appearing, is hereby amended by inserting after the word “section”, in line 42, the following words:- and the due date shall be clearly indicated on the tax notice.

SECTION 56. Section 6 of chapter 70B of the General Laws is hereby amended by inserting after the word “dates”, in line 66, as so appearing, the following words:- or up to 30 years if consistent with the guidelines established in section 7 of chapter 44.

SECTION 57. Clause (d) of section 16 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

To incur debt for the purpose of acquiring land and constructing, reconstructing, adding to and equipping a school building or for the purpose of remodeling and making extraordinary repairs to a school building and for the construction of sewerage systems and sewerage treatment and disposal facilities, or for the purchase or use of such systems with municipalities, and for the purpose of purchasing department equipment; or for the purpose of constructing, reconstructing or making improvements to outdoor playground, athletic or recreational facilities; or for the purpose of constructing, reconstructing or resurfacing roadways and parking lots; or for the purpose of any other public work or improvement of a permanent nature required by the district; or for the purpose of any planning, architectural or engineering costs relating to any of the above purposes; provided, however, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be given to the board of selectmen in each of the towns comprising the district not later than 7 days after the date on which the debt was authorized by the district committee; provided further, that no debt may be incurred until the expiration of 60 days after the date on which the debt was authorized; and provided further, that before the expiration of this period any member town of the regional school district may hold a town meeting for the purpose of expressing disapproval of the amount of debt authorized by the district committee, and if at that meeting a majority of the voters present and voting express disapproval of the amount authorized by the district committee, the debt shall not be incurred and the district school committee shall prepare another proposal which may be the same as any prior proposal and an authorization to incur debt therefor. Debt incurred under this section shall be payable within 30 years, but no such debt shall be issued for a period longer than the maximum useful life of the project being financed as determined in accordance with guidelines established by the division of local services of the department of revenue.

SECTION 58. Section 16G½ of said chapter 71, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The stabilization fund may be appropriated by vote of two-thirds of all of the members of the regional district school committee for any purpose for which regional school districts may borrow money or for such other district purpose as the director of accounts may approve.

SECTION 59. Section 37 of said chapter 71, as so appearing, is hereby amended by adding the following sentence:- The school committee in each city, town and regional school district may select a superintendent jointly with other school committees and the superintendent shall serve as the superintendent of all of the districts that selected him.

SECTION 60. Section 8 of chapter 71B of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

A school committee may adopt a program to reimburse parents who voluntarily choose to transport their disabled child to a school approved by the department that is located outside of the city or town of residence of the parent or guardian. The reimbursement program may utilize rates in excess of the standard state mileage reimbursement amounts and may be based on a mileage, daily or weekly rate. Committees choosing to utilize this option shall be able to demonstrate that parental reimbursements represent a cost savings compared to other modes of available transportation. An eligible parent shall not be required to participate in the program.

SECTION 61. Chapter 111C of the General Laws is hereby amended by adding the following section:-

Section 25. When a class I, II or V ambulance transports a patient receiving care at the paramedic level of advanced life support the ambulance shall be staffed in accordance with regulations promulgated by the department, with a minimum of 2 emergency medical technicians, only 1 of whom shall be certified at the EMT-Paramedic level; provided, however, that the service staffing a class I, II or V ambulance may staff the ambulance with more than 1 emergency medical technician certified at the EMT-Paramedic level.

SECTION 62. Section 29 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “in the case of the commonwealth is more than five thousand dollars, and in any other case is more than two thousand dollars,” and inserting in place thereof the following words:- is more than \$25,000.

SECTION 63. Subsection (2) of section 44A of said chapter 149, as amended by section 30 of chapter 166 of the acts of 2009, is hereby further amended by striking out paragraphs (A) and (B) and inserting in place thereof the following 2 paragraphs:-

(A) Every contract or procurement for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency estimated to cost less than \$10,000, 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.

(B) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building estimated to cost not less than \$10,000 but not more than \$25,000 shall be awarded to the responsible person offering to perform the contract at the lowest price. The public agency shall make public notification of the contract and shall

seek written responses from persons who customarily perform such work. The public notification shall include a scope-of-work statement that defines the work to be performed and provides potential responders with sufficient information regarding the objectives and requirements of the public agency and the time period within which the work shall be completed. For the purposes of this paragraph, “public notification” shall include, but need not be limited to, posting at least 2 weeks before the time specified in the notification for the receipt of responses, the contract and scope-of-work statement on the website of the public agency, on the COMPASS system or in the central register published pursuant to section 20A of chapter 9 and in a conspicuous place in or near the primary office of the public agency.

SECTION 64. Section 14 of chapter 183A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “section”, in line 5, the following words:- 53E¾ of chapter 44 and section.

SECTION 65. Chapter 200A of the General Laws is hereby amended by striking out section 9A, as so appearing, and inserting in place thereof the following section:-

Section 9A. (a) In any city, town or district that accepts this section in the manner provided in section 4 of chapter 4, there shall be an alternative procedure for disposing of abandoned funds held in the custody of the city, town or district as provided in this section.

(b) Any funds held in the custody of a city, town or district may be presumed by the city, town or district treasurer to be abandoned unless claimed by the corporation, organization, beneficiary or person entitled thereto within 1 year after the date prescribed for payment or delivery; provided, however, that the last instrument intended as payment shall bear upon its face the statement “void if not cashed within 1 year from date of issue”. After the expiration of 1 year after the date of issue, the treasurer of a city, town or district may cause the financial institution upon which the instrument was drawn to stop payment on the instrument or otherwise cause the financial institution to decline payment on the instrument and any claims made beyond that date shall only be paid by the city, town or district through the issuance of a new instrument. The city, town or district and the financial institution shall not be liable for damages, consequential or otherwise, resulting from a refusal to honor an instrument of a city, town or district submitted for payment more than a year after its issuance.

(c) The treasurer of a city, town or district holding funds owed to a corporation, organization, beneficiary or person entitled thereto that are presumed to be abandoned under this section shall post a notice entitled “Notice of names of persons appearing to be owners of funds held by (insert city, town or district name), and deemed abandoned”. The notice shall specify the names of those persons who appear from available information to be entitled to such funds, shall provide a description of the appropriate method for claiming the funds and shall state a deadline for those funds to be claimed; provided, however, that the deadline shall not be less than 60 days after the date the notice was either postmarked or first posted on a website as provided in this section. The treasurer of the city, town or district may post such notice using either of the following methods: (1) by mailing the notice by first class mail, postage prepaid, to the last known address of the beneficiary or person entitled thereto;

or (2) if the city, town or district maintains an official website, by posting the notice conspicuously on the website for not less than 60 days. If the apparent owner fails to respond within 60 days after the mailing or posting of the notice, the treasurer shall cause a notice of the check to be published in a newspaper of general circulation, printed in English, in the county in which the city or town is located.

(d) In the event that funds appearing to be owed to a corporation, organization, beneficiary or person is \$100 or more and the deadline as provided in the notice has passed and no claim for the funds has been made, the treasurer shall cause an additional notice, in substantially the same form as the aforementioned notice, to be published in a newspaper of general circulation in the county in which the city, town or district is located; provided, however, that the notice shall provide an extended deadline beyond which funds shall not be claimed and such deadline shall be at least 1 year from the date of publication of the notice.

(e) Once the final deadline has passed under subsection (d), the funds owed to the corporation, organization, beneficiary or person entitled thereto shall escheat to the city, town or district and the treasurer thereof shall record the funds as revenue in the General Fund of the city, town or district and the city, town or district shall not be liable to the corporation, organization, beneficiary or person for payment of those funds or for the underlying liability for which the funds were originally intended. Upon escheat, the funds shall be available to the city, town or district's appropriating authority for appropriation for any other public purpose. In addition to the notices required in this section, the treasurer of the city, town or district may initiate any other notices or communications that are directed in good faith toward making final disbursement of the funds to the corporation, organization, beneficiary or person entitled thereto.

Prior to escheat of the funds, the treasurer of the city, town or district shall hear all claims on funds that may arise and if it is clear, based on a preponderance of the evidence available to the treasurer at the time the claim is made, that the claimant is entitled to disbursement of the funds, the treasurer shall disburse funds to the claimant upon receipt by the treasurer of a written indemnification agreement from the claimant wherein the claimant agrees to hold the city, town or district and the treasurer of the city, town or district harmless in the event it is later determined that the claimant was not entitled to receipt of the funds. If it is not clear, based on a preponderance of the evidence before the treasurer at the time of the claim that the claimant is entitled to disbursement of the funds, the treasurer shall segregate the funds into a separate, interest-bearing account and shall notify the claimant of such action within 10 days. A claimant affected by this action may appeal within 20 days after receiving notice thereof to the district, municipal or superior court in the county in which the city, town or district is located. The claimant shall have a trial de novo. A party adversely affected by a decree or order of the district, municipal or superior court may appeal to the appeals court or the supreme judicial court within 20 days from the date of the decree.

If the validity of the claim shall be determined in favor of the claimant or another party, the treasurer shall disburse funds in accordance with the order of the court, including interest accrued. If the validity of the claim is determined to be not in favor of the claimant

or another party or if the treasurer does not receive notice that an appeal has been filed within 1 year from the date the claimant was notified that funds were being withheld, then the funds, plus accrued interest, shall escheat to the city, town or district in the manner provided in this section.

If the claimant is domiciled in another state or country and the city, town or district determines that there is no reasonable assurance that the claimant will actually receive the payment provided for in this section in substantially full value, the superior court, in its discretion or upon a petition by the city, town or district, may order that the city, town or district retain the funds.

SECTION 66. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, a municipality which accepts this section may establish and implement an early retirement incentive program for its employees in accordance with this section.

(b) The chief executive officer of the municipality shall limit the total number of participating employees, with preference given to those with greater years of creditable service, and shall have the authority to determine which eligible municipal employees may participate and to approve early retirement benefits for each employee in order to avoid adverse impacts on municipal operations and services.

(c) In order to be eligible to participate in a program established under this section, in addition to any other requirements imposed by the municipality, an employee must be an active member of a municipal, regional or county retirement system with at least 20 years of service whose salary is paid from the operating budget and not from federal, trust or other capital funds.

(d) An employee who is eligible for the early retirement incentive program may request in an application for retirement that the retirement board credit the employee with an additional retirement benefit of a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 3 years, or a lesser amount established by the municipality, for the purposes of determining the employee's superannuation retirement allowance under paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws. Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of the employee's regular compensation as determined in accordance with said section 5 of said chapter 32. All participants shall forego the right to accrued sick and vacation time, and the amount that would have been paid to a retiree for accrued sick and vacation time shall be paid into the municipal, regional or county retirement system to reduce the additional pension liability resulting from this program.

(e) In filling positions which have been vacated by employees who participate in an early retirement incentive program under this section, the chief executive officer of the municipality shall be limited to paying compensation, contract and professional services in

an amount that does not exceed the following percentage of the total annual salary of all participants in the program calculated as of their respective retirement dates: 30 per cent in fiscal year 2011, 45 per cent in fiscal year 2012 and 60 per cent in fiscal year 2013.

(f) A municipality that establishes an early retirement incentive program under this section shall provide the public employee retirement administration commission with information demonstrating the value of the plan and any information requested by the public employee retirement administration commission in order to allow it to evaluate the plan and confirm the analysis, including historic data upon which the plan is based, the elements of the municipal plan including the total number of participants, the types of eligible employees, the salaries of participating employees, the benefits to be received and the limits on refilling vacated positions. In addition, the municipality shall certify to the public employee retirement administration commission that the present value cost of its plan is estimated to be less than the present value savings and provide the commission with all information it requests to evaluate the plan and confirm a cost analysis.

(g) In order to establish an early retirement incentive program under this section, a municipality shall:

(i) require the chief executive officer of a municipality that chooses to participate to submit its plan to the public employee retirement administration commission for approval within 2 months after the effective date of this act;

(ii) once the plan has been approved, submit to the legislative body of the municipality for acceptance not later than the next meeting of the legislative body at which the plan can practicably be submitted;

(iii) publish and make available to employees the approved plan within 1 month after its acceptance by the legislative body;

(iv) require employees to participate within 2 months of the plan's publication;

(v) determine which applicants shall be allowed to participate in the program and notify them within 1 month of the application deadline; and

(vi) require that participating employees retire within 2 months of notification of acceptance.

(h) The chief executive officer of a municipality that establishes a program under this section shall submit an annual report to the public employee retirement administration commission, the executive office for administration and finance and the municipal legislative body. The report shall include the salaries and positions of participants, the amount of sick and vacation time being contributed by participants, the salaries and positions of those being hired as replacements and whether the positions of participants have been permanently eliminated.

(i) A municipality's increased pension liability resulting from participation in a program established under this section shall be amortized over 10 years, starting in the next fiscal year after all participating employees retire, in equal installments, and shall be separately identified in the municipal, regional or county retirement system's pension funding schedule.

(j) For purposes of sections (a) to (i), inclusive, the powers and duties of the chief executive officer shall be vested in the manager of the municipal lighting plant for all matters affecting municipal lighting plant employees.

SECTION 67. (a) Notwithstanding subsection (d) of section 8 of chapter 372 of the acts of 1984 or any other general or special law to the contrary, each of the towns of Chicopee and Wilbraham and the South Hadley Fire District #1, each having the responsibility for providing potable water in their respective service areas and each presently receiving its wholesale supply of potable water from the Massachusetts Water Resources Authority through the Chicopee Valley Aqueduct may furnish water to new service connections to properties located in other communities when, in the exercise of discretion by the community furnishing the water, such service is deemed necessary exclusively for the public health, safety or welfare.

(b) Each of the towns of Chicopee and Wilbraham and the South Hadley Fire District #1 may provide water for new single service connections upon such reasonable terms as may be agreeable to the municipality providing water service and may extend their respective water supply systems to properties contiguous to, or in the vicinity of, their respective local community-owned water supply pipelines that extend from the Chicopee Valley Aqueduct. For the purposes of this section, the term single service connection shall refer to either a single, individual new customer connection or to a distinct water service expansion project involving multiple new customers. Each such connection or each such water service expansion project shall be regarded as a single service connection so long as additional demand upon safe yield from the sources of water available to the authority, per connection or per project, does not exceed 100,000 gallons per day. The prior consent of the authority shall not be required for new single service connections, but advance written notification to the authority shall be required. Notification to, and the approval of, the chief executive officer in the municipality to which the single service connection is located is required. An entrance fee shall be paid to the Authority unless waived by all 3 of the aqueduct municipalities. If not waived, the entrance fee shall be in an amount equal to the new service connection's proportional share of the net asset value of the Chicopee Valley aqueduct system. The entrance fee shall be collected by the municipality of the aqueduct which shall extend its system and which shall provide the water supply connection. The entrance fee shall inure to the benefit of the aqueduct system.

(c) For all new service connections that do not qualify as single service connections, as defined in subsection (b), the recipient municipality, on behalf of its residents, businesses or other customers, shall follow the procedures and requirements and obtain each of the applicable approvals, as set forth in subsection (d) of section 8 of chapter 372 of the acts of 1984 as are required of a new member community or water district seeking admission to the authority service area. Compliance with said subsection (d) of said section 8 of said chapter 372 shall remain the sole means for approval of any proposed new service connection which is either intended to provide and extend water service to any significant additional segment

of the population of a municipality not now served by the authority or which is otherwise beyond the scope of the requirements established in subsection (b). All authority entrance fees for additional wholesale and retail connections to municipalities served through the aqueduct shall inure to the benefit of the aqueduct municipalities.

SECTION 68. (a) The terms used in this section shall have the following meanings unless the context clearly requires otherwise:

“Amnesty period”, a period of time commencing not earlier than the date a local legislative body establishes a municipal tax amnesty program according to this act and expiring not later than June 30 2011, as the local legislative body might determine, during which the municipal tax amnesty program established by the local legislative body shall be in effect in that city or town.

“Collector”, a person receiving a tax list and a warrant to collect the same.

“Covered amount”, the aggregate of all penalties, fees, charges and accrued interest assessed by the collector or treasurer for the failure of a certain taxpayer to timely pay a subject liability; provided, however, that the covered amount shall not include the subject liability itself or any fees and charges authorized or incurred for the collection of a past due subject liability for which notice has been issued; and provided further, that nothing in this section shall authorize the waiver of penalties, fees, charges and accrued interest resulting from the violation of any law, municipal by-law or ordinance.

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

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

“Treasurer”, as described in chapter 41 of the General Laws.

(b) Notwithstanding any general or special law to the contrary, the local legislative body in any city or town may vote to establish a municipal tax amnesty program according to the provisions of this section and shall, at the same time as such vote, determine the amnesty period. Tax amnesty periods shall not extend beyond June 30, 2011. The commissioner of revenue may issue such guidelines as he deems appropriate to carry out this section.

SECTION 69. The department of elementary and secondary education shall review and revise reporting requirements imposed on local school districts. Wherever possible, the department shall consolidate and eliminate the reporting requirements. The department shall

file a report not more than 6 months after the effective date of this act to the clerks of the house of representatives and senate and the joint committee on education detailing the number of requirements that were eliminated and consolidated, as well as reasons for why certain reports could not be consolidated or eliminated.

SECTION 70. The Massachusetts cultural council, in cooperation with the executive branch, constitutional offices, quasi-governmental agencies and the joint committee on tourism, arts and cultural development, shall identify state incentives and resources to enhance cultural districts pursuant to section 52A of chapter 10 of the General Laws and shall report its findings and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerk of the senate and house of representatives not later than January 1, 2011.

SECTION 71. The first actuarial valuation to be conducted pursuant to the second paragraph of paragraph (f) of subdivision (3) of section 21 chapter 32 of the General Laws, as appearing in section 16, shall be completed by January 1, 2011, or by January 1 of the third year following the last actuarial valuation of the system, whichever first occurs.

SECTION 72. There shall be a special commission to examine efficient and effective strategies to implement school district collaboration and regionalization. The commission shall consist of the senate and house chairs of the joint committee on education, who shall serve as co-chairs of the commission; the secretary of education or his designee; the commissioner of elementary and secondary education or his designee; the executive director of the Massachusetts School Building Authority or her designee; 1 member of the house of representatives to be appointed by the minority leader, 1 member of the senate to be appointed by the minority leader; and 9 persons to be appointed by the secretary of education, 1 of whom shall be from a list of 3 persons nominated by the Massachusetts Association of School Superintendents, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of School Committees, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of Regional Schools, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Teachers Association, 1 of whom shall be selected from a list of 3 persons nominated by the American Federation of Teachers, Massachusetts, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Association of School Business Officials, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Business Alliance for Education, 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Municipal Association and 1 of whom shall be selected from a list of 3 persons nominated by the Massachusetts Organization of Educational Collaboratives.

The commission shall examine and make recommendations on model approaches regarding, but not limited to, the following areas: (1) identifying indicators for assessing the academic and programmatic quality, overall district capacity, including the effectiveness of the central office and the fiscal viability, efficiency and long-term sustainability of school districts; (2) cooperative purchasing of materials and services; (3) interdistrict academic and

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extracurricular programs; (4) merger of school district central office buildings, staff and operational systems; (5) merger of collective bargaining agreements; (6) merger of debt obligations, including for school building projects; (7) the effect of school district regionalization on educational and instructional outcomes; (8) the effect of school district regionalization on school funding allocations; (9) school consolidation; (10) transitional costs associated with school district regionalization; (11) appropriate time frames for implementing school district regionalization; (12) incentives for school districts to increase collaboration and/or regionalize; (13) revisions of chapter 71 of the General Laws to facilitate the effective implementation of existing and future regional school district agreements; (14) school building capacity and facilities; (15) the feasibility of adopting a regional district finance structure in which the local contribution of the member cities or towns that the regional district serves is assessed on the basis of a uniformly measured fiscal capacity; and (16) in-district collaborations between schools, including consolidating buildings, programs, school and central office administration, special education and food service.

The commission shall conduct its first meeting not less than 45 days after the effective date of this act and shall issue its final report to the general court on the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out such recommendations, by filing the same with the clerk of the senate and house of representatives not later than March 31, 2011, and the clerks shall forward the same to the senate and house chairs of the joint committee on education and the chairs of the senate and house committees on ways and means.

Emergency letter 7/27/10 at 3:02 P.M.

Approved July 27, 2010

Chapter 189. AN ACT RELATIVE TO STATE UNIVERSITIES.

Be it enacted, etc., as follows:

SECTION 1. Section 18B of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 4 and 35, the second time it appears, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 2. Section 133 of said chapter 6, as so appearing, is hereby amended by striking out, in line 21, the words “state college, state university,” and inserting in place thereof the following words:- state university.

SECTION 3. Section 133A of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words “state college, state university,” and inserting in place thereof the following words:- state university.

SECTION 4. Section 133C of said chapter 6, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “state college, state university,” and inserting in

place thereof the following words:- state university.

SECTION 5. Section 35EE of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 6. Section 18A of chapter 15 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the first time it appears, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 7. Section 1 of chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words “university, the state college” and inserting in place thereof the following words:- the University of Massachusetts, the state university.

SECTION 8. Section 4 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 20, the words “state university” and inserting in place thereof the following words:- University of Massachusetts.

SECTION 9. Said section 4 of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 21 and 22, the words “college chosen by vote of the chairs of the boards of trustees of each of the state colleges” and inserting in place thereof the following words:- university chosen by vote of the chairs of the boards of trustees of each of the state universities.

SECTION 10. Subsection (a) of said section 4 of said chapter 15A, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 11. Section 4A of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 27 and 28, the words “state university or college, 1 of whom shall be a president of a state college or his designee” and inserting in place thereof the following words:- campus of the University of Massachusetts or a designee, 1 of whom shall be a president of a state university or a designee.

SECTION 12. Section 5 of said chapter 15A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be, for the purposes of this chapter, a system of public institutions of higher education, hereinafter called the system, which shall consist of the following segments: (i) the university of Massachusetts segment, which shall consist of the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester; (ii) the state university segment, which shall consist of Bridgewater State University, Fitchburg State University, Framingham State University, the Massachusetts College of Art and Design, the Massachusetts Maritime Academy, the Massachusetts College of Liberal Arts, Salem State University, Westfield State University and Worcester State University; and (iii) the community college segment, which shall consist of Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount

Wachusett Community College, Northern Essex Community College, North Shore Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College.

SECTION 13. Section 7 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words “by (i) the university segment, (ii) the state college segment, and (iii) the community college segment” and inserting in place thereof the following words:- in section 5.

SECTION 14. The second paragraph of said section 7 of said chapter 15A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The board of trustees of each state university and community college shall develop and submit to the secretary and the council a mission statement for each such institution.

SECTION 15. Said section 7 of said chapter 15A, as so appearing, is hereby further amended by inserting after the word “state”, in line 23, the following word:- university.

SECTION 16. Section 7A of said chapter 15A, as so appearing, is hereby amended by inserting after the word “state”, in lines 12 and 13, each time it appears, the following word:- universities.

SECTION 17. Said section 7A of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 27, the words “, not later than September 1, 2003, separate task forces for the state” and inserting in place thereof the following words:- separate task forces for the state university.

SECTION 18. Section 9 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 55, 70, 94 and 136, the word “colleges”, and inserting in place thereof, in each instance, the following word:- universities.

SECTION 19. Said section 9 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 105, the word “college”, the first time it appears, and inserting in place thereof the following word:- university.

SECTION 20. Said section 9 of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 169 and 170, the words “university, state college or community college” and inserting in place thereof the following words:- institution of higher education.

SECTION 21. Section 14 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 1, the words “state university” and inserting in place thereof the following words:- University of Massachusetts.

SECTION 22. Section 15 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 24, the words “university, state colleges” and inserting in place thereof the following words:- University of Massachusetts, state universities.

SECTION 23. Said section 15 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 26, the word “college” and inserting in place thereof the following word:- university.

SECTION 24. Section 15B of said chapter 15A, as so appearing, is hereby amended by inserting after the word “state”, in line 23, the following word:- university.

SECTION 25. Section 15E of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “state university and public colleges” and inserting in place thereof the following words:- public institutions of higher education.

SECTION 26. Said section 15E of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 19, the word “college’s” and inserting in place thereof the following word:- university’s.

SECTION 27. Said section 15E of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 36, the word “college” and inserting in place thereof the following word:- university.

SECTION 28. Section 19 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 40 and 41, and in lines 65 and 86, the words “college or university” and inserting in place thereof, in each instance, the following words:- institution of higher education.

SECTION 29. Said section 19 of said chapter 15A, as so appearing, is hereby further amended by striking out, in line 45, the word “college” and inserting in place thereof the following word:- university.

SECTION 30. Section 19D of said chapter 15A, as so appearing, is hereby amended by striking out, in line 6, in lines 13 and 14 and in line 16, the words “college or university” and inserting in place thereof, in each instance, the following words:- institution of higher education.

SECTION 31. Section 22 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 2 and 84, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 32. Section 37 of said chapter 15A, as so appearing, is hereby amended by striking out, in line 13, the words “college or university” and inserting in place thereof the following words:- institution of higher education.

SECTION 33. Section 2MMM of chapter 29 of the General Laws, as so appearing, is hereby amended by inserting after the word “state”, in line 30, the following word:- universities.

SECTION 34. Section 6 of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word “college” and inserting in place thereof the following word:- university.

SECTION 35. Section 8 of said chapter 69, as so appearing, is hereby amended by striking out, in line 5, the word “college” and inserting in place thereof the following word:- university.

SECTION 36. Section 1 of chapter 73 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “colleges” and inserting in place thereof the following words:- universities, as established by section 5 of chapter 15A.

SECTION 37. Said section 1 of said chapter 73, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words “said university” and inserting in place thereof the following words:- the University of Massachusetts.

SECTION 38. Said section 1 of said chapter 73, as so appearing, is hereby further amended by striking out, in lines 7, 9, 11, 22, 44, 44 and 45 and 47, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 39. Said section 1 of said chapter 73, as so appearing, is hereby further amended by striking out the word “college”, in lines 13 and 14 and in line 33, and inserting in place thereof the following word:- university.

SECTION 40. Said section 1 of said chapter 73, as so appearing, is hereby further amended by striking out the words “, said Massachusetts College of Art and Design and said Massachusetts Maritime Academy”, in lines 22 and 23.

SECTION 41. Section 1A of said chapter 73, as so appearing, is hereby amended by striking out the words “colleges and the Massachusetts College of Art and Design”, in lines 2 and 3, and inserting in place thereof the following word:- universities.

SECTION 42. Said section 1A of said chapter 73, as so appearing, is hereby further amended by striking out the word “colleges”, in line 8, and inserting in place thereof the following word:- universities.

SECTION 43. Section 1B of said chapter 73, as so appearing, is hereby amended by striking out the words “colleges, the Massachusetts College of Art and Design and the Massachusetts Maritime Academy”, in lines 2 to 4, inclusive, and inserting in place thereof the following word:- universities.

SECTION 44. Said section 1B of said chapter 73, as so appearing, is hereby further amended by striking out the word “college”, in lines 5 and 6, in each instance, and inserting in place thereof the following words:- state university.

SECTION 45. Section 1D of said chapter 73 is hereby repealed.

SECTION 46. Section 1E of said chapter 73, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 5, the word “college” and inserting in place thereof the following word:- university.

SECTION 47. Said section 1E of said chapter 73, as so appearing, is hereby further amended by striking out, in line 6, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 48. Section 2A of said chapter 73, as so appearing, is hereby amended by striking out, in line 1, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 49. Section 3 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 6, 7, 9 and 12, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 50. Section 4 of said chapter 73, as so appearing, is hereby amended by striking out, in line 1, the word “colleges” and inserting in place thereof the following word:-

universities.

SECTION 51. Section 4A of said chapter 73, as so appearing, is hereby amended by striking out, in lines 1, 5, 11, 12 and 19, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 52. Said section 4A of said chapter 73, as so appearing, is hereby further amended by striking out, in lines 2 and 6, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 53. Section 4B of said chapter 73, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words “college, the Massachusetts College of Art and Design or the Massachusetts Maritime Academy” and inserting in place thereof the following word:- university.

SECTION 54. Section 6 of said chapter 73, as so appearing, is hereby amended by striking out, in line 2, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 55. Section 8 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words “colleges, and the Massachusetts College of Art and Design” and inserting in place thereof the following word:- universities.

SECTION 56. Section 10 of said chapter 73, as so appearing, is hereby amended by inserting after the word “state”, in line 1, the following word:- universities.

SECTION 57. Said section 10 of said chapter 73, as so appearing, is hereby further amended by striking out, in line 5, the word “college” and inserting in place thereof the following words:- university or community college.

SECTION 58. Said section 10 of said chapter 73, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 59. Section 12 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 3 and 4 and in lines 4 and 5, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 60. Section 13 of said chapter 73, as so appearing, is hereby amended by striking out, in line 7, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 61. Section 14 of said chapter 73, as so appearing, is hereby amended by striking out, in line 4, the word “college” and inserting in place thereof the following word:- university.

SECTION 62. Said section 14 of said chapter 73, as so appearing, is hereby further amended by striking out, in lines 7, in lines 12 and 13 and in lines 23 and 25, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 63. Section 15 of said chapter 73, as so appearing, is hereby amended by striking out, in line 2, lines 8 and 9, lines 12 and 13 and in lines 14 and 15, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 64. Said section 15 of said chapter 73, as so appearing, is hereby further amended by striking out, in line 16, the word “college’s” and inserting in place thereof the following word:- university’s.

SECTION 65. Section 16 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 3, 14, 36, 49, 61, 62, 73 and 81, the word “colleges” and inserting in place thereof, in each instance, the following word:- universities.

SECTION 66. Said section 16 of said chapter 73, as so appearing, is hereby further amended by striking out, in lines 17, 47, 53, 56 and 79, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 67. Section 17 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 2 and 5, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 68. Section 18 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 3, 5, 6 and 12, the word “college” and inserting in place thereof, in each instance, the following word:- university.

SECTION 69. Said section 18 of said chapter 73, as so appearing, is hereby further amended by striking out, in line 11, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 70. Said chapter 73 is hereby amended by striking out section 19, as so appearing, and inserting in place thereof the following section:-

Section 19. The institutions of higher learning under the jurisdiction of the board of trustees of state universities shall be those institutions in the state university segment established by section 5 of chapter 15A.

SECTION 71. Section 20 of said chapter 73, as so appearing, is hereby amended by striking out, in lines 1, 4, 7, 10, 13, 15 and 18, the word “college”, and inserting in place thereof, in each instance, the following word:- university.

SECTION 72. Said section 20 of said chapter 73, as so appearing, is hereby further amended by striking out, in line 11, the following word “collegiate”.

SECTION 73. Section 1 of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “The state university shall be the” and inserting in place thereof the following words:- There shall be a.

SECTION 74. The definition of “police chief” in section 1 of chapter 90C of the General Laws, as amended by section 60 of chapter 451 of the acts of 2008, is hereby amended by inserting after the words “commonwealth’s state” the following word:- universities.

SECTION 74A. The definition of “police officer” in said section 1 of said chapter 90C, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words “commonwealth’s state” the following word:- universities.

SECTION 75. Section 2 of said chapter 90C, as so appearing, is hereby amended by inserting after the word “state”, in lines 11 and 46, the following word:- universities.

SECTION 76. Said section 2 of said chapter 90C, as so appearing, is hereby further amended by inserting after the word “state”, in lines 13, 30, 32, 35, 38 and 41, the following word:- university.

SECTION 77. Section 2A of said chapter 90C, as so appearing, is hereby amended by inserting after the word “state”, in lines 2 and 4, the following word:- universities.

SECTION 78. Section 1 of chapter 703 of the acts of 1963, as most recently amended by sections 4 and 5 of chapter 258 of the acts of 2008, is hereby amended by striking out paragraph (h) and inserting in place thereof the following paragraph:-

(h) “State college”, any of the public institutions of higher education in the state university segment established by section 5 of chapter 15A of the General Laws.

SECTION 79. Chapter 811 of the acts of 1967 is hereby amended by striking out, in line 1, the word “colleges” and inserting in place thereof the following word:- universities.

SECTION 79A. Said chapter 811 is hereby further amended by inserting after the word “such”, in line 6, the second time it appears, the words:- state university or community.

SECTION 80. With the exception of section 78, nothing in this act shall be construed to affect the Massachusetts State College Building Authority, established pursuant to chapter 703 of the acts of 1963 or the obligations, agreements, authorities or responsibilities thereof.

SECTION 81. Subsection (a) of section 9 of chapter 419 of the acts of 2008 is hereby amended by striking out the words “Bridgewater State College” and inserting in place thereof the following words:- Bridgewater State University.

SECTION 82. Nothing in this act shall be deemed to alter any bargaining unit that exists at Bridgewater State University, formerly known as Bridgewater State College; Fitchburg State University, formerly known as Fitchburg State College; Framingham State University, formerly known as Framingham State College; the Massachusetts College of Art and Design; the Massachusetts Maritime Academy; the Massachusetts College of Liberal Arts; Salem State University, formerly known as Salem State College; Westfield State University, formerly known as Westfield State College; or Worcester State University, formerly known as Worcester State College, on the effective date of this act. No action taken pursuant to this act shall be deemed to be justification for altering any bargaining unit that exists at said institutions on the date immediately preceding the effective date of this act.

SECTION 83. Any reference to the state colleges generally or to any 1 or more of them individually in any general or special law, or in any rule, regulation, order, by-law, deed, indenture or other document or instrument shall be considered to be a reference to the state universities set forth in clause (ii) of the first paragraph of section 5 of chapter 15A of the General Laws, inserted by section 12 of this act, or to the corresponding state university, whether 1 or more, individually.

Approved July 28, 2010.

Chapter 190. AN ACT ESTABLISHING AN ORGAN AND TISSUE DONOR REGISTRATION FUND.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the promotion of organ and tissue donor registration, therefore 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 10 of the General Laws is hereby amended by inserting after section 35E the following section:-

Section 35E½. There shall be established and set up on the books of the commonwealth an Organ and Tissue Donor Registration Fund to facilitate the registration of residents as organ and tissue donors. The fund shall consist of revenues collected by the commonwealth: (1) pursuant to section 15 of chapter 17 and section 8D of chapter 90; and (2) from public and private sources as gifts, grants and donations to facilitate the registration of residents as organ and tissue donors.

All revenues credited under this section shall remain in the Organ and Tissue Donor Registration Fund, not subject to appropriation, to facilitate the registration of organ and tissue donors and to support any reasonable and necessary administrative costs incurred by the department of public health, not to exceed 3 per cent per annum of the funds held in the trust in a given state fiscal year, in coordinating with the advisory council established in section 15 of chapter 17 to carry out the responsibilities of the council. The state treasurer shall not deposit or otherwise transfer the revenues to the General Fund or any other fund.

The state treasurer shall deposit the moneys in the fund in accordance with section 34 of chapter 29 in a manner that will secure the highest interest available consistent with the safety of the fund and with the requirement that all amounts on deposit shall be available for immediate withdrawal at all times. The fund shall be expended at the direction of the commissioner of public health only for the purposes stated in this section and any unexpended balances in the fund at the end of the fiscal year shall not revert and shall be available for expenditures in the subsequent fiscal year.

SECTION 2. Chapter 17 of the General Laws is hereby amended by striking out section 15, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 15. (a) There shall be an advisory council on organ and tissue transplants and donations which shall consist of the commissioner of public health; the registrar of motor vehicles; the director of organ transplants; the president of the Massachusetts Medical Society; and at least 6 persons to be appointed by the governor with experience in the field of organ and tissue transplants and donations, at least 1 of whom shall be a representative of a federally-designated organ procurement organization serving the commonwealth, at least 1 of whom shall be a physician experienced in organ and tissue transplantation, at least 1 of whom shall be a physician experienced in pediatric organ and tissue transplantation, at least

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1 of whom may be a donated organ or tissue recipient, at least 1 of whom may be a pediatric donated organ or tissue recipient and at least 1 of whom may be an organ or tissue donor or a family member of an organ or tissue donor. Members shall be appointed for terms of 3 years and no member shall be appointed to serve for more than 2 consecutive terms. Upon the expiration of the term of an appointed member, a successor shall be appointed in like manner for a term of 3 years.

(b) The governor shall annually designate the chairperson of the council from among its members. The council shall meet at least 2 times annually, and shall convene special meetings at the call of the chairperson, a majority of the members of the council, the commissioner of public health or the director of organ transplants. The director of organ transplants shall serve as the executive secretary of the council and shall attend all meetings. The council shall make an annual report to the governor, which shall include an account of all actions taken to further adult and pediatric organ and tissue donor registration, and shall file a copy of the report with the state secretary and the clerks of the senate and house of representatives. Members of the council shall serve without compensation.

(c) The advisory council shall:

(1) assist the commissioner of public health and the director of organ transplants in coordinating the efforts of all public and private agencies within the commonwealth concerned with the donation and transplantation of human organs and tissue;

(2) advise the commissioner of public health and the director of organ transplants on policy and priority of needs for a comprehensive program relative to organ and tissue donations and transplants;

(3) assist the director of organ transplants in developing strategies to increase adult and pediatric organ and tissue donor registration and awareness with a special focus upon the need for increased pediatric organ and tissue donation; provided, however, that funding to support any such strategies shall be made available from the Organ and Tissue Donor Registration Fund established in section 35E½ of chapter 10;

(4) assist the director of organ transplants in establishing a website that provides general information relative to adult and pediatric organ and tissue donor registration and awareness, which shall include, but not be limited to, information that the council and director consider beneficial in increasing public knowledge about the need for organ and tissue donation, particularly pediatric organ and tissue donation, and a means by which the public may donate to the Organ and Tissue Donor Registration Fund;

(5) facilitate and assist in the establishment of a program by which employers can match the donations of their employees to the Organ and Tissue Donor Registration Fund;

(6) establish goals for increasing both adult and pediatric organ and tissue donation rates, which shall include a baseline account of current organ and tissue donation rates and periodic benchmarks for success; and

(7) assist the director of organ transplants in establishing regulations which shall set forth standards and guidelines by which the director shall select individuals to receive funds from the Organ Transplant Fund established in section 35E of said chapter 10 and determine

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the amount each such individual shall receive.

SECTION 3. Section 8 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the word “thereof”, in line 27, the following words:- , including any online renewal.

SECTION 4. Section 8D of said chapter 90, as so appearing, is hereby amended by inserting after the word “license”, in line 2, the following words:- and registration.

SECTION 5. Said section 8D of said chapter 90, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:-

The registrar shall include on an online license renewal form an option for the person submitting the form to donate a sum of not less than \$2 to the Organ and Tissue Donor Registration Fund established in section 35E½ of chapter 10. The registrar shall annually report the total amount designated under this paragraph to the state treasurer who shall credit amounts received for that purpose to the fund.

SECTION 6. Said section 8D of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

The registrar shall develop a means by which a person licensed by the registrar to operate a motor vehicle or holding an identification card issued under section 8E to register as an organ and tissue donor through the registry’s website. The means shall be in addition to and shall contain the same security provisions as provided for the online renewal of licenses and registrations.

SECTION 7. Section 12D of chapter 112 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

If a patient covered by MassHealth pursuant to chapter 118E is prescribed a narrow therapeutic index immunosuppressant drug for the treatment of an organ or tissue transplant, the pharmacist shall notify the prescribing physician if a substitution to a narrow therapeutic index immunosuppressant drug for the treatment of an organ or tissue transplant is made. For the purposes of this paragraph, “narrow therapeutic index immunosuppressant drug” shall mean an immunosuppressant drug for the treatment of an organ or tissue transplant that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring.

Approved July 29, 2010.

Chapter 191. AN ACT RELATIVE TO NURSE ANESTHETISTS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition “Nurse” the following definition:-

“Nurse anesthetist”, a nurse with advanced training authorized to practice by the board of registration in nursing as a nurse anesthetist in an advanced practice nursing role as provided in section 80B of chapter 112.

SECTION 2. Subsection (g) of section 7 of said chapter 94C, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner shall promulgate regulations which provide for the registration of nurse anesthetists in an advanced practice nursing role, as defined in section 80B of chapter 112, to issue written prescriptions for patients under section 80H of chapter 112 and under guidelines mutually- developed and agreed upon by the nurse and supervising physician in accordance with said section 80H and regulations approved by the board of registration in nursing and the board of registration in medicine. Prior to promulgating the regulations, the commissioner shall consult with the board of registration in nursing, board of registration in medicine and the board of registration in pharmacy with regard to those schedules of controlled substances for which nurse anesthetists may be registered.

SECTION 3. Said chapter 94C is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. (a) A physician, dentist, podiatrist, optometrist as limited by sections 66 and 66B of chapter 112 and subsection (h) of section 7, nurse practitioner and psychiatric nurse mental health clinical specialist as limited by subsection (g) of said section 7 and section 80E of said chapter 112, physician assistant as limited by said subsection (g) of said section 7 and section 9E of said chapter 112, certified nurse midwife as provided in section 80C of said chapter 112, nurse anesthetist, as limited by subsection (g) of said section 7 and section 80H of said chapter 112, pharmacist as limited by said subsection (g) of said section 7 and section 24B½ of said chapter 112, or veterinarian when registered under said section 7, may, when acting in accordance with applicable federal law and any provision of this chapter which is consistent with federal law and in good faith and in the course of a professional practice for the alleviation of pain and suffering or for the treatment or alleviation of disease, possess controlled substances as may reasonably be required for the purpose of patient treatment and may administer controlled substances or may cause the same to be administered under his direction by a nurse.

A practitioner may cause controlled substances to be administered under his direction by a licensed dental hygienist for the purposes of local anesthesia only.

(b) Notwithstanding section 17, a physician, physician assistant, dentist, podiatrist, optometrist, certified nurse midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist as limited by said subsection (g) of said section 7 and section 24B ½ of said chapter 112, or veterinarian registered under said section 7, may, when acting in good faith and in the practice of medicine, dentistry, podiatry, optometry, nurse-midwifery, pharmacy or veterinary medicine or as a nurse, as the case may be, and when authorized by a physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified nurse midwife, psychiatric nurse mental health clinical specialist, nurse anesthetist, or veterinarian in the course of such nurse’s professional prac-

tice, dispense by delivering to an ultimate user a controlled substance in a single dose or in a quantity that is, in the opinion of such physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified midwife, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or veterinarian, essential for the treatment of a patient. The amount or quantity of any controlled substance dispensed under this subsection shall not exceed the quantity of a controlled substance necessary for the immediate and proper treatment of the patient until it is possible for the patient to have a prescription filled by a pharmacy. All controlled substances required by the patient as part of the patient's treatment shall be dispensed by prescription to the ultimate user in accordance with this chapter.

This section shall not prohibit or limit the dispensing of a prescription medication that is classified by the department as schedule VI and that is provided by the manufacturer as part of an indigent patient program or for use as samples if the prescription medication is: (i) dispensed to the patient by a professional authorized to dispense controlled substances pursuant to this section; (ii) dispensed in the package provided by the manufacturer; and (iii) provided at no charge to the patient. The department shall promulgate rules and regulations governing the dispensing of medication pursuant to this section. These rules and regulations shall include, but not be limited to, the types and amounts of medications that may be dispensed and the appropriate safeguards for the labeling and dispensing of such medications.

(c) A nurse who has obtained from a physician, dentist, physician assistant, podiatrist, certified nurse midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or veterinarian a controlled substance for dispensing to an ultimate user pursuant to subsection (b) or for administration to a patient pursuant to subsection (a) during the absence of the physician, physician assistant, dentist, podiatrist, certified nurse midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or veterinarian, shall return to the physician, physician assistant, dentist, podiatrist, certified nurse midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or veterinarian any unused portion of the controlled substance which is no longer required by the patient.

A licensed dental hygienist who has obtained a controlled substance from a practitioner for dispensing to an ultimate user pursuant to subsection (a) shall return to such practitioner any unused portion of the substance which is no longer required by the patient.

(d) Every physician, physician assistant, dentist, podiatrist, certified nurse midwife, nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or veterinarian shall, in the course of a professional practice, keep and maintain records, open to inspection by the commissioner during reasonable business hours, which shall include the following: the names and quantities of any controlled substances in schedules I, II or III received by the practitioner; the name and address of each patient to whom such controlled substance is administered or dispensed; the name, dosage and strength

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per dosage unit of each such controlled substance; and the date of such administration or dispensing.

(e) Notwithstanding subsection (b), a physician, nurse practitioner, physician assistant, pharmacist as limited by subsection (g) of section 7 and section 24B ½ of said chapter 112 or certified nurse midwife, when acting in good faith and providing care under a program funded in whole or in part by 42 U.S.C. section 300, or in a clinic licensed by the department to provide comparable medical services or a registered nurse, registered under section 74 of said chapter 112 and authorized by such physician, nurse practitioner, physician assistant, pharmacist as limited by said subsection (g) of said section 7 and section 24B 1/2 of said chapter 112, certified nurse midwife may lawfully dispense controlled substances pursuant to schedule VI to recipients of such services in such quantity as needed for treatment and shall be exempt from the requirement that such dispensing be in a single dose or as necessary for immediate and proper treatment under subsection (b). A registered nurse shall dispense under this subsection only as provided in section 17. The department may establish rules and regulations controlling the dispensing of these medications, including, but not limited to, the types and amounts of medications dispensed and appropriate safeguards for dispensing.

SECTION 4. Chapter 112 is hereby amended by inserting after section 80G the following section:-

Section 80H. A nurse anesthetist may issue written prescriptions and order tests and therapeutics for the immediate perioperative care of a patient pursuant to guidelines mutually developed and agreed upon by the nurse and the supervising physician in accordance with regulations promulgated jointly by the board and the board of registration in medicine after consultation with the board of registration in pharmacy. For the purposes of this section, the immediate perioperative care of a patient shall be defined as the period commencing on the day prior to surgery and ending upon discharge of the patient from post-anesthesia care. A prescription made by a nurse anesthetist shall include the name of the physician with whom such nurse developed and signed mutually agreed upon guidelines approved by the board and the board of registration in medicine under section 80B. The administration of anesthesia by a nurse anesthetist directly to a patient shall not require a written prescription.

Approved July 29, 2010.

Chapter 192. AN ACT AUTHORIZING A CERTAIN QUESTION RELATIVE TO A CHARTER REVISION IN THE TOWN OF PALMER TO BE PLACED ON THE STATE ELECTION BALLOT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, in order to ascertain the will of the voters of the town of Palmer, the state secretary shall cause to be

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placed on the official ballot to be used in the November 2010 state election in the town of Palmer the following question: "Shall this town approve the charter revision recommended by the charter commission summarized below?". If a majority of the votes cast in answer to the question is in the affirmative it shall be taken to be the will of the voters and the charter revision shall take effect.

SECTION 2. The town charter commission shall prepare the summary of the proposed charter revision which shall appear on the ballot along with the question provided in section 1 and the town clerk shall submit the question and summary to the state secretary in accordance with section 42C of chapter 54 of the General Laws.

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

Approved July 29, 2010.

Chapter 193. AN ACT RELATIVE TO WILLIAM J. HIGGINS, AN EMPLOYEE OF THE TOWN OF NANTUCKET.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the town of Nantucket may, subject to appropriation, pay to William J. Higgins, an employee of the town of Nantucket who was granted a military leave of absence to serve in support of Operation Enduring Freedom after September 11, 2001, the amount of \$29,539.41. This amount constitutes the regular base salary that William J. Higgins would have received as a town of Nantucket employee during his military leave reduced by the amount he received from the United States as base pay for military service performed during the same pay period.

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

Approved July 29, 2010.

Chapter 194. AN ACT AUTHORIZING THE TOWN OF WAREHAM TO ISSUE 8 ADDITIONAL LIQUOR LICENSES.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 424 of the acts of 2006 is hereby amended by adding the following words:- and adjacent parcels of land on Map 109A, lots 1 to 9, inclusive, 1017A, 1018A, 1019, 1020A, 1020B, 1021, 1022, 1023A, 1023B, 1024A, 1024B and 1024C.

SECTION 2. (a) 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 town of Wareham 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 Hadley-MacIntosh Enterprises, Inc. d/b/a The Stonebridge, located at 5 East boulevard in the Onset section of said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, the licensing authority shall not approve the transfer of the license issued under this section to any other location, but it 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.

(c) 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 section.

SECTION 3. (a) 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 town of Wareham 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 Captain Als Restaurant LLC d/b/a Captain Als, located at 3236 Cranberry highway in the Onset section of said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, the licensing authority shall not approve the transfer of the license issued under this section to any other location, but it 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.

(c) 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 section.

SECTION 4. (a) 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 town of Wareham 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 Grady MacKay's Village Eatery and Bar located at 330 Main street. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 authority a letter from the department of revenue indicating that

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the license is in good standing with the department and that all applicable taxes have been paid.

(c) 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 section.

SECTION 5. (a) 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 town of Wareham 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 Mark, Incorporated d/b/a China Garden, located at 265 Marion road. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 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.

(c) 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 section.

SECTION 6. (a) 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 town of Wareham 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 Tsika, Inc. d/b/a Minerva Pizza, located at 257 Main street. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 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.

(c) 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 section.

SECTION 7. (a) 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 town of Wareham 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 Rosebrook Place Hospitality LLC, a subsidiary of A.D. Makepeace Company, located at the interchange of

interstate highway route 195 and state highway route 25 in said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 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.

(c) 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 section.

SECTION 8. (a) 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 town of Wareham 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 W/S Wareham Properties LLC d/b/a Wareham Crossing Restaurant, located at 2421 Cranberry highway. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 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.

(c) 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 section.

SECTION 9. (a) 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 town of Wareham 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 Al & El Corporation d/b/a Ella's Woodburning Oven Restaurant, located at 3136 Cranberry highway in the East Wareham section of said town. A license granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) Once issued, 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 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.

(c) 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

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at the same location under the same conditions as specified in this section.

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

Approved July 29, 2010.

**Chapter 195. AN ACT RELATIVE TO CONCURRENT JURISDICTION OVER
THE FORMER DEVENS MILITARY BASE.**

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 481 of the acts of 2004 is hereby amended by striking out the words "town of Harvard" and inserting in place thereof the following words:- towns of Harvard and Ayer.

SECTION 2. Section 2 of said chapter 481 is hereby amended by striking out the figure "255" and inserting in place thereof the following figure:-3112.

Approved July 29, 2010

**Chapter 196. AN ACT RELATIVE TO POLICE APPOINTMENTS IN THE TOWN
OF DUDLEY.**

Be it enacted, etc., as follows:

Chapter 511 of the acts of 1975 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Appointments to the police department of the town shall be subject to rules and regulations established by a committee of 5 members consisting of the town administrator, the chief of police and 3 members appointed by the town moderator, 2 of whom shall be members of the board of selectmen and 1 of whom shall be a member of the finance committee of the town.

Approved July 29, 2010.

Chapter 197. AN ACT RELATIVE TO SCHOOL NUTRITION.

Be it enacted, etc., as follows:

SECTION 1. Section 23B of chapter 7 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words "or authority", and inserting in place thereof the following words:- , authority or trustees or of-

ficers of a state college or university designated by such trustees.

SECTION 2. Said section 23B of said chapter 7, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following 2 subsections:-

(b) To effectuate the preference for those products of agriculture grown or produced using locally-grown products, the state purchasing agent responsible for procuring the products on behalf of a state agency, authority or trustees or officers of a state college or university designated by such trustees shall, in advertising for bids, contracts or otherwise procuring products of agriculture, make reasonable efforts to facilitate the purchase of such products of agriculture grown or produced using products grown in the commonwealth.

(c) The state purchasing agent responsible for procuring the products on behalf of a state agency or authority shall purchase the products of agriculture grown or produced using products grown in the commonwealth, unless the price of the goods exceeds, by more than 10 per cent, the price of products of agriculture grown or produced using products grown outside of the commonwealth.

SECTION 3. Section 4 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) A procurement officer, who follows sound business practices, may award contracts which include individual purchases of less than \$25,000 to Massachusetts farm operations for the procurement of products of agriculture as defined in section 1A of chapter 128 including, but not limited to, fruits, vegetables, eggs, dairy products, meats, crops, horticultural products and products processed into value added products, that are grown or produced using products grown in the commonwealth as well as fish, seafood and other aquatic products, without seeking quotations as required under subsection (a).

SECTION 4. The third paragraph of section 1D of chapter 69 of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following 2 sentences:- The standards shall provide for instruction in the issues of nutrition and exercise. The standards may provide for instruction in the issues of physical education, human immunodeficiency virus and acquired immune deficiency syndrome education, violence prevention, including teen dating violence, bullying prevention, conflict resolution and drug, alcohol and tobacco abuse prevention.

SECTION 5. The fourteenth paragraph of section 1I of said chapter 69, as so appearing, is hereby amended by striking out clauses (j) and (k) and inserting in place thereof the following 3 clauses:-

- (j) multi-cultural education training for students and teachers;
- (k) global education; and
- (l) nutrition and wellness programs.

SECTION 6. Chapter 111 of the General Laws is hereby amended by adding the following section:-

Section 222. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

“Competitive foods or beverages”, all foods or beverages sold or provided in: (i) À la carte lines in school cafeterias; (ii) school stores; (iii) school snack bars; (iv) vending machines; and (v) any other locations in public schools; provided, however, that competitive foods or beverages shall not include foods sold or provided as part of the School Breakfast Program, the School Lunch Program and the Child and Adult Care Food Program of the United States Department of Agriculture; provided further, that competitive foods or beverages shall not include non-sweetened carbonated water.

“Nutritional standards”, the standards promulgated by the department in accordance with subsection (c).

“Public school”, an elementary, middle, high, charter or innovation school operated by a public school district or board of trustees pursuant to chapter 71.

“School day”, the hours of the day that students must attend school.

(b) The department, in consultation with the department of elementary and secondary education and the department of mental health, shall establish, and periodically review, guidelines for:

(1) the training of all public school nurses in behavioral health and appropriate screening and resources for the treatment of childhood obesity and behavioral health disorders, including eating disorders;

(2) the recognition, treatment and availability of resources for children at risk for and diagnosed with childhood obesity and type 2 diabetes;

(3) professional development and training of public school nurses and aid staff to gain the most up-to-date knowledge on childhood obesity, eating disorders and type 2 diabetes so that they can become more effective at screening for these conditions and making appropriate referrals for treatment; and

(4) the establishment of a referral program where medical resources in the community shall collaborate with public schools to identify children in need of nutritional services, and provide these resources through in-school, outpatient and inpatient settings, where appropriate.

(c)(1) The department shall promulgate regulations establishing nutritional standards for the sale or provision of competitive foods or beverages in public schools.

(2) All competitive foods or beverages sold or provided in public schools shall be limited to foods or beverages that comply with the nutritional standards; provided, however, that the nutritional standards shall not apply, unless a public school district or board of trustees elects to apply the nutritional standards beyond this timeframe, to competitive foods or beverages sold on school grounds up to 30 minutes before the beginning of the school day or 30 minutes after the end of the school day, with the exception of competitive foods or beverages sold through vending machines, in which case the nutritional standards shall apply at all times; and provided further, that the department may make reasonable exceptions for the application of the nutritional standards to competitive foods or beverages sold during the

school day at booster sales, concession stands, and other school-sponsored or school-related fundraisers and events.

(3) In developing the regulations, the department shall consider nutritional and dietary recommendations developed by state, federal and independent departments and health advisory associations including, but not limited to: the United States Department of Health and Human Services, the United States Department of Agriculture, the American Dietetic Association, the national School Nutrition Association, the Institute of Medicine, the American Heart Association and the School Nutrition Association of Massachusetts; provided, however, that the department, where appropriate, may develop the regulations in conformity with federal nutritional standards.

(4) The regulations shall include, but not be limited to, the following requirements for public schools:

(i) making available plain, potable water to all public school students during the day, at no cost to the students;

(ii) offering for sale fresh fruit and non-fried vegetables at any location where food is sold; provided, however, that this shall not include non-refrigerated vending machines and vending machines which dispense only beverages;

(iii) making nutritional information available to students for non-prepackaged competitive foods or beverages; provided, however, that this shall not include fresh fruit or fresh vegetables and foods or beverages sold during the school day at booster sales, concession stands, and other school-sponsored or school-related fundraisers and events;

(iv) prohibiting fryolators in the preparation of competitive foods; provided, however, that the department may establish exceptions for the use of fryolators in the preparation of competitive foods sold during the school day at booster sales, concession stands and other school-sponsored or school-related fundraisers and events; and

(v) ensuring that all foods, including competitive foods or beverages sold or provided to students during the school day, meet state and federal food safety requirements.

(d) The department, in collaboration with the department of elementary and secondary education, shall assist public schools in the implementation of the nutritional standards relative to the sale or provision of competitive foods or beverages in public schools. The assistance may include:

(1) additional training in nutrition and diet available for school food service directors;

(2) an assessment of a school's capacity, resources and equipment to prepare and provide recommended foods; and

(3) recommendations on the duration of school lunch periods.

(e) Every 5 years, the department, in consultation with the department of elementary and secondary education, shall conduct a review of the nutritional standards and update the nutritional standards as needed pursuant to subsection (c). In August of the last year of the 5-year period, the department shall report the findings of the review to the speaker of the house of representatives, the president of the senate, the joint committee on health care financing, the joint committee on public health and the joint committee on education. The

report shall include, but not be limited to, the following information:

(1) an assessment of the success of implementing the nutritional standards in public schools;

(2) the challenges or barriers experienced by public schools upon implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(3) changes in revenue received from the sale of federally-reimbursable school meals;

(4) changes in total revenue from federally-reimbursable school meals and competitive sales combined that were lost or gained after implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(5) notable changes in student participation in the federally-reimbursable school meals programs; and

(6) recommendations for improvement of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages.

(f) The department, in collaboration with the department of elementary and secondary education, shall promulgate regulations facilitating the establishment of school wellness advisory committees within school districts in order to maximize school districts' eligibility as recipients of federal grant awards. The regulations may require the wellness advisory committees to develop and recommend district-wide wellness policies addressing school nutrition, nutrition education and physical activity. The regulations may further require the wellness advisory committees to periodically review the district-wide wellness policies and implement any recommendations made as a result of this review prior to the following school year. Committee members may include school administrators, school nurses, food service directors, food service staff, parents of students in the school district, students, physical and health education teachers, dietitians, health care professionals and interested community members.

(g) To promote food safety, the department, in collaboration with the department of elementary and secondary education, shall promulgate regulations requiring local health officials to conduct food safety inspections at public schools, in accordance and with the frequency required by state and federal law, or as a result of public complaint or food recall, and to track and report the results of these inspections for each school to the department and the department of elementary and secondary education, including any violations and steps to remediate the violations. The regulations may include minimal qualifications for local health officials responsible with conducting food safety inspections at public schools. All reports and information collected or received by the departments pursuant to the requirements of this subsection shall be public records pursuant to section 7 of chapter 4.

SECTION 7. (a) There is hereby established a commission on school nutrition and childhood obesity for the purpose of making an investigation and study of childhood obesity and effective programs promoting proper nutrition and exercise for the children of the commonwealth. The commission shall be co-chaired by the commissioner of public health and the commissioner of elementary and secondary education, or their designees, and shall

also include: the commissioner of mental health or the commissioner's designee; the commissioner of agricultural resources or the commissioner's designee; the chair of the statewide student advisory council or the chair's designee; 2 members appointed by the Massachusetts Association of School Superintendents; 1 member appointed by the Massachusetts Secondary School Administrators' Association; 1 member appointed by the Massachusetts nutrition board; 1 member appointed by the Massachusetts Association for Health, Physical Education, Recreation and Dance; 1 member appointed by the American Heart Association; 1 member appointed by the American Diabetes Association; 1 member appointed by the Massachusetts Parent Teacher Association; 1 member appointed by the Massachusetts Academy of Pediatrics; 1 member of the Massachusetts School Nutrition Association; 2 members appointed by the governor, 1 of whom shall be a representative of the food or beverage industry; 3 members appointed by the senate president and 3 members appointed by the speaker of the house of representatives. The members of the commission shall serve without compensation.

(b) The commission shall conduct a comprehensive review of programs promoting proper nutrition for children at each stage of development, both inside and outside of the school setting. The commission's review shall consider, but not be limited to: (1) current school district practices concerning nutrition and physical education in public schools, including, but not limited to, physical education course offerings, class duration and frequency and the physical space and time allotted, if any, for public school students to participate in recess each week; (2) current practices related to the treatment and management of childhood obesity, type 2 diabetes and eating disorders in the school setting; (3) methods for encouraging the consumption of well-balanced, healthy meals, in accordance with the nutritional standards established by the department of public health in subsection (c) of section 222 of chapter 111 of the General Laws, for students both inside and outside of the school setting; (4) the appropriate levels of physical education and activity for all children of the commonwealth; and (5) the utility of developing and implementing pilot initiatives to reduce childhood obesity through school-based, behavioral and incentive-driven programs.

(c) The commission shall file a report detailing its review and recommendations, along with any legislative proposals to implement the recommendations, with the clerk of the senate and the clerk of the house of representatives not later than July 31, 2011.

SECTION 8. Notwithstanding any general or special law to the contrary, the department of elementary and secondary education shall evaluate the success of the Boston public school system's pilot program, known as Chefs in Schools, to provide healthy, cost-effective meals to students during the school day. The department's report shall identify other public schools in the commonwealth in which similar programs may be implemented and shall include an estimated budget for implementing such programs. The department shall report its findings to the joint committee on public health and the joint committee on education by December 31, 2010.

SECTION 9. (a) The department of agricultural resources shall collect data including, but not limited to:

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(1) public school districts and other educational institutions currently purchasing locally-grown farm and locally-harvested fish products, as well as school districts or other educational institutions not yet preferentially purchasing locally-grown farm or locally-harvested fish products;

(2) the type of farm or fish products public schools wish to purchase;

(3) farms interested in selling locally-grown farm or locally-harvested fish products to public schools or other educational institutions;

(4) the types of locally-grown farm and locally-harvested fish products available; and

(5) the names and contact information of farmers, farm organizations, fishermen, or fish processors marketing the locally-grown farm products.

(b) The department of elementary and secondary education shall collect and report data including, but not limited to:

(1) the name of the procurement contact person at each public school district;

(2) a list of public school districts that feature locally-grown or locally-harvested fish foods on their published cafeteria menus;

(3) a list of public school districts that have school garden or greenhouse projects;

(4) a list of public school districts that include local agriculture or fishing in their curricula; and

(5) a list of public school districts that include serving locally-grown or locally-harvested foods in their wellness policies as a strategy to encourage healthy student meals.

(c) Based upon the data collected under subsections (a) and (b), the department of agricultural resources, in consultation with the department of elementary and secondary education, shall work with programs that facilitate the acquisition of local agricultural products or locally-harvested fish products by public schools, including existing farm-to-school projects, to develop a process by which farms or fish processors interested in selling to public schools may notify public schools and public schools interested in purchasing locally-grown farm or locally-harvested fish products may notify farms; provided, however, that the process ensures fair opportunities for all farms or fish processors interested in selling products to public schools in accordance with applicable laws and regulations.

(d) The department of agricultural resources, in consultation with the department of elementary and secondary education, shall file a report with the office of the governor, the speaker of the house of representatives, the president of the senate, the joint committee on education, the joint committee on public health and the joint committee on environment, natural resources and agriculture that details the results of the data collected under subsections (a) and (b) of this section, the steps taken to comply with subsection (c) and any recommendations, together with drafts of legislation necessary to carry out those recommendations, by March 1, 2011.

SECTION 10. Notwithstanding any general or special law to the contrary, the department of public health, in consultation with the department of elementary and secondary education, shall develop the nutritional standards as provided in section 222 of chapter 111

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of the General Laws not later than January 1, 2011 and the nutritional standards shall be implemented in public schools not later than August 1, 2012.

Approved July 30, 2010.

Chapter 198. AN ACT PROTECTING NURSING HOME RESIDENTS.

Be it enacted, etc., as follows:

Chapter 111 of the General Laws is hereby amended by inserting after section 72Z the following section:-

Section 72AA. Long-term care facilities shall distribute to each new resident, a resident's family member or health care proxy, at the time of admission, an informational document written by the department of public health in layperson's language about the laws and regulations that govern nursing homes, rest homes and long-term care facilities. Information in the document shall include, but not be limited to, the location of all relevant state and federal laws and regulations relating to long-term care facilities. The nursing home shall be required to maintain a record with the signature as acknowledgment of receipt by the resident, family member or health care proxy.

For the purposes of this section, "long-term care facilities" shall mean nursing homes or skilled nursing or rehabilitation facilities.

Approved July 30, 2010

Chapter 199. AN ACT TO CONDUCT A STUDY OF CHEMICALS INFILTRATING AQUIFERS AND BEDROCK FISSURES ALONG THE INTERSTATE 95 CORRIDOR.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith safe drinking water, therefore 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, have the following meanings, unless the context clearly requires otherwise:

"I-95 Corridor" as the area within the town of Boxford located approximately 1,500 feet from any portion of interstate highway route 95.

"Safe drinking water" water meeting or exceeding all primary and secondary standards and recommended guidelines for drinking water as defined by the department of environmental protection.

SECTION 2. The Massachusetts Department of Transportation shall conduct a comprehensive study to determine the cumulative and immediate effects of deicing chemical storage and deicing operations on the groundwater aquifers and bedrock fissures within the I-95 corridor. Specifically, the study shall determine how and why deicing chemicals applied to interstate highway route 95 have infiltrated the ground water aquifers and bedrock fissures and what measures need to be taken to prevent it from occurring in the future. The study shall provide recommendations as to: (1) the proximate causes of deicing chemicals, including sodium and chloride, infiltration into the groundwater aquifers and bedrock fissures within the I-95 Corridor; (2) short-term and long-term remedial actions necessary to restore groundwater quality to a safe drinking water standard within the I-95 corridor; (3) a plan to modify highway drainage systems to prevent storm water run-off and highway drainage from adversely impacting aquifers, bedrock and adjacent wetland resource areas; and (4) an alternative means to provide a reliable and adequate safe drinking water supply to the residents located within the I-95 corridor meeting all state and local requirements.

SECTION 3. The department shall conduct the study utilizing an independent consultant. The development of the study scope of work, the selection of the independent consultant and the review of study recommendations shall all be conducted jointly by department and a committee to be appointed by the Boxford board of selectmen and the Boxford board of health. Within 2 years of the effective date of this act, the department shall file a report of its activities and the developed recommendations with the governor and the clerks of the senate and house of representatives who shall forward the same to the house and senate committees on ways and means and other committees as appropriate. To the extent the report provides for disbursement of appropriations or other moneys authorized by the general court, the plan shall be subject to the approval of the secretary of transportation and the secretary of administration and finance.

Approved July 30, 2010.

**Chapter 200. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL
ASSET MANAGEMENT AND MAINTENANCE TO CONVEY
CERTAIN LAND IN THE TOWN OF AGAWAM.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conveyance of land in the town of Agawam for veterans 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. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey in fee simple a certain parcel of land and any improvements and structures located thereon formerly known as the Western Massachusetts Criminal Justice Training Center located at 702 South Westfield street in the town of Agawam, consisting of approximately 6.9 acres of land, to United Veterans of America, Inc. d/b/a Soldier On, or its affiliates, for the purpose of constructing limited equity cooperative housing for homeless veterans and providing services related thereto; provided, however, that before the conveyance, United Veterans of America, Inc. d/b/a Soldier On, or its affiliates shall enter into a historical covenant agreement with the Massachusetts Historical Commission which shall be filed with the registry of deeds and run with the land in perpetuity. Use and maintenance of the parcel shall be subject to the restrictions and provisions of the historical covenant. The exact boundaries of the parcel shall be determined by the commissioner of capital asset management and maintenance after the completion of a land survey. The consideration for the conveyance shall be \$1. 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, United Veterans of America, Inc. d/b/a Soldier On, or its affiliates, shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, appraisals, surveys 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.

SECTION 3. The deed or other instrument conveying the property described in section 1 to United Veterans of America, Inc. d/b/a Soldier On, or its affiliates, shall provide, without limitation, that if for any reason the property ceases to be used solely for the purposes described in section 1, then following a written notice and an opportunity to cure in accordance with a procedure to be specified in the deed conveying the property and upon the recording of a notice by the commissioner with the Hampden county registry of deeds, title to the property shall revert to the commonwealth under the care and control of the division of capital asset management and maintenance and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

Approved July 31, 2010.

Chapter 201. AN ACT RELATIVE TO THE PREPARATION OF CERTAIN BILINGUAL BALLOTS IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall have the following meanings unless the context requires otherwise:-

“Board”, the board of election commissioners of the city of Boston.

“Chinese surname”, a surname which appears on the Lauderdale and Kestenbaum list of Chinese surnames.

“City”, the city of Boston.

“Election”, the choice by the voters of any public officer and to the taking of a vote upon any question by law submitted to the voters.

“Transliteration”, the printing of relevant Chinese characters to represent the phonetic equivalent of the syllables of an English name or a name in a language that is not traditionally written using Chinese characters.

“State election”, an election at which a national, state or county officer or a regional district school committee member elected districtwide is to be chosen by the voters, whether for a full term or for the filling of a vacancy.

“Vietnamese surname”, a surname which appears on the Lauderdale and Kestenbaum list of Vietnamese surnames.

SECTION 2. Notwithstanding section 40 of chapter 54 of the General Laws or any other general or special law to the contrary, in federal and state elections, the state secretary shall prepare bilingual ballots in English and Chinese and in English and Vietnamese in addition to any other bilingual ballots required by law in the designated polling places within the city as required by section 4.

SECTION 3. Notwithstanding section 58 of the charter of the city or any other general or special law to the contrary, in all city preliminary or final elections the board shall prepare bilingual ballots in English and Chinese and in English and Vietnamese in addition to any other bilingual ballots required by law in the designated polling places within the city as required by section 4.

SECTION 4. Bilingual ballots in English and Chinese shall be provided in each polling place in the city where there are at least 35 registered voters with Chinese surnames. Bilingual ballots in English and Vietnamese shall be provided in each polling place in the city where there are at least 30 registered voters with Vietnamese surnames.

At least 1 bilingual ballot in English and Chinese per registered voter with a Chinese surname shall be provided in each designated polling place. At least 1 bilingual ballot in English and Vietnamese per registered voter with a Vietnamese surname shall be provided in each designated polling place. In any district, county, state or federal primary or general election the state secretary may provide additional sets of bilingual ballots for any polling place in the city if the secretary deems it necessary. In any city preliminary or final elections, the board may provide additional sets of bilingual ballots for any polling place in the city if the board deems it necessary.

SECTION 5. The board in any city preliminary or final elections and the state secretary in any federal or state election shall provide for the transliteration of all candidates' names for bilingual ballots in English and Chinese. Each candidate shall be provided with a written copy of the proposed transliteration of that candidate's name. Within 7 days after

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receiving the proposed transliteration of the candidate's name, the candidate may provide written notice to the board or the state secretary, as the case may be, of any modification of the proposed transliteration of a candidate's own name or decline to have the candidate's own name transliterated on the ballot. The transliteration shall be subject to final approval by the board or the state secretary, as the case may be. The board or state secretary shall provide public notice of transliterated names as soon as practicable.

SECTION 6. The city shall record the number of bilingual ballots in English and Chinese and in English and Vietnamese that are printed, requested or used in all elections held in the city.

SECTION 7. This act shall take effect on January 1, 2011.

SECTION 8. This act shall expire on December 31, 2013.

SECTION 9. Notwithstanding any general or special law to the contrary, any costs resulting from implementation of this act shall be borne by the city of Boston. The state secretary shall enter into an agreement with the city of Boston regarding such costs before such implementation.

Approved July 31, 2010.

Chapter 202. AN ACT REGULATING THE USE OF OFF-HIGHWAY AND RECREATION VEHICLES.

Be it enacted, etc., as follows:

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

Section 35OO. (a) There shall be established and set up on the books of the commonwealth an Off-Highway Vehicle Program Fund. Notwithstanding the provisions relative to the distribution of fines, penalties and forfeitures in section 10G of chapter 21A to the contrary, there shall be credited to the fund all of the fees collected pursuant to section 22 of chapter 90B, 75 per cent of all fines, costs, forfeitures, expenses and interest imposed pursuant to section 21 and sections 24 to 32, inclusive, of said chapter 90B and pursuant to the fourth paragraph of section 10H of chapter 21A, any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any appropriation or grant explicitly made to the fund and any income derived from the investment of amounts credited to the fund. The remaining 25 per cent of the fines, costs, forfeitures, expenses and interest imposed pursuant to said section 21 and said sections 24 to 32, inclusive of said chapter 90B and pursuant to the fourth paragraph of section 10H of chapter 21A shall be distributed equally among the division, departments or offices involved or to the division, department or office if a single law enforcement agency was involved.

(b) The secretary of energy and environmental affairs, as trustee, shall administer the fund. All amounts credited to the fund may be expended, without further appropriation, for use by the office of environmental law enforcement, the department of conservation and recreation, the department of fish and game and the department of environmental protection for the following purposes: (i) the enforcement of statutes, regulations and policies applicable to off-highway vehicles; (ii) the acquisition of land for use as commonwealth-approved trails and facilities for off-highway vehicles or for the development, maintenance, repair or restoration of commonwealth-approved trails and facilities; (iii) grants made by the department of conservation and recreation to municipalities and other public entities for the purposes of clauses (i) and (ii); (iv) the development and administration of safety, training and education programs relative to off-highway vehicles; and (v) other off-highway program activities, including all direct and indirect costs of personnel or contractors of the office of environmental law enforcement, the department of conservation and recreation, the department of fish and game and the department of environmental protection; provided, however, that the secretary of energy and environmental affairs shall report annually, not later than January 15, to the house and senate committees on ways and means and the joint committees on environment, natural resources and agriculture, transportation and public safety and homeland security relative to the source and amount of funds deposited into the fund, the amount distributed to each department and the purpose and recipient of expenditures from the fund.

(c) Monies deposited into the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

(d) Not less than 25 per cent of the monies deposited in the fund shall be expended on a fiscal year basis for the activities identified in clause (ii) of subsection (b) or for grants made pursuant to clause (iii) of subsection (b) to fund the activities identified in clause (ii) of subsection (b). Monies that are deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

SECTION 2. Section 10H of chapter 21A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:-

A person notified to appear before the clerk of a district court as provided in section 10G for a violation of sections 21 to 24, inclusive, of said chapter 90B may so appear within the time specified and pay a fine of \$250.

SECTION 3. Said chapter 21A is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. There shall be within the office of law enforcement a boating safety advisory board. The board shall consist of 5 members to be appointed by the governor, 2 of whom shall be representatives of the boating public, each of whom shall hold a certificate

of number issued pursuant to section 3 of chapter 90B; 1 of whom may represent the harbor master's association; and 2 of whom shall represent the recreational boating business, 1 of whom shall operate a boat dealership. Each member shall serve for a term of 3 years. The chair of the board shall be appointed from among the 5 members, annually by the governor and, in the absence of same, shall be designated by the director. Board members shall be appointed or reappointed for terms of 3 years.

The boating safety advisory board shall meet at least quarterly and 3 members in attendance shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland enforcement bureau established under section 6 of chapter 21, or their designees, shall attend all meetings of the board and shall provide such information as the board shall request.

The board shall review the budgetary recommendations of the director and the secretary of energy and environmental affairs concerning the expenditure of federal funds allocated to the division for recreational boating safety each fiscal year prior to the submission of such recommendations to the secretary or the governor, as the case may be. In the event the board disapproves of any such recommendation it may file a report noting its objection and such report shall be transmitted to the governor and to the house and senate committees on ways and means.

SECTION 4. Said chapter 21A is hereby further amended by adding the following section:-

Section 23. There is hereby established within the executive office of energy and environmental affairs a state off-highway vehicle advisory committee. The committee shall advise the secretary and the department of conservation and recreation, the department of fish and game, the department of environmental protection and the office of environmental law enforcement on matters involving the commonwealth's regulation of off-highway vehicles, as defined in section 20 of chapter 90B, including the development and enforcement of state regulations and policies, safety and training programs and the distribution of available state funding. The committee shall consist of 13 members to be appointed by the secretary, 3 of whom shall be representatives of off-highway vehicle users, 1 of whom shall be a representative of the New England Trail Rider Association; 1 of whom shall be a representative of the Specialty Vehicle Industry Association and the Massachusetts Powersport Dealers Association; 1 of whom shall be a representative of the department of public health; 1 of whom shall be a representative of child safety advocates associated with the safe use of off-highway vehicles; 1 of whom shall be a representative of the Snowmobile Association of Massachusetts, Inc.; 2 of whom shall be representatives of a nonprofit organization that owns and manages land open to the public; 1 of whom shall be a representative of an association or organization of large private land owners; 1 of whom shall be a member of a friends group of the Massachusetts Forest and Parks Network; and 2 of whom shall be representatives of state or local law enforcement authorities. Members shall serve without compensation. Members shall be appointed for terms of 3 years.

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The committee shall select a chair annually by a majority vote of the members. The committee shall meet at least twice each year and shall also meet at the request of the secretary or the committee chair.

SECTION 5. Section 20 of chapter 90B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Law enforcement officer” and inserting in place thereof the following 3 definitions:-

“All-terrain vehicle”, a motorized recreational vehicle designed or modified for travel on 4 low pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control.

“Directly supervised”, the supervising adult shall be sufficiently close to the operator at all times that the operator’s vehicle is in operation, such that a reasonable person acting as supervisor under the totality of the circumstances including, but not limited to, vehicle and ambient noise, the landscape, topography and geography of the location, and the operator’s wearing of protective headgear, would reasonably believe that he is maintaining visual contact and verbal communication with the operator.

“Law enforcement officer”, the director, a deputy director of enforcement, a chief of enforcement, a deputy chief of enforcement, an environmental police officer and a deputy environmental police officer of the office of environmental law enforcement, the registrar or an authorized agent thereof, a police officer, a member of the state police, a city or town police officer or an employee of the commonwealth having police powers on public lands.

SECTION 6. Said section 20 of said chapter 90B, as so appearing, is hereby further amended by striking out the definition of “Recreation vehicle” and inserting in place thereof the following 2 definitions:-

“Recreation utility vehicle” or “utility vehicle”, a motorized flotation tire vehicle with not less than 4 and not more than 6 low pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control.

“Recreation vehicle” or “off-highway vehicle”, any motor vehicle designed or modified for use over unimproved terrain for recreation or pleasure while not being operated on a public way as defined in chapter 90 including, but not limited to, all-terrain vehicles, off-highway motorcycles, dirt bikes, recreation utility vehicles and all registered motor vehicles while not being operated on a public way as defined in said chapter 90; provided, however, that recreation vehicles and off-highway vehicles operated exclusively for agricultural, forestry, lumbering or construction purposes shall not be subject to this chapter and it shall be an affirmative defense that such vehicle was being operated for such purposes at the time of an alleged violation of this chapter.

SECTION 7. Said chapter 90B is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. No person under 18 years of age shall operate a recreation vehicle unless he has successfully completed a recreation vehicle safety and responsibility course approved

by the director of environmental law enforcement. Such course shall include, but shall not be limited to, notification of the potential criminal penalties and forfeiture process for certain violations of law relative to the safe operation of recreation vehicles. A parent or legal guardian of an operator of a recreation vehicle under 16 years of age shall participate in at least 1 session of the recreation vehicle safety and responsibility course or as required by the director. Proof of the successful completion of the course shall be carried on the person of the operator while operating a recreation vehicle. Proof of an operator's successful completion of another state's equivalent recreation vehicle safety and responsibility course, as determined by the director, shall be valid in the commonwealth.

SECTION 8. Section 22 of said chapter 90B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following 2 paragraphs:-

No person shall operate a snow vehicle or a recreation vehicle unless the vehicle has been registered in accordance with this chapter and a registration number assigned by the director is displayed on the vehicle. The registration number shall be painted or by means of a decal or sticker which is firmly attached to both sides of the cowl of the vehicle and located so that both are clearly visible and not obstructed. The registration number displayed shall be not less than 3 inches in height and not less than one-half inch in width and shall be in a color that is in marked and distinct contrast to the background to which the number is applied. The registration number shall be maintained in a legible condition at all times. A motor vehicle license or learner's permit shall not be required for the operation of a snow vehicle or a recreation vehicle.

Application for registration of a snow vehicle or a recreation vehicle shall be made by the owner to the director or his agent on such forms as the director shall prescribe and shall state the name and address of the owner of the vehicle. No person shall knowingly make a false statement in an application for registration of a snow vehicle or recreation vehicle.

SECTION 9. Said section 22 of said chapter 90B, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following 2 paragraphs:-

The fee for initial registration of each such vehicle and for each renewal thereof, other than vehicles for which application is made by a manufacturer or dealer as hereinafter provided, shall be determined annually by the commissioner of administration as provided in section 3B of chapter 7, except that no fee shall be collected for the registration of any such vehicle owned by the commonwealth or any political subdivision thereof or a vehicle used exclusively for agricultural, forestry, lumbering or construction purposes.

In the case of a recreation vehicle to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the owner of such vehicle may apply for an exemption from the registration fee. The application for exemption shall be on a form prescribed by the director of law enforcement. If the director is satisfied that the vehicle for which a fee exemption is sought is to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the director shall grant the application and the owner of such vehicle

shall be exempt from the registration fee for such vehicle. If the vehicle ceases to be operated exclusively for agricultural, forestry, lumbering or construction purposes, the owner shall no longer be exempt from paying such registration fee and shall be required to pay a portion of the registration fee for the year in which the exemption no longer applies. A new application for a fee exemption shall be required for further fee exemption with an application for registration renewal. A fee exemption granted pursuant to this section shall not be admissible nor relevant at trial on the question of whether such vehicle was being operated for agricultural, forestry, lumbering or construction purposes at the time of an alleged violation of this chapter.

SECTION 10. Section 24 of said chapter 90B, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

No snow vehicle or recreation vehicle shall be operated which emits noxious fumes or makes unusual or excessive noise. No snow vehicle or recreation vehicle manufactured on or after January 1, 1998, shall be sold, offered for sale or operated that produces a sound pressure level of more than 96 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedures for measurement of sound pressure levels as the registrar may adopt. No snow vehicle or recreation vehicle manufactured prior to January 1, 1998, shall be offered for sale or operated that produces a sound pressure level of more than 101 decibels when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J1287 JUL98 or with such other test procedures for measurement of sound pressure levels as the registrar may adopt.

SECTION 11. Section 25 of said chapter 90B, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

No person under 16 and one-half years of age shall operate a snow vehicle or a recreation vehicle across or on a public way unless the operator holds a valid license or right to operate a motor vehicle or is directly supervised by a person 18 years of age or older. An operator of a snow vehicle or a recreation vehicle that meets the requirements of the preceding sentence shall, after coming to a full stop, cross, as directly as possible, a public way; provided, however, that for recreation vehicles, the public way and the crossing shall be marked and approved for use by recreation vehicles by the applicable state or local authorities as part of a publicly or privately authorized recreation vehicle trail system. An operator of a snow vehicle or a recreation vehicle shall make the crossing safely and without interfering with the free movement of vehicular traffic. An operator of a snow vehicle or a recreation vehicle shall yield the right of way to all other vehicular traffic when making such crossing; provided, further, that an operator shall not cross a controlled access highway.

SECTION 12. Said section 25 of said chapter 90B, as so appearing, is hereby further amended by inserting after the word "vehicle", in lines 29, 30, 32, 33 and 34, each time it appears, the following words:- or recreation vehicle.

SECTION 13. Said chapter 90B is hereby further amended by striking out section 26, as so appearing, and inserting in place thereof the following section:-

Section 26. (a) (1) No person under 14 years of age shall operate an all terrain vehicle or recreation utility vehicle. This section shall not apply to a person operating a recreation vehicle or snow vehicle in preparation for, or while a participant in, a sanctioned race, rally or organized event which is supervised by a person aged 18 or older and which has been authorized or approved by a municipal permitting authority. It shall be an affirmative defense in a delinquency proceeding for a violation of this section that a juvenile was supervised by a person aged 18 or older while operating such a vehicle within 21 days before such sanctioned race, rally or organized event or while a participant in such a sanctioned race, rally or organized event.

(2) No person between 14 and 16 years of age shall operate an all-terrain vehicle or recreation utility vehicle with an engine capacity greater than 90 cubic centimeters; provided, however, that a person between 14 and 16 years of age may operate an all-terrain vehicle or recreation utility vehicle with an engine capacity equal to or less than 90 cubic centimeters if directly supervised by a person 18 years of age or older.

(b) No person aged 18 years of age or older shall knowingly permit another, who is under the age of 18, to operate a snow vehicle or recreation vehicle in his custody or under his control in violation of this chapter. Lack of ownership of the vehicle or mistake as to the age of the operator shall not be available defenses to a violation of this section.

(c) No person operating or in control of a snow vehicle or recreation vehicle shall refuse to stop such vehicle after having been requested or signaled to do so by a law enforcement officer. No such person shall refuse to give his correct name, address and registration number to such officer.

(d) No person shall operate or ride in or on a snow vehicle or a recreation vehicle or ride in or on a sled, inflated tube or similar article attached to such vehicle and which is pulled by such vehicle, without wearing protective headgear. Such headgear shall conform to minimum standards for construction and performance as the registrar of motor vehicles may prescribe.

(e) No person shall operate a snow vehicle or a recreation vehicle on privately-owned property unless: (i) the operator is the owner or lessee or an immediate family member of the owner or lessee of the property; (ii) the operator has in his possession either a document, signed by the owner or lessee of such property or his agent, authorizing the operation of a such vehicle on the property by the operator or valid proof of current membership in a club, association or other organization to which express authorization for the operation of such vehicles on the property has been granted; provided, however, that such operation shall be consistent with the express authorization granted and any restrictions imposed therewith; or (iii) the owner or lessee of the property has designated the area for use by such vehicles by posting reasonable notice of such designation in a manner approved by the director.

No person shall operate a snow vehicle or recreation vehicle on publicly-owned property except on trails marked and designated for use by such vehicles, or without the ex-

press permission of the owner.

(f) No person shall operate a snow vehicle or a recreation vehicle in a manner that harasses or otherwise harms deer or other wildlife. No person shall operate a snow vehicle or recreation vehicle in a reforested or planted area in a manner that causes damage to growing stock. No person shall operate a snow vehicle or a recreation vehicle in a manner that causes damage to public or private property including, but not limited to, lands owned or managed by the department of conservation and recreation or the division of fisheries and wildlife, wetlands or other waters of the commonwealth, priority habitats delineated as such by the division of fisheries and wildlife pursuant to chapter 131A, lands used for public water supply purposes or historic or archaeological sites.

(g) No person shall carry a firearm, rifle or shotgun in or on a snow vehicle or recreation vehicle or on a trailer or sled attached thereto unless such firearm, rifle or shotgun is unloaded and in an enclosed case. This section shall not apply to a law enforcement officer or other person with enforcement powers authorized in section 32, or to a paraplegic as provided in section 65 of chapter 131.

(h) No person shall operate a snow vehicle or recreation vehicle after the registration has been suspended or revoked.

SECTION 14. Said chapter 90B is hereby further amended by inserting after section 26, as appearing in the 2008 Official Edition, the following 5 sections:-

Section 26A. (a) Whoever being 21 years of age or older operates a snow vehicle or recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .08 or greater, as determined by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less than \$500 nor more than \$5,000.

(b) Whoever being under 21 years of age operates a snow vehicle or recreation vehicle: (1) with a percentage, by weight, of alcohol in his blood of .02 or greater, as determined by a chemical test or analysis of his blood or as indicated by a chemical test or analysis of his breath pursuant to section 24 of chapter 90; or (2) while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in section 1 of chapter 94C, or the vapors of glue, shall be punished by a fine of not less than \$500 nor more than \$5,000.

Section 26B. (a) Whoever operates a snow vehicle or recreation vehicle recklessly or operates a snow vehicle or a recreation vehicle negligently so that the lives or safety of the public might be endangered shall be punished by a fine of not less than \$250 nor more than \$1,000.

(b) Whoever operates a snow vehicle or recreation vehicle and, without stopping and making known his name, address and the registration number of his snow vehicle or recreation vehicle, leaves the scene after knowingly colliding with or otherwise causing injury to another snow vehicle or recreation vehicle or property shall be punished by a fine

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of not less than \$250 nor more than \$1,000; provided, however, that the damage to property shall be greater than \$500.

(c) Whoever operates a snow vehicle or a recreation vehicle and, without stopping and making known his name, address and the registration number of his snow vehicle or recreation vehicle, leaves the scene after knowingly colliding with or otherwise causing bodily injury to another shall be punished by a fine of not less than \$500 nor more than \$1,000.

(d) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered and, by such operation, causes serious bodily injury, shall be punished by imprisonment in a jail or house of correction for not more than 2 and one-half years or by a fine of not less than \$300 nor more than \$5,000, or by both such fine and imprisonment. For the purposes of this section “serious bodily injury” shall mean bodily injury which creates a substantial risk of death or which involves either total disability or the loss or substantial impairment of some bodily function for a substantial period of time.

(e) Whoever operates a snow vehicle or a recreation vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by such operation causes the death of another person, shall be punished by imprisonment in a jail or house of correction for not more than 2 and one-half years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000, or by both such fine and imprisonment.

Section 26C. (a) Upon a conviction or adjudication by reason of a violation of subsections (c) to (e), inclusive, of section 26B or upon a second or subsequent conviction or adjudication of delinquency for violation of section 26, or any combination thereof, a snow vehicle or recreation vehicle used in the commission of such violation or violations shall be subject to forfeiture.

(b) A district attorney or the attorney general may petition the superior or district court in the name of the commonwealth in the nature of a proceeding in rem to order forfeiture of such snow vehicle or recreation vehicle. The petition shall be filed in the court having jurisdiction over the criminal proceeding brought under this section. The proceeding shall be deemed a civil suit in equity. In all such actions in which the snow vehicle or recreation vehicle is jointly owned before the date of the violation committed by the defendant by either a parent, spouse, child, grandparent, brother, sister or parent of the spouse living in the defendant’s household, the commonwealth shall have the burden of proving to the court the existence of probable cause to institute the action.

(c) The court shall order the commonwealth to give notice by certified or registered mail to the owners of the snow vehicle or recreation vehicle and to such other persons or entities who appear to have an interest therein, and the court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition. Upon the motion of an owner of the snow vehicle or recreation vehicle, the court may continue the hearing on the petition pending the outcome of a criminal trial related to the violation. During the pendency of the

proceedings, the court may issue at the request of the commonwealth ex-parte any preliminary order or process as is necessary to seize or secure the property for which forfeiture is sought and to provide for its custody. Process for seizure of the property shall issue only upon a showing of probable cause, and the application therefor and the issuance, execution and return thereof shall be subject to chapter 276, as applicable.

(d) At a hearing under this section, the court shall hear evidence and make findings of fact and conclusions of law and shall issue a final order from which the parties shall have such right of appeal as from a decree in equity. No forfeiture under this section shall extinguish a perfected security interest held by a creditor in the property at the time of the filing of the forfeiture action. In all actions where a final order results in forfeiture, the final order shall provide for disposition of the property by the commonwealth or any subdivision thereof in any manner not prohibited by law, including official use by an authorized law enforcement or other agency, or at sale at public auction or by competitive bidding, with the sale being conducted by the office of the district attorney or the attorney general that obtained the final order of forfeiture.

(e) The final order of the court shall provide that the proceeds of any such sale shall be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, and 75 per cent of the balance of any proceeds shall be deposited into the Off-Highway Vehicle Program Fund, established in section 3500 of chapter 10 and the remaining 25 per cent shall be distributed equally by the court among the division, departments or offices involved in the seizure or to the division, department or office if a single law enforcement agency was involved.

(f) Any moneys and proceeds received by a division, department or office pursuant to this section may be expended without further appropriation to defray the costs of investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants or to accomplish such other law enforcement, environmental or public recreational purposes as the head of such division, department or office deems appropriate, but such funds shall not be considered a source of revenue to meet the operating needs of such division, department or office.

Section 26D. A summons may be issued instead of a warrant for arrest upon a complaint for a violation of section 26A or 26B if in the judgment of the court or justice receiving the complaint there is reason to believe that the defendant will appear upon a summons. Nothing in this section shall limit a law enforcement officer's power to arrest under any other provisions of the General Laws or at common law.

Section 26E. (a) Any person age 18 or older with custody or control of a snow vehicle or recreation vehicle, who knowingly permits another, who is under the age of 18, to operate such vehicle shall be held liable, jointly and severally with the operator, for any damage or injuries caused by such operator's operation of the vehicle and for any fines, penalties or restitution resulting therefrom.

(b) An owner of a snow vehicle or recreation vehicle or other person who knowingly

permits a person 18 years of age or older to operate a snow vehicle or a recreation vehicle in violation of this chapter shall be held liable, jointly and severally, with the operator, for any damage or injuries caused by such operator's negligent operation and for any fines, penalties or restitution resulting therefrom.

(c) Lack of ownership of the vehicle or mistake as to the age of the operator shall not be defenses in an action filed pursuant to this section.

SECTION 15. Said chapter 90B is hereby amended by inserting after section 28, as so appearing, the following 2 sections:-

Section 28A. Notwithstanding section 28, upon conviction of, or adjudication of delinquency by reason of a violation of subsections (c) to (e), inclusive, of section 26B the registrar shall immediately suspend the operator's license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of a person pursuant to this section, shall issue a new license or reinstate the right to operate of such person if the prosecution or adjudication of such person is terminated in favor of the defendant or juvenile and the director shall issue a new registration number if a vehicle was registered to such person. The registrar may, after an investigation or upon a hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person convicted or adjudicated delinquent for a violation of said subsections (c) to (e), inclusive, of said section 26B; provided, however, that no such license, right to operate or registration shall be reinstated by the registrar or issued by the director to any person so convicted or adjudicated delinquent by reason of said subsection (c) or (d) of said section 26B until 1 year after the date of suspension or revocation following his original conviction or adjudication of delinquency if for a first offense or until 2 years after the date of suspension or revocation if for a subsequent conviction or adjudication of delinquency, or to any person convicted of or adjudicated delinquent by reason of subsection (e) of said section 26B until 5 years after the date of suspension or revocation following his original conviction or adjudication if for a first offense, or until 15 years after the date of suspension or revocation if for a subsequent conviction or adjudication.

If the person so convicted or adjudicated is under age 17 at the time of a conviction or adjudication of delinquency under subsections (c) to (e), inclusive, of section 26B, inclusive, and he has not been issued a license or right to operate or has not been issued a snow vehicle or recreation vehicle registration number, neither the registrar nor the director shall issue such license or right to operate a motor vehicle or a snow vehicle or recreation vehicle registration until the time periods provided in the previous paragraph have passed and calculation of such time period shall not commence to run until such person reaches age 16 for purposes of issuance of a right to operate a motor vehicle and 16 and one-half for purposes of issuance of a license to operate a motor vehicle and for issuance of a snow vehicle or recreation vehicle registration number.

Section 28B. Notwithstanding section 28, upon conviction of, or adjudication of delinquency by reason of a violation of section 26A, the registrar shall immediately suspend the operator's license or right to operate a motor vehicle and the director shall revoke the registration of any snow vehicle or recreation vehicle issued to such person. The registrar, after having suspended or revoked the license or right to operate of any person under this section, shall issue a new license or reinstate the right to operate and the director shall issue a new registration number, if the prosecution or adjudication of delinquency of such person is terminated in favor of the defendant or juvenile. The registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate and the director may issue a new snow vehicle or recreation vehicle registration number to a person so convicted of or adjudicated delinquent by means of a violation of said section 26A; provided, however, that no such license or right to operate shall be issued by the registrar nor shall a registration number be issued by the director to a person convicted of a violation of subsection (a) of said section 26A, for a first offense, until 1 year after the date of suspension or revocation following his original conviction, or from the date of his original conviction if the person is unlicensed or has not been issued the right to operate or, for a subsequent offense, until 2 years after the date of such suspension, revocation or conviction, or to any person convicted of or adjudicated delinquent for a violation of subsection (b) of said section 26A, for a first offense, until 2 years after the date of suspension or revocation or, if the person is unlicensed or has not been issued a right to operate, until 2 years after the date of his original conviction or adjudication or, for a subsequent offense, until 3 years after the date of such suspension, revocation, conviction or adjudication; provided, however, that a person whose license or right to operate was suspended due to a conviction of said subsection (a) of said section 26A may, after the expiration of 3 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes, which license shall be effective for not more than an identical 12-hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control, and the registrar may, in his discretion, issue such license or right to operate under such terms and conditions as he deems appropriate and necessary; and provided further, that such person may, after the expiration of 6 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license or right to operate on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license or right to operate under such terms and conditions as he deems appropriate and necessary.

If the person so convicted or adjudicated is under age 17 at the time of such conviction or adjudication and has not been issued a license or right to operate or a snow vehicle or recreation vehicle registration number, the registrar shall not issue such license or right to operate a motor vehicle and the director shall not issue a snow or recreation vehicle

registration until the time periods provided in the previous paragraph have passed but the calculation of such time period shall not commence until such person reaches age 16 for purposes of issuance of a right to operate a motor vehicle and 16 and one-half for purposes of issuance of a license to operate a motor vehicle and for issuance of a snow vehicle or recreation vehicle registration number.

SECTION 16. The first paragraph of section 32 of said chapter 90B, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:- Sections 21 to 34, inclusive, and the rules and regulations promulgated thereunder shall be enforced by law enforcement officers; provided, however, that any investigation, arrest or decision to seek application for complaint relative to a violation of subsections (c) to (e), inclusive, of section 26B shall be executed by a law enforcement officer who has successfully completed minimum training requirements for the enforcement of such sections as determined by the secretary of public safety and security.

SECTION 17. Said chapter 90B is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. Whoever violates any provision of sections 21 to 24, inclusive, or any rule or regulation made thereunder, shall be punished by a fine of not less than \$250 nor more than \$500.

Whoever violates subsections (e) to (h), inclusive, of section 26 shall be punished by a fine of not less than \$250 nor more than \$1,000.

Whoever violates any provision of section 25 or subsections (a) to (d), inclusive, of section 26 shall be punished for a first offense, by a fine of \$250, and for a second or subsequent offense, by a fine of not less than \$500 nor more than \$2,500, and the snow vehicle or recreation vehicle in use at the time of such second or subsequent offense shall be subject to forfeiture under section 26C.

SECTION 18. Said chapter 90B is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:-

Section 35. Notwithstanding the provisions relative to the distribution of fines, penalties and forfeitures in section 10G of chapter 21A to the contrary, of the fines collected by the commonwealth pursuant to a violation of the fourth paragraph of section 10H of chapter 21A and section 21 and sections 24 to 32, inclusive, 75 per cent shall be deposited into the Off-Highway Vehicle Program Fund, established in section 35OO of chapter 10, and the remaining 25 per cent shall be distributed equally among the divisions, departments or offices involved in the enforcement of the laws which resulted in the assessment of such fines.

SECTION 19. Chapter 242 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 7A the following section:-

Section 7B. (a) Any person operating an off-highway or recreational vehicle who damages or destroys a field crop product and agricultural property situated on the land of another shall be liable to the owner of such product in tort.

(b) A party awarded judgment under this section shall be entitled to damages in an amount up to, but not greater than, 3 times the amount assessed for the removal, damage or destruction of the farm crop product and agricultural property, plus attorney fees and litigation costs. In assessing damages under this section, the court shall consider the market value of the field crop product and agricultural property prior to its removal, damage or destruction and all costs directly related to the production, research, testing, replacement and development of the field crop product and agricultural property.

(c) Damages awarded under this section shall not limit remedies available under chapter 266 or under any other applicable local, state or federal law.

(d) Liability under this section shall not apply to any federal, state or local government agency, or to any employee of any such agency acting in the course of his employment.

(e) For purposes of this section, a “field crop product” shall mean any product of the soil that is grown in the context of a research or product development program in conjunction or coordination with a private research facility or a university, any federal, state or local governmental agency or any crop produced for commercial purposes on an agricultural operation as defined by Section 1A of chapter 128.

(f) For purposes of this section, an “agricultural property” shall mean any implement of husbandry, structure used for the conveyance of water or structure used in the production, growing or processing of field crop products or for keeping and raising of livestock.

SECTION 20. Section 121A of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “two hundred and fifty dollars” and inserting in place thereof the following figure:- \$500.

SECTION 21. Notwithstanding any general or special law to the contrary, in making initial appointments to the off-highway vehicle advisory committee established pursuant to section 23 of chapter 21A, added by section 4 of this act, the secretary of energy and environmental affairs shall appoint 4 members to serve for a term of 1 year, 4 members to serve for a term of 2 years and 5 members to serve for a term of 3 years.

SECTION 22. The director of law enforcement in the executive office of energy and environmental affairs may, after consultation with the off-highway vehicle advisory committee and a public hearing, promulgate regulations consistent with this act including, but not limited to, increasing the age at which persons may operate all-terrain vehicles or regulating the engine size and speed capabilities of such vehicles, based on the age of the operator.

SECTION 23. On or before February 1, 2011, the director of law enforcement in the executive office of energy and environmental affairs shall amend regulations of the division that are inconsistent with this act.

SECTION 24. On or before November 1, 2010, the director of law enforcement in the executive office of energy and environmental affairs shall prescribe forms for application for registration fee exemption for vehicles used exclusively for agricultural, forestry, lumbering or construction purposes under section 22 of chapter 90B of the General Laws.

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SECTION 25. On or before November 1, 2010, the director of law enforcement in the executive office of energy and environmental affairs shall adopt minimum training requirements for law enforcement officers, except state and municipal police officers, as required by section 32 of chapter 90B of the General Laws.

SECTION 26. Section 7 shall take effect on February 1, 2011; provided, however, that no operator of a snow vehicle or recreation vehicle shall be assessed a penalty for violation of section 22 of chapter 90B of the General Laws until May 1, 2011.

SECTION 27. The provisions of subsections (b) and (c) of section 26B of chapter 90B of the General Laws prohibiting an operator of a snow vehicle or recreation vehicle from leaving the scene after causing injury to property or to a person without making known his registration number shall take effect on February 1, 2011. Nothing in this section shall affect the prohibition in said subsections (b) and (c) of said section 26B of said chapter 90B against an operator leaving the scene after causing injury to property or to a person without stopping and making known his name, address and registration number on or after October 1, 2010.

Approved July 31, 2010.

Chapter 203. AN ACT EXTENDING SIMULCASTING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate simulcasting forthwith, therefore 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 July 31, 2010”, inserted by section 1 of chapter 167 of the acts of 2009, and inserting in place thereof the following words:- and until July 31, 2011.

SECTION 2. The last paragraph of said section 12A of said chapter 494 is hereby amended by striking out the words “July 31, 2010”, inserted by section 2 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 3. The introductory paragraph of section 13 of said chapter 494 is hereby amended by striking out the words “and until July 31, 2010”, inserted by section 3 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

SECTION 4. Section 15 of said chapter 494 is hereby amended by striking out the words “and until July 31, 2010”, inserted by section 4 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

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 July 31, 2010”, inserted by section 5 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

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 July 31, 2010”, inserted by section 6 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

SECTION 7. The last paragraph of said section 3 of said chapter 114 is hereby amended by striking out the words “July 31, 2010”, inserted by section 7 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 8. The first paragraph of section 4 of said chapter 114 is hereby amended by striking out the words “and until July 31, 2010”, inserted by section 8 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

SECTION 9. The last paragraph of said section 4 of said chapter 114 is hereby amended by striking out the words “July 31, 2010”, inserted by section 9 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 10. The first paragraph of section 5 of said chapter 114 is hereby amended by striking out the words “and until July 31, 2010”, inserted by section 10 of said chapter 167, and inserting in place thereof the following words:- and until July 31, 2011.

SECTION 11. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out the words “July 31, 2010”, inserted by section 11 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 12. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out the words “July 31, 2010”, inserted by section 12 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 13. Section 20 of chapter 449 of the acts of 2006 is hereby amended by striking out the words “July 31, 2010”, inserted by section 13 of said chapter 167, and inserting in place thereof the following words:- July 31, 2011.

SECTION 14. Section 24 of chapter 167 of the acts of 2009 is hereby amended by striking out the words “July 31, 2010” and inserting in place thereof the following words:- July 31, 2011.

SECTION 15. 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, 2011; provided, however, that the days between January 1, 2010 and July 31, 2011 shall be dark days under said chapter 128C and the 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.

Approved August 1, 2010.

Chapter 204. AN ACT AUTHORIZING CERTAIN DEVELOPMENT IN THE FORT POINT CHANNEL IN THE CITY OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow forthwith for the granting of a chapter 91 license to the Boston Redevelopment 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. Notwithstanding sections 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection may grant licenses to the Boston Redevelopment Authority and any co-applicant that otherwise fulfills the requirements for a chapter 91 license, as determined by the department of environmental protection, to construct, maintain and repair pile-supported and floating publicly-accessible structures, including related utilities, as contemplated in "The Boston Inner Harbor Passenger Water Transportation Plan", dated January, 2000, prepared by Boston Redevelopment Authority, or as contemplated in "The Fort Point Channel Watersheet Activation Plan", dated May, 2002, prepared by the Boston Redevelopment Authority, as the same may be amended from time to time, which projects are located in whole or in part beyond the harbor line of the Fort Point Channel, such harbor line as established in prior legislative acts including, but not limited to, chapter 35 of the acts of 1840, chapter 170 of the acts of 1880 and chapters 402 and 403 of the acts of 1939.

SECTION 2. A final plan showing the specific location of the projects, located in whole or in part beyond the Fort Point Channel harbor line, shall be incorporated into any waterways license issued under this act. Plans showing the location of the projects shall be prepared for the department of environmental protection and shall be on file at the department for public inspection, as required by chapter 91 of the General Laws and any accompanying regulations.

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SECTION 3. Nothing in this act shall be construed to exempt any project from substantive or procedural requirements of chapter 91 of the General Laws and any accompanying regulations, other than the exemption permitted in this act from the harbor line requirements of sections 14 and 34 of said chapter 91.

Approved August 3, 2010.

Chapter 205. AN ACT ESTABLISHING THE ESSEX COUNTY COMMISSION ON THE STATUS OF WOMEN.

Be it enacted, etc., as follows:

There shall be a commission on the status of women in Essex county consisting of 9 persons to be appointed by the Massachusetts commission on the status of women. The commission shall conduct an ongoing study of all matters concerning women in Essex county. The commission shall report their findings to the Massachusetts commission on the status of women annually, not later than June 2, and recommend solutions to the problems facing the women of Essex county. The Massachusetts commission on the status of women shall make such appointments to the Essex commission from a pool of applicants who reside in Essex county. Members shall serve for a term of 3 years and until their successors are appointed and may be reappointed for 2 consecutive terms. After the completion of 2 consecutive terms, former members may reapply to serve on the commission after a year has passed since their last term. The initial members of the Essex county commission on the status of women shall be appointed for the following terms: 3 members for a term of 1 year, 3 members for a term of 2 years and 3 members for a term of 3 years. Vacancies in the membership of the commission shall be filled by the Massachusetts commission on the status of women for the balance of the unexpired term. Appointments by the Massachusetts commission on the status of women to the Essex county commission on the status of women shall be made in consultation with women's organizations. Nominations shall be solicited between August 1 and September 16 annually through an open application that is widely distributed throughout Essex county. Members of the commission shall represent diverse backgrounds and reside in different municipalities in Essex county. Members shall serve on the commission as volunteers and shall not be compensated. The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it deems necessary to effectuate the purposes of the commission.

Approved August 3, 2010.

Chapter 206. AN ACT AUTHORIZING THE BOSTON PARKS AND RECREATION COMMISSION TO LEASE CERTAIN REAL PROPERTY.

Be it enacted, etc., as follows:

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Notwithstanding any general or special law to the contrary and pursuant to chapter 365 of the acts of 1897, the Boston parks and recreation commission, consistent with established procedures and as provided herein, may lease real property or buildings under its control and supervision to any person or organization if the commission makes a determination that such lease will adequately ensure the preservation and maintenance of a historic property for park-related purposes and that such lease shall otherwise be consistent with the commission's duties and responsibilities.

Any lease entered into by the commission pursuant to this section shall provide, at a minimum, for the following: (a) the improvement, maintenance and management of the property by the lessee in conformance with appropriate standards approved by the Boston parks and recreation commission and all other applicable provisions of laws; (b) the payment to the commission of fair market rent for the property; provided, however, that the value of any improvements provided by the lessee under the lease may be partially deducted from the amount payable over the term of the lease; (c) a finding by the commission that the property covered by the lease, while not needed for use by the commission for the duration of the lease, is subject to its statutory authority under chapter 185 of the acts of 1875 to exercise control, construct, improve, equip, supervise and regulate the use of all parks, public grounds, playgrounds, ways or means of outdoor recreation and that the lease is entered into by the department pursuant to that duty; and (d) any other provisions, terms and conditions as the commission deems necessary and appropriate to protect the interests of the commonwealth and ensure the adequate preservation of the historic or other qualities of the property for future generations.

For the purposes of this act, "historic property" shall mean the comfort station, also known as the Duck House, located in the Back Bay/Fens section of the city of Boston and the men's comfort station also known as Pink Palace, located on Boston Common.

The commissioner shall establish guidelines for the execution of leases authorized in this act; provided, however, that the guidelines shall at least provide for an open, competitive process for selecting lessees. Prior to the implementation of the guidelines, the commissioner shall provide a period of public comment.

Approved August 3, 2010.

Chapter 207. AN ACT RELATIVE TO INSURANCE COVERAGE FOR AUTISM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 32A of the General Laws is hereby amended by adding the following section:-

Section 25. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actuary”, a person who is a member of American Academy of Actuaries and meets the academy’s professional qualification standards for rendering an actuarial opinion related to health insurance rate making.

“Applied behavior analysis”, the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

“Autism services provider”, a person, entity or group that provides treatment of autism spectrum disorders.

“Autism spectrum disorders”, any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger’s disorder and pervasive developmental disorders not otherwise specified.

“Board certified behavior analyst”, a behavior analyst credentialed by the behavior analyst certification board as a board certified behavior analyst.

“Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations including neuropsychological evaluations, genetic testing or other tests to diagnose whether an individual has 1 of the autism spectrum disorders.

“Habilitative or rehabilitative care”, professional, counseling and guidance services and treatment programs, including, but not limited to, applied behavior analysis supervised by a board certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of an individual.

“Pharmacy care”, medications prescribed by a licensed physician and health-related services deemed medically necessary to determine the need or effectiveness of the medications, to the same extent that pharmacy care is provided by the insurance policy for other medical conditions.

“Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care”, direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

“Therapeutic care”, services provided by licensed or certified speech therapists, occupational therapists, physical therapists or social workers.

“Treatment of autism spectrum disorders”, includes the following care prescribed, provided or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care.

(b) The commission shall provide to an active or retired employee of the commonwealth who is insured under the group insurance commission benefits on a nondiscriminatory basis for the diagnosis and treatment of autism spectrum disorder in individuals.

(c) A health plan provided by the commission shall be in compliance with subsection (b) if the plan does not contain an annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of autism spectrum disorders which is less than an annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) This section shall not limit benefits that are otherwise available to an individual under a health insurance policy.

(e) Coverage under this section shall not be subject to a limit on the number of visits an individual may make to an autism services provider.

(f) This section shall not affect an obligation to provide services to an individual under an individualized family service plan, an individualized education program or an individualized service plan. Services related to autism spectrum disorder provided by school personnel under an individualized education program are not subject to reimbursement under this section.

(g) An insurer, corporation or health maintenance organization shall be exempt for a period of 3 years from the requirement to provide coverage for habilitative or rehabilitative care required under this section and not covered by the insurer, corporation or health maintenance organization as of December 31, 2010, if:

(1) an actuary, affiliated with the insurer, corporation or health maintenance organization certifies in writing to the commissioner of insurance that:

(i) based on an analysis to be completed not more than once annually by each insurer, corporation or health maintenance organization for the most recent experience period of at least 1 year's duration, the annual costs associated with coverage of habilitative or rehabilitative care required under this section and not covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the experience period by the insurer, corporation or health maintenance organization;

(ii) those costs solely would lead to an increase in average premiums charged of more than 1 per cent for all insurance policies, subscription contracts or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation or health maintenance organization employs; and

(iii) the commissioner of insurance approves the certification of the actuary.

(2) An exemption allowed under paragraph (1) shall apply for a 3 year coverage period following inception or next renewal date of all insurance policies, subscription contracts or health care plans issued or renewed during the 1-year period following the date of the exemption, after which the insurer, corporation or health maintenance organization shall again provide coverage for habilitative or rehabilitative care required under this section.

(3) Notwithstanding the exemption allowed under paragraph (1), an insurer, corporation or health maintenance organization may elect to continue to provide coverage for habilitative or rehabilitative care required under this section.

SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting after section 47Z the following section:-

Section 47AA. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actuary”, a person who is a member of American Academy of Actuaries and meets the academy’s professional qualification standards for rendering an actuarial opinion related to health insurance rate making.

“Applied behavior analysis”, the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

“Autism services provider”, a person, entity or group that provides treatment of autism spectrum disorders.

“Autism spectrum disorders”, any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger’s disorder and pervasive developmental disorders not otherwise specified.

“Board certified behavior analyst”, a behavior analyst credentialed by the behavior analyst certification board as a board certified behavior analyst.

“Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations including neuropsychological evaluations, genetic testing or other tests to diagnose whether an individual has 1 of the autism spectrum disorders.

“Habilitative or rehabilitative care”, professional, counseling and guidance services and treatment programs, including, but not limited to, applied behavior analysis supervised by a board certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of an individual.

“Pharmacy care”, medications prescribed by a licensed physician and health-related services deemed medically necessary to determine the need or effectiveness of the medications, to the same extent that pharmacy care is provided by the policy for other medical conditions.

“Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care”, direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

“Therapeutic care”, services provided by licensed or certified speech therapists, occupational therapists, physical therapists or social workers.

“Treatment of autism spectrum disorders”, includes the following care prescribed, provided or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance, which is issued or renewed within or without the commonwealth, shall provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of autism spectrum disorder in individuals.

(c) Such policy shall be in compliance with subsection (b) if the policy does not contain annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of autism spectrum disorders which is less than a annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) This section shall not limit benefits that are otherwise available to an individual under a health insurance policy.

(e) Coverage under this section shall not be subject to a limit on the number of visits an individual may make to an autism services provider.

(f) This section shall not affect an obligation to provide services to an individual under an individualized family service plan, an individualized education program or an individualized service plan. Services related to autism spectrum disorder provided by school personnel under an individualized education program are not subject to reimbursement under this section.

(g) An insurer, corporation or health maintenance organization shall be exempt for a period of 3 years from the requirement to provide coverage for habilitative or rehabilitative care required under this section and not covered by the insurer, corporation or health maintenance organization as of December 31, 2010, if:

(1) an actuary, affiliated with the insurer, corporation or health maintenance organization certifies in writing to the commissioner of insurance that:

(i) based on an analysis to be completed not more than once annually by each insurer, corporation or health maintenance organization for the most recent experience period of at least 1 year's duration, the annual costs associated with coverage of habilitative or rehabilitative care required under this section and not covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the experience period by the insurer, corporation or health maintenance organization;

(ii) those costs solely would lead to an increase in average premiums charged of more than 1 per cent for all insurance policies, subscription contracts or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation or health maintenance organization employs; and

(iii) the commissioner of insurance approves the certification of the actuary.

(2) An exemption allowed under paragraph (1) shall apply for a 3 year coverage period following inception or next renewal date of all insurance policies, subscription con-

tracts or health care plans issued or renewed during the 1-year period following the date of the exemption, after which the insurer, corporation or health maintenance organization shall again provide coverage for habilitative or rehabilitative care required under this section.

(3) Notwithstanding the exemption allowed under paragraph (1), an insurer, corporation or health maintenance organization may elect to continue to provide coverage for habilitative or rehabilitative care required under this section.

SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section 8CC the following section:-

Section 8DD. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actuary”, a person who is a member of American Academy of Actuaries and meets the academy’s professional qualification standards for rendering an actuarial opinion related to health insurance rate making.

“Applied behavior analysis”, the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

“Autism services provider”, a person, entity or group that provides treatment of autism spectrum disorders.

“Autism spectrum disorders”, any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger’s disorder and pervasive developmental disorders not otherwise specified.

“Board certified behavior analyst”, a behavior analyst credentialed by the behavior analyst certification board as a board certified behavior analyst.

“Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations including neuropsychological evaluations, genetic testing or other tests to diagnose whether an individual has 1 of the autism spectrum disorders.

“Habilitative or rehabilitative care”, professional, counseling and guidance services and treatment programs, including, but not limited to, applied behavior analysis supervised by a board certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of an individual.

“Pharmacy care”, medications prescribed by a licensed physician and health-related services deemed medically necessary to determine the need or effectiveness of the medications, to the same extent that pharmacy care is provided by the contract for other medical conditions.

“Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care”, direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

“Therapeutic care”, services provided by licensed or certified speech therapists, occupational therapists, physical therapists or social workers.

“Treatment of autism spectrum disorders”, includes the following care prescribed, provided or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care.

(b) A contract between a subscriber and the corporation under an individual or group hospital service plan which is issued or renewed within or without the commonwealth shall provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of autism spectrum disorder in individuals.

(c) Such contract shall be in compliance with subsection (b) if the contract does not contain annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of autism spectrum disorders which is less than annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) This section shall not limit benefits that are otherwise available to an individual under a health insurance policy.

(e) Coverage under this section shall not be subject to a limit on the number of visits an individual may make to an autism services provider.

(f) This section shall not affect an obligation to provide services to an individual under an individualized family service plan, an individualized education program or an individualized service plan. Services related to autism spectrum disorder provided by school personnel under an individualized education program are not subject to reimbursement under this section.

(g) An insurer, corporation or health maintenance organization shall be exempt for a period of 3 years from the requirement to provide coverage for habilitative or rehabilitative care required under this section and not covered by the insurer, corporation or health maintenance organization as of December 31, 2010, if:

(1) an actuary, affiliated with the insurer, corporation or health maintenance organization certifies in writing to the commissioner of insurance that:

(i) based on an analysis to be completed not more than once annually by each insurer, corporation or health maintenance organization for the most recent experience period of at least 1 year’s duration, the annual costs associated with coverage of habilitative or rehabilitative care required under this section and not covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the experience period by the insurer, corporation or health maintenance organization;

(ii) those costs solely would lead to an increase in average premiums charged of more than 1 per cent for all insurance policies, subscription contracts or health care plans commencing on inception or the next renewal date, based on the premium rating methodology

and practices the insurer, corporation or health maintenance organization employs; and
(iii) the commissioner of insurance approves the certification of the actuary.

(2) An exemption allowed under paragraph (1) shall apply for a 3 year coverage period following inception or next renewal date of all insurance policies, subscription contracts or health care plans issued or renewed during the 1-year period following the date of the exemption, after which the insurer, corporation or health maintenance organization shall again provide coverage for habilitative or rehabilitative care required under this section.

(3) Notwithstanding the exemption allowed under paragraph (1), an insurer, corporation or health maintenance organization may elect to continue to provide coverage for habilitative or rehabilitative care required under this section.

SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section 4CC the following section:-

Section 4DD. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actuary”, a person who is a member of American Academy of Actuaries and meets the academy’s professional qualification standards for rendering an actuarial opinion related to health insurance rate making.

“Applied behavior analysis”, the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

“Autism services provider”, a person, entity or group that provides treatment of autism spectrum disorders.

“Autism spectrum disorders”, any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger’s disorder and pervasive developmental disorders not otherwise specified.

“Board certified behavior analyst”, a behavior analyst credentialed by the behavior analyst certification board as a board certified behavior analyst.

“Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations including neuropsychological evaluations, genetic testing or other tests to diagnose whether an individual has 1 of the autism spectrum disorders.

“Habilitative or rehabilitative care”, professional, counseling and guidance services and treatment programs, including, but not limited to, applied behavior analysis supervised by a board certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of an individual.

“Pharmacy care”, medications prescribed by a licensed physician and health-related services deemed medically necessary to determine the need or effectiveness of the medications, to the same extent that pharmacy care is provided by the certificate for other medical conditions.

“Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care”, direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

“Therapeutic care”, services provided by licensed or certified speech therapists, occupational therapists, physical therapists or social workers.

“Treatment of autism spectrum disorders”, includes the following care prescribed, provided or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care.

(b) A subscription certificate under an individual or group medical service agreement which is issued or renewed within or without the commonwealth shall provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of autism spectrum disorder in individuals.

(c) Such certificate shall be in compliance with subsection (b) if the certificate does not contain any annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of autism spectrum disorders which is less than annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) This section shall not limit benefits that are otherwise available to an individual under a health insurance policy.

(e) Coverage under this section shall not be subject to a limit on the number of visits an individual may make to an autism services provider.

(f) This section shall not affect an obligation to provide services to an individual under an individualized family service plan, an individualized education program or an individualized service plan. Services related to autism spectrum disorder provided by school personnel pursuant to an individualized education program are not subject to reimbursement under this section.

(g) An insurer, corporation or health maintenance organization shall be exempt for a period of 3 years from the requirement to provide coverage for habilitative or rehabilitative care required under this section and not covered by the insurer, corporation or health maintenance organization as of December 31, 2010, if:

(1) an actuary, affiliated with the insurer, corporation or health maintenance organization certifies in writing to the commissioner of insurance that:

(i) based on an analysis to be completed not more than once annually by each insurer, corporation or health maintenance organization for the most recent experience period of at least 1 year’s duration, the annual costs associated with coverage of habilitative or rehabilitative care required under this section and not covered as of December 31, 2010, exceeded

1 per cent of the premiums charged over the experience period by the insurer, corporation or health maintenance organization;

(ii) those costs solely would lead to an increase in average premiums charged of more than 1 per cent for all insurance policies, subscription contracts or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation or health maintenance organization employs; and

(iii) the commissioner of insurance approves the certification of the actuary.

(2) An exemption allowed under paragraph (1) shall apply for a 3 year coverage period following inception or next renewal date of all insurance policies, subscription contracts or health care plans issued or renewed during the 1-year period following the date of the exemption, after which the insurer, corporation or health maintenance organization shall again provide coverage for habilitative or rehabilitative care required under this section.

(3) Notwithstanding the exemption allowed under paragraph (1), an insurer, corporation or health maintenance organization may elect to continue to provide coverage for habilitative or rehabilitative care required under this section.

SECTION 5. Chapter 176G of the General Laws is hereby amended by inserting after section 4U the following section:-

Section 4V. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Actuary”, a person who is a member of American Academy of Actuaries and meets the academy’s professional qualification standards for rendering an actuarial opinion related to health insurance rate making.

“Applied behavior analysis”, the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

“Autism services provider”, a person, entity or group that provides treatment of autism spectrum disorders.

“Autism spectrum disorders”, any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, Asperger’s disorder and pervasive developmental disorders not otherwise specified.

“Board certified behavior analyst”, a behavior analyst credentialed by the behavior analyst certification board as a board certified behavior analyst.

“Diagnosis of autism spectrum disorders”, medically necessary assessments, evaluations including neuropsychological evaluations, genetic testing or other tests to diagnose whether an individual has 1 of the autism spectrum disorders.

“Habilitative or rehabilitative care”, professional, counseling and guidance services and treatment programs, including, but not limited to, applied behavior analysis supervised

by a board certified behavior analyst, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of an individual.

“Pharmacy care”, medications prescribed by a licensed physician and health-related services deemed medically necessary to determine the need or effectiveness of the medications, to the same extent that pharmacy care is provided by the contract for other medical conditions.

“Psychiatric care”, direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

“Psychological care”, direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

“Therapeutic care”, services provided by licensed or certified speech therapists, occupational therapists, physical therapists or social workers.

“Treatment of autism spectrum disorders”, includes the following care prescribed, provided or ordered for an individual diagnosed with 1 of the autism spectrum disorders by a licensed physician or a licensed psychologist who determines the care to be medically necessary: habilitative or rehabilitative care; pharmacy care; psychiatric care; psychological care; and therapeutic care.

(b) A health maintenance contract issued or renewed within or without the commonwealth shall provide benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of autism spectrum disorder in individuals.

(c) A health maintenance contract shall be in compliance with subsection (b) if the contract does not contain annual or lifetime dollar or unit of service limitation on coverage for the diagnosis and treatment of autism spectrum disorders which is less than annual or lifetime dollar or unit of service limitation imposed on coverage for the diagnosis and treatment of physical conditions.

(d) This section shall not limit benefits that are otherwise available to an individual under a health insurance policy.

(e) Coverage under this section shall not be subject to a limit on the number of visits an individual may make to an autism services provider.

(f) This section shall not affect an obligation to provide services to an individual under an individualized family service plan, an individualized education program or an individualized service plan. Services related to autism spectrum disorder provided by school personnel under an individualized education program are not subject to reimbursement under this section.

(g) An insurer, corporation or health maintenance organization shall be exempt for a period of 3 years from the requirement to provide coverage for habilitative or rehabilitative care required under this section and not covered by the insurer, corporation or health maintenance organization as of December 31, 2010, if:

(1) an actuary, affiliated with the insurer, corporation or health maintenance organization certifies in writing to the commissioner of insurance that:

(i) based on an analysis to be completed not more than once annually by each insurer, corporation or health maintenance organization for the most recent experience period of at least 1 year's duration, the annual costs associated with coverage of habilitative or rehabilitative care required under this section and not covered as of December 31, 2010, exceeded 1 per cent of the premiums charged over the experience period by the insurer, corporation or health maintenance organization;

(ii) those costs solely would lead to an increase in average premiums charged of more than 1 per cent for all insurance policies, subscription contracts or health care plans commencing on inception or the next renewal date, based on the premium rating methodology and practices the insurer, corporation or health maintenance organization employs; and

(iii) the commissioner of insurance approves the certification of the actuary.

(2) An exemption allowed under paragraph (1) shall apply for a 3 year coverage period following inception or next renewal date of all insurance policies, subscription contracts or health care plans issued or renewed during the 1-year period following the date of the exemption, after which the insurer, corporation or health maintenance organization shall again provide coverage for habilitative or rehabilitative care required under this section.

(3) Notwithstanding the exemption allowed under paragraph (1), an insurer, corporation or health maintenance organization may elect to continue to provide coverage for habilitative or rehabilitative care required under this section.

SECTION 6. All policies, contracts and certificates of health insurance subject to section 25 of chapter 32A, section 47AA of chapter 175, section 8DD of chapter 176A, section 4CC of chapter 176B, and section 4V of chapter 176G of the General Laws which are delivered, issued or renewed on or after January 1, 2011 shall conform with the provisions of this act. Form filings implementing this act shall be subject to the approval of the commissioner of insurance.

SECTION 7. This act shall take effect on January 1, 2011.

Approved August 3, 2010.

Chapter 208. AN ACT REGULATING ELECTIONS IN THE TOWN OF YARMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 404 of the acts of 2006 is hereby amended by striking out sections 1 and 2 and inserting in place thereof the following 2 sections:-

Section 1. Notwithstanding section 22A of chapter 55 or section 21C of chapter 59 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Yarmouth shall, at least 10 days before any election at which a binding or nonbinding question shall be submitted solely to the voters of the town, cause to

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be printed and made available at each polling place: (1) the full text of the question; (2) a fair and concise summary of the question, including a 1 sentence statement describing the effect of a yes or no vote, prepared by the town counsel of the town or the counsel's designee.

Section 2. The board of selectmen of the town of Yarmouth shall cause to be printed and distributed, in the manner provided in section 1 the summary and statement describing the effect of a yes or no vote. The summary and statement describing the effect of a yes or no vote prepared under section 2 shall be open to public inspection at the office of the town clerk of the town.

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

Approved August 4, 2010.

Chapter 209. AN ACT RELATIVE TO SEAWALLS IN THE TOWN OF DUXBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Duxbury may assess on the affected properties betterments in the total amount of \$263,205.71 for costs incurred by the town for the repair to the seawalls in the Gurnet Road area pursuant to chapters 80 and 83 of the General Laws. The board of selectmen may adopt an order of assessment of betterments fees within 60 days of the effective date of this act.

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

Approved August 4, 2010.

Chapter 210. AN ACT ESTABLISHING A ROAD MAINTENANCE REVOLVING ACCOUNT IN THE TOWN OF BREWSTER.

Be it enacted, etc., as follows:

SECTION 1. The town of Brewster may establish a Road Maintenance Revolving Account into which shall be deposited sums of money from time to time in accordance with this act. The superintendent of public works, subject to the authority of the board of selectmen, shall control and administer the fund and render annual accounts of the receipts, disbursements and balances relating to the revolving accounts.

SECTION 2. The fund shall be established, consistent with section 6N of chapter 40 of the General Laws, to provide, without expense to the town, for the maintenance and upkeep of the numerous private ways serving the town's inhabitants. Maintenance may also be performed on a private way's drainage facilities and associated features, but in accordance with said section 6N of said chapter 40, work shall be of a temporary nature and shall not include construction, reconstruction or resurfacing of private ways.

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SECTION 3. When private way maintenance is desired, the town shall enter agreements with the parties requesting the work and the superintendent shall determine the cost of that work. The town may charge a reasonable administrative fee for its services and the fee shall be deposited into the General Fund. The interested parties shall pay the cost and administrative fee in advance of the work and that amount shall be deposited into the road maintenance revolving account. The superintendent, with the approval of the town accountant/finance director, shall expend these funds for only the maintenance and upkeep work for which they were deposited unless the town and the original interested parties otherwise agree. If, for any reason, the maintenance work is not performed, the deposited sums shall be returned to the interested parties.

SECTION 4. By a town meeting vote, the town may close this account and transfer to the General Fund any balance not needed to complete previously agreed maintenance.

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

Approved August 4, 2010.

Chapter 211. AN ACT VALIDATING ACTION TAKEN AT A SPECIAL TOWN ELECTION HELD IN THE TOWN OF ASHFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 42 of chapter 54 of the General Laws or any other general or special law to the contrary, the vote taken by the town of Ashfield at its October 20, 2009 special town election and all actions taken pursuant thereto, are hereby ratified, validated and confirmed, notwithstanding any defect or omission with regard to the ballot for the election.

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

Approved August 4, 2010

Chapter 212. AN ACT MAKING A TECHNICAL CORRECTION IN A SPECIAL ACT RELATIVE TO CERTAIN LAND IN THE TOWN OF SHERBORN.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 154 of the acts of 2001 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The parcel is located immediately adjacent to the north of town-owned Laurel Farm recreation

field and is described in an order of taking recorded in the northern district of the Middlesex county registry of deeds at book 12593, pages 655 to 657, and being further described on map 10, lot 2 of the Sherborn assessor's maps.

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

Approved August 4, 2010.

Chapter 213. AN ACT AUTHORIZING THE LEASE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF GRAFTON TO THE UNITED STATES DEPARTMENT OF LABOR AND AUTHORIZING THE CONVEYANCE OR LEASE OF CERTAIN SURPLUS STATE-OWNED PROPERTIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the lease of property to the United States department of labor, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may lease all or a portion of a certain parcel of land, together with the buildings thereon, and further identified in a U.S. Government Lease For Real Property dated April 19, 1990, Exhibit B, Partial Plan of Land Showing Parcel Leased United States Of America For A Job Corps Center in Grafton and Shrewsbury, dated Oct. 1, 1979, located on the easterly side of Pine street in the town of Grafton and Green street in the town of Shrewsbury and formerly part of the Grafton State Hospital, for a term, including extensions, not to exceed 20 years, to the United States Department of Labor, for rent of \$1 per year. The exact boundaries of the lease premises and any roads or other infrastructure which the United States Department of Labor, or its agents, may use in accordance with the lease, shall be determined by the commissioner in consultation with the United States Department of Labor after the completion of a land survey.

SECTION 2. The lease authorized in section 1 shall be on such terms and conditions as the commissioner of capital asset management and maintenance deems appropriate.

SECTION 3. The United States Department of Labor shall be responsible for all costs deemed necessary or appropriate by the commissioner of capital asset management and maintenance for the lease authorized in section 1 including, without limitation, the costs for legal work, survey, title, appraisal and the preparation of plans and specifications.

SECTION 4. In order to facilitate the reuse of the portions of the former Grafton

State Hospital that are surplus to the department's Job Corps program and to the commonwealth, as further identified in section 5, the commissioner of capital asset management and maintenance may, subject to sections 40E to 40J, inclusive, of chapter 7 the General Laws but notwithstanding any other general or special law to the contrary, sell, lease for a term or terms of up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to 1 or more purchasers or lessees an interest in said property identified in section 5, on such terms and conditions as the commissioner considers appropriate, taking into account principles of transit-oriented development and smart growth. The commissioner shall dispose of the property utilizing appropriate competitive processes and procedures. At least 30 days before the date on which bids, proposals, or other offers to purchase or lease the property, or any portion thereof, are due, the commissioner shall place a notice in the central register published by the state secretary under section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive process and other information that he considers relevant, including the time, place and manner for the submission of bids, proposals and the opening thereof. The grantee or the lessee shall enter into a historical covenant agreement with the Massachusetts historical commission which shall be filed with the registry of deeds and run with the land in perpetuity.

SECTION 5. The property subject to section 4 shall include, without limitation, the buildings identified as Building No. 14 (Pines C), Building No. 15 (Pines D) and Building No. 16 (Pines E) on the plan referenced in section 1 and such other lands as the commissioner of capital asset management and maintenance deems appropriate. The exact boundaries of the property and any roads or other infrastructure which the lessee or purchaser may use in accordance with the lease or deed, shall be determined by the commissioner in consultation with the United States Department of Labor after the completion of a land survey.

SECTION 6. In connection with any conveyance or lease authorized in this act, the commissioner of capital asset management and maintenance may grant easements or other rights to use roads and infrastructure and to install utilities on adjoining land of the commonwealth and may retain such easements or other rights for the commonwealth.

SECTION 7. The grantee or lessee selected pursuant to section 4 shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the transfers and conveyances authorized in said section 4 as those costs may be determined by the commissioner of capital asset management and maintenance. The grantee or lessee shall acquire the property in its existing condition without any warranty by the commonwealth.

Approved August 4, 2010 .

Chapter 214. AN ACT AUTHORIZING THE CITY OF GARDNER TO CONVEY CERTAIN LAND UNDER THE CONTROL OF THE GARDNER CONSERVATION COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. The city of Gardner, acting through its mayor and city council, may convey a certain parcel of land under the control and administration of the Gardner conservation commission to the Greater Gardner Industrial Foundation. The parcel 3.497 acres of land located on state highway route 2, as shown on a plan entitled and more particularly described in a "PLAN OF LAND TO BE CONVEYED BY THE CITY OF GARDNER" (Owner: Book 28116, Page 331), Gardner, MA, dated July 20, 2009, prepared by Szoc Surveyors. The parcel is further described in a deed dated November 18, 2002 to the Inhabitants of the city of Gardner, recorded in the south Worcester district registry of deeds in book 28116, page 331.

SECTION 2. In consideration for the conveyance authorized in section 1, the city of Gardner shall convey to the Gardner conservation commission a certain parcel of land acquired by the city from Wedgewood Heights Realty Trust by a deed executed on May 6, 2010, containing approximately 7.11 acres of land off Clark street and identified on Gardner assessors' map LL-31, block 57E, lot 15A, which was conveyed to the city for conservation purposes. The city of Gardner has accepted the conveyance of that property by vote of the city council on June 7, 2010, and the approval by the mayor on June 8, 2010.

SECTION 3. The conveyance of the parcel described in section 1 shall be subject to the following terms and conditions:

(1) that the Greater Gardner Industrial Foundation assumes all costs related to the conveyance including, but not limited to, appraisals, surveys and legal and filing fees; and

(2) additional consideration for the conveyance shall be \$7,000 which shall be used by the Gardner conservation commission to support the commission's efforts to preserve additional open space within the city's water supply protection districts.

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

Approved August 4, 2010.

Chapter 215. AN ACT RELATIVE TO A TRANSFER OF LAND IN THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Plymouth, acting by and through its conservation commission, may convey a certain parcel of land, which is a portion of 78.56 acres of land acquired by the town for open space and conservation purposes to Diane Millman Trask, trustee of the Diane Millman Trask Revoc-

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able Trust. The parcel is shown as “Parcel A” on a plan entitled “Plan of Land in Plymouth, Massachusetts Showing Parcel A to be Conveyed to Diane Millman Trask Revocable Trust by Town of Plymouth Conservation Commission” dated August 5, 2008 prepared by Flaherty & Stefani, Inc. containing 8777 sq. ft. more or less. The town of Plymouth, acting through its conservation commission, may transfer Parcel A, upon such terms and conditions as it deems appropriate, including for nominal consideration, to cure inadvertent encroachments on the trust property that were created when said town acquired this parcel as part of its purchase of the 78.56 acres for open space and conservation purposes. The Commonwealth, acting by and through the department of conservation and recreation, and the Wildlands Trust of Southeastern Massachusetts, Inc. may release a portion of the conservation restriction granted to them by the town of Plymouth by an instrument dated June 23, 2006, and recorded in the Plymouth county registry of deeds in book 33062, pages 261 – 283 on the parcel of land to be conveyed pursuant to this act.

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

Approved August 4, 2010.

Chapter 216. AN ACT AUTHORIZING THE CITY OF BEVERLY TO CONVEY CERTAIN LAND LOCATED IN THE CITY OF BEVERLY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the city of Beverly, by its mayor, may convey, to Richard J. Maestranzi and Leo J. Maestranzi, by deed approved as to form by its city solicitor, a certain parcel of land situated off of Brimbal avenue in the city of Beverly, being shown as “Parcel V” on the plan entitled “Survey and Division of Land in Beverly, MA” dated July 21, 2000, prepared by Louis Federici & Associates and recorded with the Essex south district registry of deeds in plan book 356, plan 11. Parcel V contains approximately 6.62 acres of land, more or less, according to said plan.

The consideration for the conveyance, transfer and exchange shall be as provided for in the settlement agreement related to litigation filed in the Essex Superior Court Docket Number ESCV2002-01580 entitled Richard J. Maestranzi and Leo J. Maestranzi vs. City of Beverly, as the same may be amended from time to time.

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

Approved August 4, 2010.

Chapter 217. AN ACT ESTABLISHING A LINKAGE EXACTION PROGRAM IN THE CITY OF GLOUCESTER.

Be it enacted, etc., as follows:

SECTION 1. (a) The city of Gloucester may, by ordinance, require the payment of a linkage exaction fee as a condition of approval of a development impact project plan, as defined by the ordinance, for any future development within the scope of this act. The linkage exaction fee shall only be imposed on the construction, enlarging, expansion, substantial rehabilitation, or change of use of non-residential and residential projects that require zoning relief or exceed a threshold which shall be established by the city council. The linkage ordinance shall be used solely for the purposes of defraying the costs of capital improvements provided by the city caused by and necessary to support future development such as, but not limited to the following: capital improvements to school facilities, public facilities, roads, sewers, water supply lines, affordable housing, child care facilities, job training facilities, public safety service and facilities, and parks, playgrounds and other recreational facilities.

(b) The linkage exaction ordinance may be enacted if the following criteria are met:

(1) A rational nexus shall be established that shows the relationship between the creation of new residential dwelling units, and office, commercial and industrial structures and their impact on the following services including, but not limited to, school facilities, public facilities, roads, sewers, water supply lines, affordable housing, child care facilities, job training facilities, public safety facilities, and parks, playgrounds and other recreational facilities.

(2) The city shall develop and prepare a study for any project for which a linkage exaction fee is levied that examines the proposed project and projects the cost of capital improvements necessary to accommodate the project. Any exaction fee which may be established pursuant to this act shall be set in accordance with the methodology set forth in the study.

(3) The exaction fee shall be established on the basis of the cost projections in the capital improvement plans and study as described in paragraph (2) of subsection (b) and the expected level of allowed development pursuant to the city's zoning ordinance, as it may be amended.

(4) The city shall have the authority to create distinct and separate revolving trust accounts for each linkage ordinance enacted by the city for the services delineated in paragraph (1) of this subsection for necessary improvements resulting from future development. An exaction shall not be paid to the city's general treasury or used as general revenues subject to section 53 of chapter 44 of the General Laws.

(5) The level of any exaction fee shall be reviewed at least every 3 years and reset as required based upon the recommendation of the office of community development and the mayor of the city.

(6) Any funds not expended or encumbered by the end of the calendar quarter immediately following 6 years from the date the exaction fee was paid shall, upon application

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of the applicant or his assigns, be returned to such landowner with interest from the fee's deposit in an interest bearing account; provided, however, that the applicant or his assigns submits an application for a refund to the office of community development within 180 days of the expiration of the 6 year period.

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

Approved August 4, 2010.

Chapter 218. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE OF THE TOWN OF GREAT BARRINGTON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special act to the contrary the position of police chief in the town of Great Barrington shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any incumbent holding the position of police chief in the town of Great Barrington on the effective date of this act.

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

Approved August 4, 2010.

Chapter 219. AN ACT EXEMPTING THE OFFICE OF DEPUTY CHIEF OF POLICE IN THE TOWN OF ROCKLAND FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The office of deputy chief of police in the town of Rockland shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of the person holding the office of deputy chief of police in the town of Rockland on the effective date of this act.

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

Approved August 4, 2010.

Chapter 220. AN ACT EXEMPTING ALL POSITIONS IN THE POLICE DEPARTMENT OF THE TOWN OF PROVINCETOWN FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the members of the police department of the town of Provincetown shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any member of the police department of the town of Provincetown on the effective date of this act.

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

Approved August 4, 2010.

Chapter 221. AN ACT AUTHORIZING THE TOWN OF MANCHESTER-BY-THE-SEA TO GRANT AN EASEMENT OVER CERTAIN LAND ACQUIRED FOR WATER SUPPLY PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The town of Manchester-by-the-Sea, acting by and through its board of selectmen, may grant a nonexclusive easement on a portion of land located on Lincoln street in said town containing 6.03 acres, more or less, to the Essex County Club, for the purpose of continuing the use of the land by the club as a golf course. The deed conveying the easement shall include a requirement that the Essex County Club shall utilize the land so as not to degrade the public water supply. The land on which the easement may be granted was acquired by the town for water supply purposes and the town shall continue to use the easement area for its water resources. The easement is shown on a plan entitled "Easement Plan, Lincoln Avenue, Town of Manchester-by-the-Sea," dated September 18, 2008 and prepared by North Shore Survey Corporation, which is on file in the office of the town clerk.

SECTION 2. In consideration for and as a condition of the conveyance of the easement to the Essex County Club, the club shall elect not to obtain any tax benefit from chapter 61B of the General Laws for as long as the easement is in effect. As further consideration for the easement in section 1, the club shall grant an easement to the town of Manchester-by-the-Sea on land located on Mill street in said town, containing approximately .75 acres, shown on a plan entitled "Easement Plan, Mill Street, Town of Manchester-by-the-Sea," dated September 18, 2008 and prepared by North Shore Survey Corporation, which is on file in the office of the town clerk. The value of the easement provided to the town includes: linking 2 water mains, currently dead-ended, for the benefit

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of residents of the town, improving Mill street and other traveled ways in the town, providing direct access to a main highway and for general municipal purposes.

SECTION 3. If the easement granted to the Essex County Club ceases to be used for the purposes described in section 1, the easement shall terminate and the land shall revert to the town for water resource purposes.

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

Approved August 4, 2010.

Chapter 222. AN ACT ESTABLISHING A SICK LEAVE BANK FOR SUSAN SPERA, 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 Susan Spera, 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 Spera. Whenever Susan Spera 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 August 4, 2010.

Chapter 223. AN ACT AUTHORIZING THE TOWN OF WESTFORD TO LEASE A CERTAIN PARCEL OF LAND FOR CAMP PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Westford, acting by and through its conservation commission may lease, license or rent the use of the facilities at the East Boston Camps property located on Depot street and Nutting road in said town, shown on town Assessors' Map 31, as parcel 37, for camp purposes

for not more than 10 years. The lease, license or rental agreement 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 August 4, 2010.

Chapter 224. AN ACT RELEASING CERTAIN LAND IN THE TOWN OF BRIMFIELD FROM AN AGRICULTURAL PRESERVATION RESTRICTION.

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

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any other general or special law to the contrary but subject to section 40E of chapter 7 of the General Laws and section 32 of chapter 184 of the General Laws, the secretary of energy and environmental affairs shall execute a certificate of release of a portion of the land subject to an agricultural preservation restriction, in this act called the “APR”, which is held by the department of agricultural resources, in this act called the “department”, and recorded in the Hampden county registry of deeds at book 11476, page 498 and book 11544, book 398 on land owned by Ronald Weston and Linda Weston, their successors in title, heirs and assigns, in this act called “Weston”. The portion to be released consists of approximately 7.7 acres more or less and is shown on a plan of land dated November 10, 2008, recorded with the Hampden county registry of deeds at plan book 354, plan 93.

SECTION 2. As a condition precedent to the release of the 7.7 acre parcel from the APR, Weston and the department shall execute and cause to be recorded an amendment to the APR placing a currently unrestricted parcel of 8.0 acres, owned by Weston, under restriction in accordance with the terms and provisions of the original APR and as amended, which shall become subject to the APR. The 8.0 acre parcel lies easterly of Hollow road in the town of Brimfield and is as shown on a plan of land entitled “Plan of land in Brimfield, MA prepared for Ronald N. & Linda M. Weston (owners)” by Roger Woods & Co., said plan being recorded with the Hampden county registry of deeds at plan book 354, plan 93 and labeled as “PARCEL TO BE ADDED TO AGRICULTURAL PRESERVATION RESTRICTION AREA 8.0 acres.”

SECTION 3. As a condition precedent to the release of the 7.7 acre parcel from the APR, Weston and the department shall execute and cause to be recorded an amendment to

the existing restriction, which shall place under restriction that portion of the currently unrestricted 30,000 square feet of land owned by Weston that lies outside the boundaries of the land proposed to be released under section 1. Upon the recording thereof, that portion shall be subject to and governed by the APR as amended. The 30,000 square foot parcel is bounded and described as follows:

Beginning at a point on the easterly street line of Hollow Road which point is Fifty and 23/100 (50.23) feet northerly of the northwesterly corner of land now or formerly of Charles H. & Linda D. Thompson; thence running S 64° 28' 00" E One hundred eighty three and 99/100 (183.99) feet to a point; thence turning and running S 55° 21' 05" E Two hundred twenty four and 58/100 (224.58) feet to a point; thence turning and running S 60° 50' 25" E a distance of Eight hundred seventeen and 151/100 (817.15) feet to a point located in the westerly boundary line of land now or formerly of Cook, said last three courses being along land of Ronald N. and Linda M. Weston; thence turning and running N 32° 06' 55" E Twenty five and 00/100 (25.00) feet to a point, thence turning and a running N 57° 53' 05" W One hundred forty and 00/100 (140.00) feet to a point marking the beginning of the so called "Envelope", thence turning and running N 32° 06' 55" E Two hundred and 00/100 (200.00) feet, thence turning and running N 57° 53' 05" W One hundred fifty and 00/100 (150.00) feet, thence turning and running S 32° 06' 55" W Two hundred and 00/100 (200.00) feet, thence turning and running S 57° 53' 05" E One hundred fifty and 00/100 (150.00) feet to said point of beginning of said "Envelope".

SECTION 4. As a condition subsequent to the release of the 7.7 acre parcel from the APR, Weston shall cause a certain percentage as specified below of the annual total gross revenues from any commercial or other business operations on the 7.7 acre parcel including, but not limited to, a wedding and banquet operation, to be annually devoted to enhancing the agricultural productivity of the remaining APR land, for so long as the 7.7 acre parcel is used for a commercial or other business purpose. For the purposes of this section, enhancements to the agricultural productivity of the remaining APR land shall be those proposed by Weston and approved by the department and shall fall into any of the following categories: (1) implementation of a best management plan and nutrient management plan for Christmas tree production developed in accordance with industry standards, the plan and the implementation thereof to be reviewed and reported to the department by an independent third party mutually satisfactory to Weston and the department on a 2-year basis; (2) implementation of a resource management plan developed for all of the APR land, the plan and the implementation thereof to be reviewed and reported to the department by an independent third party who shall be mutually agreed to by Weston and the department on a 5-year basis; (3) implementation of a nutrient management plan developed for all of the APR land, the plan and the implementation thereof to be reviewed and reported to the department by an independent third party who shall be mutually agreed to by Weston and the department on a 5-year basis; (4) implementation of a manure management plan developed for Weston's equine facility approved by the department, the plan and the implementation thereof to be reviewed and reported to the department by an independent third party who shall be mutually agreed to by

Weston and the department; (5) development and implementation of a plan establishing Christmas tree production on the 8-acre parcel being added to the APR, integrated within the best management plan and nutrient management plan for Christmas tree production set forth in clause (1); or (6) implementation of an approved NRCS farm plan. If Weston fails or neglects to make a proposal, the department shall select an enhancement to productivity as the department's choice and so notify Weston.

Not later than 1 year after the effective date of this act and annually, thereafter, Weston shall cause a certified public accountant or another professional with equivalent credentials, reasonably satisfactory to the department, to provide to the department a written certification of compliance by Weston with the expenditure requirement set forth in this section. The certified public accountant or other professional shall have access to the original financial books and records of Weston and the original books and records of any other party conducting business operations on the land released under lease or other arrangement. The department may bring a civil action to enforce this paragraph.

The percentages to be devoted to agriculture shall be as follows: 2 per cent of gross revenues for the first 2 years of operation of the business on the 7.7 acre parcel after the effective date of this act; 4 per cent of gross revenues for the next 2 years of operation; and 5 per cent of gross revenues thereafter; provided, however, that Weston shall not be required to expend in a single year or in the aggregate more than the annual cost of implementing a plan approved under this section.

SECTION 5. Except as amended by this act, the APR shall remain in full force and effect.

Approved August 4, 2010.

Chapter 225. AN ACT AUTHORIZING THE DEPARTMENT OF FISH AND GAME TO ACQUIRE LAND OF THE TOWN OF ATHOL AND TO ACQUIRE A CONSERVATION RESTRICTION ON LANDS OF THE TOWN OF ATHOL IN EXCHANGE FOR GRANTS OF EASEMENTS TO THE TOWN OF ATHOL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the department of fish and game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital

asset management and maintenance, in consultation with the commissioner of fish and game, may take under chapter 79 of the General Laws or otherwise acquire and the town of Athol may convey all or portions of certain parcels of land identified in section 2 for the preservation and protection of wildlife habitat, passive recreation and consistent purposes. The parcels, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the town, that lawfully exists and is recorded in the appropriate registry of deeds, unless the commissioner of capital asset management and maintenance expressly takes the easement or lesser interest by eminent domain under said chapter 79. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the parcels of land after completion of a survey.

SECTION 2. The parcels of land, including lands under water, to be acquired from the town of Athol under section 1 are identified as follows: land in the towns of Athol and Phillipston, including lands under water, located along South Royalston road, Cobb Hill road, Willis road, Schoolhouse road and state highway route 2A associated with Thousand Acre Reservoir, Thousand Acre Brook and its watershed, described in deeds to the town of Athol recorded at the South Worcester district registry of deeds in book 1981, page 401; book 2077, page 117; book 2338, page 177; book 2283, page 136; book 2123, page 368; book 3530, page 442; book 1947, page 283; book 2145, page 479; and book 1836, page 133 (parcels 13 and 14).

SECTION 3. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for the purpose of installing and maintaining water mains across all or portions of a certain parcel of land of the commonwealth identified in section 4. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the water main easements after completion of a survey.

SECTION 4. The parcel of land to be subject to the water main easements under section 3 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds at book 14525, page 380 and shown on plan entitled "Plan of Land in Athol owned by Lois E. Lawrence" recorded at the south Worcester district registry of deeds in plan book 407, plan 8.

SECTION 5. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for drinking water supply wellhead protection over all or portions of a certain parcel of land of the commonwealth identified in section 6. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the easements or lesser interests after completion of a survey.

SECTION 6. The parcel of land to be subject to the wellhead protection easements under section 5 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds in book 16041, page 160 and shown on a plan entitled “Plan of Land in Athol, Massachusetts prepared for Mount Grace Land Conservation Trust, Inc.” recorded at the south Worcester district registry of deeds in plan book 670, plan 86.

SECTION 7. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may convey to the town of Athol easements or lesser interests for the construction, maintenance and use of a bicycle path across all or portions of a certain parcel of land of the commonwealth identified in section 8. The commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may determine the exact boundaries of the bike path easement after completion of a survey.

SECTION 8. The parcel of land to be subject to the bicycle path easements under section 7 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds at book 16041, page 160 (parcel III).

SECTION 9. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary and in consideration for the conveyances authorized in sections 3 to 8, inclusive, the commissioner of capital asset management and maintenance, in consultation with the commissioner of fish and game, may take under chapter 79 of the General Laws or otherwise acquire and the town of Athol 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 habitat and passive recreation and consistent purposes, in all or portions of certain parcels of land identified in section 10. The parcels were acquired by the town of Athol for water supply purposes. The conservation restriction authorized by this section shall allow for the town to retain the right to use the premises as a potential water supply for the town. The conservation restriction, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the town, that lawfully exists and is recorded in the appropriate registry of deeds, unless the commissioner of capital asset management and maintenance expressly takes the easement or lesser interest through eminent domain under said chapter 79.

SECTION 10. The parcels of land, including lands under water, to be subject to the conservation restriction under section 9 are identified as follows: land in Athol, including lands under water, located along South Royalston road and Bearsden road, associated with Newton Reservoir and its watershed, described in deeds to the town of Athol recorded at the south Worcester district registry of deeds in book 3543, page 194; book 1995, page 600; and book 1836, page 133 (parcels 24, 25, 26, 27, 28, 29 and 30).

SECTION 11. The consideration for the 3 easements described in sections 3 to 8, inclusive, and the conservation restriction described in sections 9 and 10 shall be the full and fair market value of the easements or conservation restriction for the uses authorized by this act, as determined by the commissioner of the division of capital asset management and maintenance based upon 1 or more independent professional appraisals. The authorization granted in said sections 3 to 10, inclusive, shall be contingent on the appraised value of the conservation restriction described in sections 9 and 10 being equal to or greater than the appraised value of the 3 easements described in sections 3 to 8, inclusive, as determined by 1 or more independent professional appraisals; provided, however, that the commissioner of capital asset management and maintenance may accept the findings of previous appraisals of the easements or conservation restriction conducted by an appraiser acceptable to the commissioner.

SECTION 12. Notwithstanding any other general or special law to the contrary, the inspector general shall review and approve the appraisals required pursuant to section 11. The inspector general may prepare a report of his review of the methodology utilized for the appraisal and may file the report with the commissioner of capital asset management and maintenance. Within 15 days after receiving the inspector general's report but not later than 15 days before the execution of any agreement or other document under this act, the commissioner may submit the report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

SECTION 13. Costs and expenses associated with the transactions authorized in this act shall be apportioned as agreed by the town of Athol and the department of fish and game.

Approved August 4, 2010.

Chapter 226. AN ACT AUTHORIZING THE TOWN OF COHASSET TO USE A CERTAIN PARCEL OF WATER SUPPLY LAND FOR GENERAL MUNICIPAL PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The town of Cohasset, acting by and through its board of water commissioners and board of selectmen may transfer to its board of selectmen the care, custody and control of a portion of a certain parcel of land acquired for water supply purposes to be used for general municipal purposes. The parcel is described in an order of taking made by the town on October 25, 1950 and recorded in the Norfolk county registry of deeds in book 2950, page 182 and is located northwesterly off Sohier street as shown on assessor map 15, parcel 2. The portion to be transferred by the town is designated as Parcels 4A and 4B, containing 1.32 acres and shown on a plan entitled "PLAN OF LAND North Main Street & Sohier Street in Cohasset, MA" dated March 22, 2010, prepared by Cavanaro

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Consulting, which is on file in the office of the board of water commissioners.

SECTION 2. In consideration for the transfer authorized in section 1, the town of Cohasset shall release a parcel of land from municipal use and transfer it to the board of water commissioners to be designated for water supply purposes. The parcel is shown as Parcel 2B on the plan described in section 1 containing 1.32 acres and is a portion of a larger parcel shown as Lot 2 on said plan, acquired by the town for municipal use.

SECTION 3. If the land transferred pursuant to section 1 ceases to be used for the purposes described in said section 1, the land shall revert to the town of Cohasset board of water commissioners and shall be dedicated for water supply purposes.

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

Approved August 4, 2010.

Chapter 227. AN ACT RELATIVE TO PROPERTY TAX EXEMPTIONS IN THE TOWN OF ASHLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding clause Forty-first C ½ of section 5 of chapter 59 of the General Laws or any other general or special law, or rule or regulation to the contrary, the town of Ashland may determine eligibility for the real estate tax exemption under said clause Forty-first C½ of said section 5 of said chapter 59 based on the gross receipts of the taxpayer from all sources or, if the taxpayer is married, combined gross receipts.

SECTION 2. This act shall take effect as of June 1, 2010.

Approved August 4, 2010.

Chapter 228. AN ACT DESIGNATING A CERTAIN ROAD IN THE TOWN OF UXBRIDGE AS THE BENNY EMERICK'S ROAD TO BOSTON.

Be it enacted, etc., as follows:

A portion of route 16 in the town of Uxbridge, beginning at the intersection of West River road and ending at the Mendon town line, shall be designated and known as the Sergeant Benjamin P. "Benny" Emerick's "Road to Boston." The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing that designation in compliance with the standards of the department and any existing historic preservation guidelines or statutes.

Approved August 4, 2010.

Chapter 229. AN ACT RELATIVE TO THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE.

Be it enacted, etc., as follows:

An agreement is hereby entered into with all jurisdictions legally joining therein in substantially the following form:-

Article I. Membership.

Any state may become a member of this agreement by enacting this agreement.

Article II. Right of the people in member states to vote for president and vice president.

Each member state shall conduct a statewide popular election for president and vice president of the United States.

Article III. Manner of appointing presidential electors in member states.

Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each state in which votes have been cast in a statewide popular election and shall add such votes together to produce a national popular vote total for each presidential slate.

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the national popular vote winner.

The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

At least 6 days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by congress.

In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees. The chief election official of each member state

shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

Article IV. Other Provisions.

This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

Any member state may withdraw from this agreement, except that a withdrawal occurring 6 months or less before the end of a president's term shall not become effective until a president or vice president shall have been qualified to serve the next term.

The chief executive of each member state shall promptly notify the chief executive of all other states when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

This agreement shall terminate if the electoral college is abolished.

Article V. Definitions.

As used in this agreement:-

"Chief executive" means the governor of a state of the United States or the mayor of the District of Columbia.

"Elector slate" means a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate.

"Chief election official" means the state official or body that is authorized to certify the total number of popular votes for each presidential slate.

"Presidential elector" means an elector for president and vice president of the United States.

"Presidential elector certifying official" means the state official or body that is authorized to certify the appointment of the state's presidential electors.

"Presidential slate" means a slate of 2 persons, the first of whom has been nominated as a candidate for president of the United States and the second of whom has been nominated as a candidate for vice president of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state.

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

"Statewide popular election" means a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

Approved August 4, 2010.

**Chapter 230. AN ACT AUTHORIZING THE TOWN OF NORTH ANDOVER TO
AMEND A CERTAIN CONSERVATION RESTRICTION.**

Be it enacted, etc., as follows:

SECTION 1. The conservation commission and the board of selectmen of the town of North Andover may release a certain conservation restriction granted to the town by Boston Hill Development, L.L.C. on June 13, 2006, and recorded at the North Essex registry of deeds in book 10282 at page 272. The conservation restriction was granted to the town of North Andover on 18.74 acres of a 33.35 acre parcel by Boston Hill Development, L.L.C. and is shown as "Open Space Parcel `A`" above the title "EXISTING CONSERVATION RESTRICTION (WITH PREVIOUSLY PROPOSED DEVELOPMENT)" on the plan entitled "PROPOSED MODIFICATION TO CONSERVATION RESTRICTION, THE BOSTON HILL PREMISES NORTH ANDOVER, MA" dated January 29, 2009, and prepared for Elm Development Services, L.L.C. 200 North Main Street, East Longmeadow, MA 01028 by Marchionda & Associates, Limited Partnership.

SECTION 2. In consideration of the release set forth in section 1, Boston Hill Development, L.L.C. shall grant a conservation restriction to the board of selectmen and conservation commission of the town of North Andover on 25.14 acres of the said 33.35 acre parcel to reflect the modification of the grantor's proposed development plans. This conservation restriction is shown as "Open Space Parcel `A`" above the title "PROPOSED MODIFIED CONSERVATION RESTRICTION (WITH CURRENTLY PROPOSED DEVELOPMENT)" on the plan entitled "PROPOSED MODIFICATION TO CONSERVATION RESTRICTION, THE BOSTON HILL PREMISES NORTH ANDOVER, MA" dated January 29, 2009 and prepared for Elm Development Services, L.L.C. 200 North Main Street, East Longmeadow, MA 01028 by Marchionda & Associates, Limited Partnership.

SECTION 3. The conservation commission and the board of selectmen of the town of North Andover shall take all actions they deem necessary or advisable in their sole discretion to carry out the release of the conservation restriction and acceptance of a new conservation restriction as set forth in sections 1 and 2 including, without limitation, the execution of all documents relative thereto.

Approved August 4, 2010.

**Chapter 231. AN ACT ESTABLISHING A SHELLFISH MITIGATION RECEIPTS
RESERVED FOR APPROPRIATION FUND IN THE TOWN OF
DENNIS.**

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, rule or regulation to the contrary, there shall be a special fund in the town of Dennis to be known as the Shellfish Mitigation Receipts Reserved for Appropriation Fund. There shall be deposited into the fund monies collected by the town of Dennis conservation commission as mitigation payments for projects that impact public waterways and shellfish habitats. The fund shall be used exclusively for shellfish resource enhancements, shellfish habitats or capital improvements.

SECTION 2. The Shellfish Mitigation Receipts Reserved for Appropriation Fund shall be maintained by the town treasurer as a separate account, subject to applicable provisions of chapter 44 of the General Laws and any interest accrued shall be credited to and become part of the fund.

Approved August 4, 2010.

Chapter 232. AN ACT RELATIVE TO PENSION DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN THE REPUBLIC OF IRAN.

Be it enacted, etc., as follows:

SECTION 1. As used in this act the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Active business operations”, all business operations in Iran that are not inactive business operations.

“Board”, the pension reserves investment management board established in section 23 of chapter 32 of the General Laws.

“Business operations in Iran”, providing goods or services deployed to develop petroleum resources in Iran, including acquiring, developing, maintaining, owning, selling, possessing, leasing or operating equipment, facilities, personnel, products, services, personal property, real property or any other apparatus of business or commerce and has knowingly on or after August 5, 1996 made an investment or investments in Iran of at least \$20,000,000 in any 1 year period which directly or significantly contributes to the enhancement of Iran’s ability to develop its petroleum resources; provided, however, that this definition shall not apply to a company that has inactive business operations in Iran.

“Company”, a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies or affiliates of such entities or business associations that exist for profit-making purposes.

“Direct holdings”, all securities of a company held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.

“Government of Iran”, the government of the Islamic Republic of Iran.

“Inactive business operations”, the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such purpose.

“Indirect holdings”, all securities of a company held in an account or fund, such as a mutual fund, managed by 1 or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to this act.

“Petroleum resources”, includes, but shall not be limited to: (1) owning rights to oil blocks or natural gas reserves; (2) exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading of oil or natural gas; (3) constructing, maintaining or operating a pipeline, refinery or other oil-field infrastructure; and (4) facilitating such activities, including by providing supplies or services in support of such activities; provided, that the mere retail sale of gasoline and related consumer products shall not be considered oil-related activities.

“Public fund”, the Pension Reserves Investment Trust or the Pension Reserves Investment Management Board charged with managing the pooled investment fund consisting of the assets of the State Employees’ and Teachers’ Retirement Systems as well as the assets of local retirement systems under the control of the board.

“Scrutinized company”, any company conducting business operations in Iran.

“Substantial action”, adopting, publicizing and implementing a formal plan to cease scrutinized business operations in Iran within 1 year and to refrain from any such new business operations in Iran.

SECTION 2. Notwithstanding any general or special law to the contrary, within 90 days of the effective date of this act, the public fund shall make its best efforts to facilitate the identification of all scrutinized companies in which the public fund has direct or indirect holdings. The identification of scrutinized companies shall be the responsibility of an independent, third-party research firm, as identified by the public fund, and based on the criteria set forth in this act. By the first meeting of the public fund following the 90 day period, the public fund shall assemble all scrutinized companies in which it has direct or indirect holdings into a scrutinized companies list. The public fund shall update the scrutinized companies list on a quarterly basis based on evolving information from the independent, third-party research firm.

SECTION 3. Notwithstanding any general or special law to the contrary, the public fund shall adhere to the following procedure for companies on the scrutinized companies list:

(a)(1) The public fund shall determine the companies on the scrutinized companies list, created under section 2, in which the public fund owns direct or indirect holdings.

(2) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of each company identified in paragraph (1) with active business operations in Iran, except as provided in subsection (c) and section 5, according to the following schedule: (i) at least 50 per cent of such assets shall be removed from the public fund’s assets under management within 6 months after the company’s most recent appearance on the scrutinized companies list; and (ii) 100 per cent of such assets shall be removed from the public fund’s

assets under management within 12 months after the company's most recent appearance on the scrutinized companies list; provided, however, that this paragraph shall only apply while such company continues to have scrutinized active business operations in Iran.

(3) During the time period outlined in paragraph (2), the public fund may sign onto engagement letters or participate in shareholder resolutions regarding the scrutinized business operations of companies identified in paragraph (1) with active or inactive business operations in Iran in which the public fund still owns direct or indirect holdings;

(4) If a company identified in paragraph (1) with only inactive business operations in Iran converts such operations to active business operations in Iran, paragraph (2) shall immediately apply. The company shall also be immediately placed onto the scrutinized companies list.

(b) At no time shall the public fund acquire securities of companies on the scrutinized companies list that have active business operations in Iran, except as provided in subsections (c) and (d).

(c) No company which the United States government affirmatively declares to be excluded from its present or future federal sanctions regime relating to the government of Iran shall be subject to divestment or an investment prohibition under subsections (a) and (b).

(d) Notwithstanding anything in this act to the contrary, subsections (a) and (b) shall not apply to indirect holdings in actively managed investment funds; provided, however, that the public fund shall submit letters to the managers of such investment funds containing companies with scrutinized active business operations in Iran requesting that they consider removing such companies from the investment fund or create a similar actively managed fund with indirect holdings devoid of such companies. If the manager creates a similar fund, the public fund shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, private equity funds shall be deemed to be actively managed investment funds.

SECTION 4. Notwithstanding any general or special law to the contrary, with respect to actions taken in compliance with this act, the public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios and all good faith determinations regarding companies as required by this act.

SECTION 5. Notwithstanding any general or special law to the contrary, the public fund shall be permitted to cease divesting from certain scrutinized companies under subsection (a) of section 3, reinvest in certain scrutinized companies from which it divested under said subsection (a) of said section 3 or continue to invest in certain scrutinized companies from which it has not yet divested upon clear and convincing evidence showing that the total and aggregate value of all assets under management by, or on behalf of, the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis points of the hypothetical value of all assets under management by, or on behalf of, the public fund assuming no divestment for any company had occurred under said subsection (a)

of said section 3. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence.

For any cessation of divestment, and in advance of such cessation, authorized by this subsection, the public fund shall provide a written report to the attorney general, the senate and house committees on ways and means and the joint committee on public service, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment of holdings in companies on the scrutinized companies list or to reinvest or remain invested in companies with scrutinized active business operations in Iran.

SECTION 6. The public fund shall file a copy of the scrutinized companies list with the clerks of the senate and the house of representatives and the attorney general within 30 days after the list is created. Annually thereafter, the public fund shall file a report with the clerks of the senate and the house of representatives and the attorney general that includes: (1) the most recent scrutinized companies list; (2) all investments sold, redeemed, divested or withdrawn in compliance with subsection (a) of section 3; (3) all prohibited investments from which the public fund has not yet divested under subsection (b) of said section 3; and (4) any progress made under subsection (d) of said section 3.

SECTION 7. This act shall expire upon: (i) the United States Department of State removing Iran from its list of state sponsors of terrorism and certifying that Iran is no longer pursuing a nuclear capability in violation of its international commitments and obligations; or (ii) the President of the United States declaring that this act interferes with the conduct of the United States foreign policy.

SECTION 8. The treasurer shall conform all public fund investments related to companies doing business with Iran with 22 U.S.C. 8532.

Approved August 4, 2010.

Chapter 233. AN ACT RELATIVE TO CERTAIN EASEMENTS IN THE TOWN OF ANDOVER.

Be it enacted, etc., as follows:

The conservation commission of the town of Andover may grant 3 easements over conservation land to the board of selectmen for water supply and drainage for a subdivision as shown on a plan entitled "Street Acceptance Plan of Granli Drive in Andover, Mass." dated December 16, 1988 and drawn by Dana F. Perkins & Associates, Inc., Tewksbury, Massachusetts and on file in the office of the department of public works in said town. The easements include 1 permanent water easement and 2 permanent drainage easements. The permanent water easement is shown as "30' Water Easement" on Parcel A on said plan and

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the permanent drainage easements are each shown as “30’ Drainage Easement” on Parcel A situated between Lots 15 and 16 and Lots 20 and 21 on said plan.

Approved August 4, 2010.

Chapter 234. AN ACT RELATIVE TO CERTAIN BANKING LAWS.

Be it enacted, etc., as follows:

SECTION 1. Section 47 of chapter 167 of the General Laws is hereby repealed.

SECTION 2. Section 2 of chapter 167D, as appearing in the 2008 Official Edition, is hereby amended by striking out subparagraph 1 and inserting in place thereof the following subparagraph:-

1. To receive deposits as authorized by this chapter and to receive demand, time and other types of deposits upon such terms and conditions as may be agreed upon between the depositor and the bank; provided, however, that a natural person 18 years of age or under or 65 years of age or older may choose 1 demand deposit account and 1 savings account which, in each instance, shall include a joint account in which the spouse of the eligible depositor, regardless of age, is the joint tenant therein or the joint tenant would otherwise be an eligible depositor, and which has been established and used for personal, family or household purposes, upon which no service, maintenance or other similar charge shall be imposed. No such account shall be subject to: (i) a minimum balance requirement; (ii) a charge for a deposit or withdrawal; or (iii) a fee for the initial order or subsequent refills of the basic line of checks offered by the bank, which shall include the name of the depositor. For the purposes of this subparagraph, the term “savings account” shall include a regular passbook, regular statement savings or regular NOW account, so-called. A savings account in trust for another person shall be covered by the notice, services, fee and charge provisions of this subparagraph only if the trustee is a person 18 years of age or under or 65 years of age or older. A consumer shall notify a bank of his eligibility for such accounts and provide proof of age in a form acceptable to the bank. A bank may, however, assess a fee for certain services in accordance with the bank’s published service charge schedule which shall include, stop payment orders, wire transfers, certified or bank checks, money orders, deposit items returned, transactions at electronic branches and through other electronic devices a reasonable charge, as determined by the commissioner, against any such account when payment on a check or other transaction on the account has been refused because of insufficient funds or paid despite insufficient funds. A bank shall post in each of its banking offices a notice informing consumers of the availability of the banking services prescribed by this subparagraph. A bank shall, in addition to the notice posting requirement, disclose annually to all depositors, in a manner of its choosing, the provisions of this subparagraph applicable to a person 18 years of age or younger or 65 years of age or older. For the purposes of this subparagraph, the term “check or other transaction” shall include, but not

be limited to, a check for purposes of the Check Clearing for the 21st Century Act, 12 USC Sec. 5001 et seq., an electronic funds transfer as defined in section 1 of chapter 167B or regulations thereunder or a transaction processed by an automated clearinghouse.

Approved August 4, 2010.

Chapter 235. AN ACT RELATIVE TO QUALIFIED FINANCIAL CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 180A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 180A. The following words as used in sections 180A to 180L½, inclusive, unless the context otherwise requires or a different meaning is specifically prescribed, shall have the following meanings:

“Affiliate”, of, or person affiliated with, a specific person, is a person that directly or indirectly through 1 or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

“Ancillary state”, any state other than a domiciliary state.

“Control”, “controlling”, “controlled by” and “under common control with”, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 per cent or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

“Delinquency proceeding”, any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer.

“Domiciliary state”, the state in which an insurer is incorporated or organized, or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, being authorized to do business in such state, has its principal office at the commencement of rehabilitation, conservation or liquidation proceedings or the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders and creditors in the United States; and any such insurer shall be deemed to be domiciled in such state.

“Foreign country”, a territory not in any state.

“General assets”, all property, real, personal or mixed, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons; and as to such specifically encumbered property such term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders, or all policyholders and creditors in the United States, shall be deemed general assets. Pursuant to the applicable separate account agreements and section 132F or section 132G, assets of a separate account that are not chargeable with liabilities arising out of any other business of the insurer shall not be general assets.

“Insurer”, any person subject to the insurance supervisory authority of or to liquidation, rehabilitation, reorganization, or conservation by the commissioner or the equivalent insurance supervisory official of another state.

“Netting agreement”, (1) a contract or agreement, including terms and conditions incorporated by reference therein, including a master agreement, which master agreement, together with all schedules, confirmations, definitions and addenda thereto and transactions under any thereof, shall be treated as 1 netting agreement, that documents 1 or more transactions between the parties to the agreement for or involving 1 or more qualified financial contracts and that provides for the netting, liquidation, setoff, termination, acceleration or close out under or in connection with 1 or more qualified financial contracts or present or future payment or delivery obligations or payment or delivery entitlements thereunder, including liquidation or close-out values relating to such obligations or entitlements, among the parties to the netting agreement; (2) any master agreement or bridge agreement for 1 or more master agreements described in clause (1); or (3) any security agreement or arrangement or other credit enhancement or guarantee or reimbursement obligation related to any contract or agreement described in clause (1) or clause (2); provided, that any contract or agreement described in said clause (1) or said clause (2) relating to agreements or transactions that are not qualified financial contracts shall be considered to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts.

“Person”, an individual, corporation, limited liability company, partnership, association, joint stock company, trust, unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include a joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

“Preferred claim”, any claim with respect to which the law of a state accords priority of payment from the general assets of the insurer.

“Qualified financial contract”, a commodity contract, forward contract, repurchase agreement, securities contract, swap agreement and any similar agreement that the commissioner determines by regulation, resolution or order to be a qualified financial contract for purposes of sections 180A to 180L½, inclusive.

(1) “Commodity contract”:

(i) a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade or contract market under the Commodity Exchange Act, 7 U.S.C. § 1, et seq. or a board of trade outside the United States;

(ii) an agreement that is subject to regulation under section 19 of the Commodity Exchange Act, 7 U.S.C. § 1, et seq. and that is commonly known to the commodities trade as a margin account, margin contract, leverage account or leverage contract;

(iii) an agreement or transaction that is subject to regulation under Section 4c(b) of the Commodity Exchange Act and that is commonly known to the commodities trade as a commodity option;

(iv) any combination of the agreements or transactions referred to in this paragraph;

or

(v) any option to enter into an agreement or transaction referred to in this paragraph.

(2) “Forward contract”, “repurchase agreement”, “securities contract” and “swap agreement” shall have the meanings set forth in the Federal Deposit Insurance Act, 12 U.S.C. § 1821(e)(8)(D), as amended.

“Receiver”, receiver, liquidator, rehabilitator or conservator as the context requires.

“Reciprocal state”, any other state in which provisions of like substance and effect with sections 180A to 180L, inclusive, are in force, including the provisions requiring that the commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer. The term “reciprocal state” shall also include any state also which has, through its commissioner or equivalent supervisory official, entered into a binding and enforceable written agreement with the commissioner of the commonwealth which provides that (1) a commissioner or equivalent supervisory official is required to be the receiver of a delinquent insurer; (2) title assets of the delinquent insurer shall vest in the domiciliary receiver, as of the date of any court order appointing him as receiver, and he shall have the same rights to recover such assets as provided under section 180E; (3) nondomiciliary creditors may file and prove their claims before ancillary receivers; (4) the laws of the domiciliary state of the delinquent insurer shall be applied uniformly to residents and nonresidents in the allowance of preference of claims, except for claims to special deposits created under the laws of the domiciliary state; (5) preferences, including attachments, garnishments and liens, for creditors with advance information shall be prevented; and (6) the domiciliary receiver may sue in the reciprocal state to recover any assets of a delinquent insurer to which he or she may be entitled under the law.

“Secured claim”, any claim secured by mortgage, trust, deed, pledge, deposit as security, escrow or otherwise, and does not include special deposit claims or claims against general assets. Said term also includes claims which more than 4 months prior to the commencement of liquidation proceedings in the state of the insurer’s domicile have become liens upon specific assets by virtue of judicial process.

“Separate account agreement”, any life policy or contract, annuity contract, funding agreement or other policy or contract referred to in section 132F, 132G or 132I, providing

for the allocation of amounts received in connection with such policy, contract or agreement to a separate investment account or accounts created pursuant to section 132F or section 132G.

“Special deposit claim”, any claim secured by a deposit of a fund, property or bond, which deposit has been made pursuant to law for the security or benefit of a limited class or classes of persons and does not include any general assets.

“State”, any state of the United States, and also the District of Columbia, Alaska, Hawaii and Puerto Rico.

“Transfer”, shall include the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest therein, including a setoff, or with the possession thereof or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings. The retention of a security title in property delivered to an insurer and foreclosure of the insurer’s equity of redemption shall be deemed a transfer suffered by the insurer.

SECTION 2. Said chapter 175 is hereby further amended by inserting after section 180L the following section:-

Section 180L½. (a) Notwithstanding any other provision of sections 180A to 180L½, inclusive, including any other provision of said sections 180A to 180L½, inclusive, permitting the modification of contracts, or other law of a state, no person shall be stayed or prohibited from exercising:

(1) a contractual right to cause the termination, liquidation, acceleration or close out any netting agreement or qualified financial contract with an insurer because of:

(i) the insolvency, financial condition or default of the insurer at any time; provided, however, that the right is enforceable under applicable law other than sections 180A to 180L½, inclusive; or

(ii) the commencement of a rehabilitation proceeding under section 180B or a liquidation proceeding under section 180C;

(2) any right under a pledge, security, collateral, reimbursement or guarantee agreement or arrangement or any other similar security agreement or arrangement or other credit enhancement relating to 1 or more netting agreements or qualified financial contracts;

(3) subject to the last paragraph of section 180C, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more qualified financial contracts where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the Securities Valuation Office of the National Association of Insurance Commissioners as eligible for netting; or

(4) if a counterparty to a master netting agreement or a qualified financial contract with an insurer subject to a rehabilitation proceeding under section 180B or a liquidation proceeding under section 180C terminates, liquidates, closes out or accelerates the agreement

or contract, damages shall be measured as of the date or dates of termination, liquidation, close out or acceleration. The amount of a claim for damages shall be actual direct compensatory damages calculated in accordance with subsection (f).

(b) Upon termination of a netting agreement or qualified financial contract, the net or settlement amount, if any, owed by a non-defaulting party to an insurer which is the subject of a rehabilitation proceeding under section 180B or a liquidation proceeding under section 180C shall be transferred to or on the order of the receiver for the insurer, even if the insurer is the defaulting party, notwithstanding any walkaway clause in the netting agreement or qualified financial contract. For purposes of this subsection, the term “walkaway clause” means a provision in a netting agreement or a qualified financial contract that, after calculation of a value of a party’s position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation or acceleration of the netting agreement or qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the party’s status as a non-defaulting party. Any limited 2-way payment or “first method” provision in a netting agreement or qualified financial contract with an insurer that has defaulted shall be considered to be a full 2-way payment or “second method” provision as against the defaulting insurer. Any such property or amount shall, except to the extent it is subject to 1 or more secondary liens or encumbrances or rights of netting or setoff, be a general asset of the insurer.

(c) In making any transfer of a netting agreement or qualified financial contract of an insurer which is the subject of a rehabilitation proceeding under section 180B or a liquidation proceeding under section 180C, the receiver shall either:

(1) transfer to 1 party, other than an insurer which is the subject of either such proceeding, all netting agreements and qualified financial contracts between a counterparty or any affiliate of the counterparty and the insurer which is the subject of the proceeding, including:

(i) all rights and obligations of each party under each netting agreement and qualified financial contract; and

(ii) all property, including any guarantees or other credit enhancement, securing any claims of each party under each netting agreement and qualified financial contract; or

(2) transfer none of the netting agreements, qualified financial contracts, rights, obligations or property referred to in paragraph (1), with respect to the counterparty and any affiliate of the counterparty.

(d) If a receiver for an insurer makes a transfer of 1 or more netting agreements or qualified financial contracts, then the receiver shall use its best efforts to notify any person who is party to the netting agreements or qualified financial contracts of the transfer by 12 noon, the receiver’s local time, on the business day following the transfer. For purposes of this subsection, “business day” shall mean a day other than a Saturday, Sunday or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(e) Notwithstanding any other provision of sections 180A to 180L½, inclusive, a receiver may not avoid a transfer of money or other property arising under or in connection with a netting agreement or qualified financial contract, or any pledge, security, collateral or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract, that is made before the commencement of a rehabilitation proceeding under section 180B or a liquidation proceeding under section 180C; provided, however, that a transfer may be avoided under chapter 109A if the transfer was made with actual intent to hinder, delay or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(f)(1) In exercising the rights of disaffirmance or repudiation of a receiver with respect to a netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall either:

(i) disaffirm or repudiate all netting agreements and qualified financial contracts between a counterparty or an affiliate of a counterparty with the insurer that is the subject of a rehabilitation or liquidation proceeding; or

(ii) disaffirm or repudiate none of the netting agreements and qualified financial contracts referred to in clause (i), with respect to the person or any affiliate of the person.

(2) Notwithstanding any other provision of sections 180A to 180L½, any claim of a counterparty against the estate arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract that has not been previously affirmed in the liquidation or immediately preceding rehabilitation proceeding shall be determined and shall be allowed or disallowed as if the claim had arisen before the date of the filing of the application for liquidation or, if a rehabilitation proceeding is converted to a liquidation proceeding, as if the claim had arisen before the date of the filing of the application for rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation of the netting agreement or qualified financial contract. The term "actual direct compensatory damages" shall not include punitive or exemplary damages, damages for lost profit or lost opportunity or damages for pain and suffering, but does include normal and reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities or other market for the contract and agreement claims.

(g) The term "contractual right", as used in this section, shall include any right set forth in a rule or by-law of a derivatives clearing organization, as defined in the Commodity Exchange Act, a multilateral clearing organization, as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991, a national securities exchange, a national securities association, a national securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade, as defined in the Commodity Exchange Act, or in a resolution of the governing board thereof and any right, whether or not evidenced in writing, arising under statutory or common law, or under law merchant, or by reason of normal business practice.

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(h) This section shall not apply to a person who is an affiliate of the insurer that is the subject of the proceeding.

(i) All rights of counterparties under sections 180A to 180L½, inclusive, shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

Approved August 4, 2010.

Chapter 236. AN ACT RELATIVE TO DISABLED FIREFIGHTERS.

Be it enacted, etc., as follows:

Chapter 31 of the General Laws is hereby amended by inserting after section 39 the following section:-

Section 39A. Any fire service personnel subject to the retraining requirements of section 39 shall be classified as a conditional employee during the retraining period as a precondition of reinstatement to his position. For purposes of this section, "conditional employee" shall mean a permanent employee of a fire department separated from his position because of disability for a period of time of more than 5 years. Such employee shall be entitled to the continuation of his disability status with no other compensation of rights due him until such time as he has successfully completed any approved retraining program required pursuant to said section 39 and has been subsequently reinstated to his position. No such employee shall increase his average rate of pay for pension purposes prior to the successful completion of the retraining program and reinstatement to his position. Such an employee shall be regarded as a member of the department from which he was separated to accommodate any retraining program approved by the personnel administrator.

Approved August 4, 2010.

Chapter 237. AN ACT RELATIVE TO CERTAIN EXEMPTIONS IN MASSACHUSETTS AUTOMOBILE INSURANCE PLANS.

Be it enacted, etc., as follows:

SECTION 1. The second paragraph of subsection (A) of section 113H of chapter 175, as appearing in the 2008 Official Edition, is hereby amended by adding the following 2 sentences:- Notwithstanding any law, rule, regulation, order, ruling or decision to the contrary, on and after January 1, 2011 every insurance company writing private passenger

auto insurance in the commonwealth shall accept assignments of risks and any apportionment of premiums, losses or expenses, pursuant to the plan, and no exemption from those assignments, or from the apportionment of premiums, losses or expenses, shall thereafter be permitted; provided, however, that any exemption from the assignment of risks previously afforded any such insurance company shall be allowed to continue to be used until its expiration, but in no event shall the exemption continue beyond December 31, 2012. Assignments of risks and the apportionment of premiums, losses and expenses shall equal the proportion that each company's voluntary business bears to all companies' voluntary business and as adjusted for any credits calculated by the plan.

SECTION 2. Subsection (B) of said section 113H of said chapter 175, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

(b) The plan shall be prepared and administered by a governing committee appointed by the commissioner for terms of 6 years, consisting of 6 members from insurance companies participating in the plan and 1 additional representative from a domestic insurer in the commonwealth whose annual motor vehicle policy premiums amount to less than 2 and one-half per cent of the private passenger insurance market and unaffiliated with any other insurance company represented on the governing committee, and 6 members from associations of insurance producers, 2 of whom shall be producers who are assigned risk producers who write private passenger automobile insurance exclusively through the Massachusetts automobile assigned risk plan pursuant to the provisions of the plan approved under this section. Effective as of July 1, 1982, the governing committee shall consist of 3 members from insurance companies participating in the plan and 2 members from associations of insurance producers appointed for terms of 6 years, 2 members from insurance companies participating in the plan, 2 members from associations of insurance producers appointed for terms of 4 years, 2 members from insurance companies participating in the plan and 2 members from associations of insurance producers for terms of 2 years. This section shall not be construed to alter or amend the terms of the present governing members. The governing committee shall be responsible for the hiring of the employees of the plan.

SECTION 3. Subsection (D) of said section 113H of said chapter 175, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

A duly licensed insurance producer, certified to place business in the plan, shall own and have an exclusive right, as the insured's producer of record, to use certain insurance information of the insured embodying the records of the insurance agency which shall include, but not be limited to, the name of the insured, the policy inception date, the amount of insurance coverage, the policy number and the terms of insurance. If a policyholder, insured through the plan with an assigned risk carrier, is offered voluntary coverage by that carrier and the policyholder accepts the offer, the insured's producer of record shall continue to represent the insured written or renewed in the voluntary market, and the policy shall be

continued to be serviced through the producer of record, unless: (1) the producer is decertified or suspended by the plan or the commissioner; (2) at the insured's request, the insured terminates the producer as its producer of record; or (3) the producer of record is precluded from dealing with other insurance companies pursuant to an exclusive agency contract; provided, however, that if a policy is written or renewed on a voluntary basis, the assigned risk carrier shall pay the insured's producer of record the commission rate as set forth in the first paragraph, regardless of whether the producer of record has an agency agreement with that assigned risk carrier.

SECTION 4. The first paragraph of chapter 271 of the acts of 2008 is hereby amended by striking out the figure “2010”, each time it appears, and inserting in place thereof, in each instance, the following figure:- 2015.

SECTION 5. The second paragraph of said chapter 271 is hereby amended by striking out the figure “2011” and inserting in place thereof the following figure:- 2014.

Approved August 4, 2010.

Chapter 238. AN ACT DESIGNATING EUNICE KENNEDY SHRIVER DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15NNNNN, inserted by section 1 of chapter 92 of the acts of 2010, the following section:-

15OOOOO. The governor shall annually issue a proclamation setting aside the fourth Saturday of September as Eunice Kennedy Shriver Day, recommending its observance by the public in honoring the contributions of Eunice Kennedy Shriver on behalf of all disabled individuals, including her creation of the Special Olympics, through which she created a welcoming atmosphere where individual differences were celebrated, human dignity respected and spirits challenged among the citizens of the commonwealth and the world and recommending that said day be observed in an appropriate manner by the people.

Approved August 4, 2010.

Chapter 239. AN ACT ELIMINATING THE WORD “RETARDATION” FROM THE GENERAL LAWS.

Be it enacted, etc., as follows:

SECTION 1. Said section 17 of said chapter 10, as so appearing, is hereby further amended by striking out, in lines 18 and 19 and line 22, the words “mentally retarded persons” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 2. Section 13 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words “mental retardation” and inserting in place thereof the following words:- intellectual disabilities.

SECTION 3. Section 21 of chapter 19 of the General Laws, as so appearing, is hereby amended by striking out, in line 40, the words “mentally retarded individuals” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 4. Said section 21 of said chapter 19, as so appearing, is hereby further amended by striking out, in lines 46 and 47, the words “mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 5. Said section 21 of said chapter 19, as so appearing, is hereby further amended by striking out, in line 59, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 6. Section 1 of chapter 19B of the General Laws, as so appearing, is hereby amended by striking out, in lines 25, 26 and 27, 33, 42, 47 and 48, 49 and 51, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual disabilities.

SECTION 7. Said section 1 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 14, the words “mentally retarded citizens of the commonwealth” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 8. Said section 1 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 16 and 21, the words “mentally retarded persons” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 9. Section 10 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 10. Section 12 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 2, 7 and 8, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 11. Section 13 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 3, 8 and 9, 13, 27, 31, 32 and 33, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 12. Section 15 of said chapter 19B, as so appearing, is hereby amended by striking out, in lines 5 and 6, 9 and 39 and 40, the words “who are mentally retarded” and inserting in place thereof, in each instance, the following words:- with an intellectual disability.

SECTION 13. Section 16 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 14. Section 18 of said chapter 19B, as so appearing, is hereby amended by striking out, in line 40, the words “mentally retarded individuals” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 15. Said section 18 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 46, the words “mentally retarded” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 16. Said section 18 of said chapter 19B, as so appearing, is hereby further amended by striking out, in line 59, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 17. Section 1 of chapter 19C of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “mentally retarded, as defined by section one of chapter one hundred and twenty-three” and inserting in place thereof the following words:- a person with an intellectual disability as defined by section 1 of chapter 123B.

SECTION 18. Section 4 of said chapter 19C, as so appearing, is hereby amended by striking out, in line 28, the words “mentally retarded” and inserting in place thereof the following words:- a person with an intellectual disability.

SECTION 19. Section 3 of chapter 19D of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 20. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Mentally retarded person”.

SECTION 21. Said section 1 of said chapter 31, as so appearing, is hereby further amended by inserting, after the definition of “Permanent employee” the following definition:- “Person with an intellectual disability”, a person certified as having an intellectual disability by the Massachusetts rehabilitation commission.

SECTION 22. Section 47 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 7, 13 and 14, 27 and 28 and 33, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 23. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 10, the words “is mentally retarded” and inserting in place thereof the following words:- has an intellectual disability.

SECTION 24. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 16, the words “retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 25. Said section 47 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 24 and 25, the words “mentally retarded person’s” and inserting in place thereof the following words:- person with an intellectual disability’s.

SECTION 26. Section 4E of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 27. Section 63A of said chapter 111, as so appearing, is hereby amended by striking out, in line 4, the words “mentally retarded” and inserting in place thereof the following words:- or suffering from an intellectual disability.

SECTION 28. Section 67E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 43 and 44 and 45, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 29. Section 71 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 6, 12, 15, 18, 135 and 136, 139 and 140, 159, 211, 232 and 242, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 30. Said section 71 of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 162 and 163, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 31. Section 72 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 7 and 8, 13 and 14, 17, 20 and 21, 25, 27, 36 and 37 and 41, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 32. Said section 72 of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 31 and 32, words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 33. Section 73 of said chapter 111, as so appearing, is hereby amended by striking out, in line 4, the words “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 34. Section 27 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the definition of “Intermediate care facility for the mentally retarded or ICF/MR,” and inserting in place thereof the following definition:-

“Intermediate care facility for persons with an intellectual disability or ICF/PWID”, a privately or publicly operated intermediate care facility for persons with an intellectual disability.

SECTION 35. Said section 27 of said chapter 118G as so appearing, is hereby further amended by striking out, in lines 11, 13 and 31, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 36. Said section 27 of said chapter 118G, as so appearing, is hereby further amended by striking out, in lines 8, 12, 14 and 32, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 37. Said section 27 of said chapter 118G is hereby further amended by striking out, in lines 28, 39, 41, 47, 49 and 53, the word “ICF/MR” and inserting in place thereof, in each instance, the following word:- ICF/PWID .

SECTION 38. Section 29 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1, 9, 14, 22 and 29, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 39. Section 1 of chapter 123B of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 40. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by striking out the definition of “Mentally retarded person”.

SECTION 41. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by inserting after the definition of “Independent funds” the following definition:-

“Person with an intellectual disability”, a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the department, is substantially limited in the person’s ability to learn or adapt, as judged by established standards available for the evaluation of a person’s ability to function in the community; provided, however, that a person with an intellectual disability may be considered mentally ill; provided further, that no person with an intellectual disability shall be considered mentally ill solely by virtue of the person’s intellectual disability.

SECTION 42. Said section 1 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 27, the words “his mental retardation” and inserting in place thereof the following words:- their intellectual disability.

SECTION 43. Section 2 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 5, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 44. Said section 2 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 8, the word “the mentally retarded” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 45. Said section 2 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 11, the word “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 46. Section 3 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 2 and 3, 3 and 4, 7 and 8, 10, 25 and 26, 36 and 48 and 49, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 47. Said section 3 of said chapter 123B, as so appearing, is hereby further amended by striking out, in lines 11 and 47, the words “the mentally retarded” and inserting

in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 48. Said section 3 of said chapter 123B, as so appearing, is hereby further amended by striking out, in line 16, the word “retarded” and inserting in place thereof the following words:- intellectually disabled.

SECTION 49. Section 4 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 23 and 30, the words “mentally retarded person” and, inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 50. Section 5 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 1, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 51. Section 6 of said chapter 123B, as so appearing, is hereby amended by striking out, in line 3, the words “mentally retarded person” and inserting in place thereof the following words:- person with an intellectual disability.

SECTION 52. Section 8 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 1, 5 and 113, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 53. Said section 8 of said chapter 123B, as so appearing, is hereby further amended by striking out, in lines 105 and 106 and 117 and 118, the words “mentally retarded persons” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 54. Section 9 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 1, 4 and 10, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 55. Section 12 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 12 and 19, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 56. Section 16 of said chapter 123B, as so appearing, is hereby amended by striking out, in lines 17 and 26, the words “the mentally retarded” and inserting in place thereof, in each instance, the following words:- persons with an intellectual disability.

SECTION 57. Section 11 of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out, in line 38, the words “mentally retarded” and inserting in place thereof the following words:- has an intellectual disability.

SECTION 58. Section 30B of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 59. Section 193T of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 60. Section 1-404 of chapter 190B of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 12, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 61. Section 5-303 of said chapter 190B, as so appearing, is hereby amended by striking out, in lines 18, 52, and 75, the words “be mentally retarded” and inserting in place thereof, in each instance, the following words:- have an intellectual disability.

SECTION 62. Said section 5-303 of said chapter 190B, as so appearing, is hereby further amended by striking out, in lines 77 and 78, the words “of mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 63. Section 1B of chapter 192 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “mental retardation” and inserting in place thereof the following words:- intellectual disability.

SECTION 64. Section 7 of chapter 206 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10 and 12, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- person with an intellectual disability.

SECTION 65. Said section 7 of said chapter 206, as so appearing, is hereby further amended by striking out, in line 13, the words “or mentally retarded person” and inserting in place thereof the following words:- person or a person with an intellectual disability.

SECTION 66. Section 24 of said chapter 206, as so appearing, is hereby amended by striking out, in line 13, the words “mentally retarded persons” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 67. Section 34E of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in lines 35, 43 and 50, the word “retardation” and inserting in place thereof, in each instance, the following words:- intellectual disability.

SECTION 68. Section 23E of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4, 6, 13 and 14, 15, 17, 21, 28 and 29, 50 and 51, 52 and 53 and 66, the words “mental retardation” and inserting in place thereof, in each instance, the following words:- an intellectual disability.

SECTION 69. Said section 23E of said chapter 233, as so appearing, is hereby further amended by striking out, in line 7, the words “Mental retardation” and inserting in place thereof the following words:- Intellectual disability.

SECTION 70. Said section 23E of said chapter 233, as so appearing, is hereby further amended by striking out, in line 75, the words “mental retardation” and inserting in place thereof the following words:- persons with an intellectual disability.

SECTION 71. Section 13F of chapter 265 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2, 11, 12 and 13 and 14, the words “mentally retarded person” and inserting in place thereof, in each instance, the following words:- per-

son with an intellectual disability.

SECTION 72. Said section 13F of said chapter 265, as so appearing, is hereby further amended by striking out, in lines 2 and 14, the words “be mentally retarded” and inserting in place thereof, in each instance, the following words:- have an intellectual disability.

Approved August 4, 2010.

Chapter 240. AN ACT RELATIVE TO ECONOMIC DEVELOPMENT REORGANIZATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a business-friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for a program of infrastructure development and improvements, the sums set forth in section 2B for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds and approval thereof.

SECTION 2B.

1100-7400	For the recapitalization of the Massachusetts Growth Capital Corporation	\$20,000,000.
6001-0817	For the recapitalization of the grant program to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the Growth Districts Initiative established by the executive office of housing and economic development; provided, that the secretary of housing and economic development, in consultation with the secretary of the Massachusetts Department of Transportation, shall adopt, amend or continue regulations or guidelines regarding this program; provided further, that annually not later than December 31, the secretary of housing and economic development shall issue a written report to the clerks of the senate and house of representatives, the chairs of senate and house committees on bonding, capital expenditures and state	

assets, the chairs of the joint committee on transportation, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on state administration and regulatory oversight and the chairs of the senate and house committees on ways and means, which shall include detailed descriptions of infrastructure improvement projects funded under this program and of all funds expended for this purpose, including, but not limited to, all information required for projects under section 25 of chapter 304 of the acts of 2008 \$50,000,000.

7007-9031 For the recapitalization of the Massachusetts Technology Development Corporation, established in section 2 of chapter 40G of the General Laws \$5,000,000

SECTION 3. Section 16G of chapter 6A of the General Laws as is hereby amended by striking out, in lines 2 and 3, as appearing in the 2008 Official Edition, the words ‘a department’ and inserting in place thereof the following words:- the Massachusetts office.

SECTION 4. Said section 16G of said chapter 6A is hereby further amended by striking out subsections (i) and (j) , as so appearing, and inserting in place thereof the following 2 subsections:-

(i) The secretary shall establish in the executive office an office of performance management and oversight. The secretary shall appoint a director to operate and administer said office who shall have experience with economic development in the public or private sector. The director shall establish performance measurements for all public and quasi-public entities engaged in economic development or subject to section 56 of chapter 23A and any private organizations under contract with the commonwealth to perform economic development services in order to improve the effectiveness of the economic development efforts of the commonwealth. In developing these measurements, the secretary shall seek out private sector advice and models that can be adapted to the needs of the commonwealth. Clear measurements shall be developed and effectuated while ensuring that no undue administrative burden is placed on agencies and organizations subject to this section. The director shall prepare an annual report for publication on progress to improve the effectiveness of the commonwealth’s economic development efforts and shall report regularly to the public on the progress the office and agencies within the office are making towards achieving stated goals.

Agencies to which the system applies shall file an annual report with the office of performance management and oversight. The annual report, which shall be in a form and manner prescribed by the secretary, shall include but not be limited to:

(1) a secretary approved agency plan for the year including the goals set for the year and the performance measurements by which to evaluate those goals and programs or initiatives; and

(2) the agency’s:

- (i) operations and accomplishments;
- (ii) performance on the goals and programs or initiative outlined in the agency's approved plan;
- (iii) receipts and expenditures during the agency's fiscal year; and
- (iv) assets and liabilities at the end of the agency's fiscal year;
- (3) audited financial reports of the agency;
- (4) the number, nature and amounts of investments made and grants awarded by the agency;
- (5) information detailing debt or equity investment of the agency;
- (6) the number, nature and amounts of any loans, real estate loans, working capital loans and guarantees approved by the agency;
- (7) other forms of financing or financial assistance that the agency provided;
- (8) a report of patents or products resulting from agency-funded activities; and
- (9) a description of technical assistance that the agency provided.

Performance measurements shall include at least the then-current fiscal year and the previous 3 fiscal years. All information in the performance measurement system shall be a public record unless otherwise exempted by law. The annual reports of each agency shall be made available to the public not later than December 31 and shall be published on the official website of the commonwealth and be electronically submitted to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on economic development and emerging technologies.

(j) The office shall annually re-evaluate the goals and measures established by the office and agencies within the office and monitor the results that the agencies report. The office shall recommend changes to proposed goals and measures as are appropriate to align goals and measures with the statewide economic development policy and plan required under this section.

The secretary shall use the performance measurements established under this section to determine the quality of service of all private entities, including regional economic development organizations that perform economic development services under contract with the office. The results of such performance measures shall be criteria used in negotiating any such contracts.

SECTION 5. Subsection (k) of said section 16G of said chapter 6A, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 6. Said section 16G of said chapter 6A, as most recently amended by section 1 of chapter 56 of the acts of 2010, is hereby further amended by adding the following subsection:-

(l) During the first year of each new gubernatorial administration, the governor shall convene an economic development planning council consisting of no fewer than 12 members: 1 of whom shall be the secretary of housing and economic development, who shall

serve as chair; 1 of whom shall be the secretary of administration and finance; 1 of whom shall be the secretary of labor and workforce development; 1 of whom shall be the secretary of energy and environmental affairs; 1 of whom shall be the secretary of transportation; 1 of whom shall be appointed by speaker of the house of representatives; 1 of whom shall be appointed by the president of the senate; and 5 of whom shall be appointed by the governor: 1 of whom shall be the president of the University of Massachusetts or a president from a community college, 1 of whom shall be a representative from Associated Industries of Massachusetts, 1 of whom shall be a representative from the Massachusetts municipal association, 1 of whom shall be a representative from a chamber of commerce, and 1 of whom shall be from a venture capital firm with a principal place of business in the commonwealth. The governor may also appoint additional members of regional and local economic development groups and members of the business community to serve on the council. Members of the council shall serve for a term of 1 year or until an economic development policy has been approved by the governor under this section.

The secretary of housing and economic development, with the assistance of economic development planning council appointed under this section, shall develop and implement a written comprehensive economic development policy for the commonwealth and a strategic plan for implementing the policy. The policy shall set long term goals and measurable benchmarks which are not limited to a particular gubernatorial administration and shall give consideration to any impacts the plan may have on businesses employing 10 or fewer people. The strategic plan shall include any major economic development initiatives and programs of the secretariat and any agencies subject to this section. In developing the policy, the council shall review the published economic development policy and plan in effect at the commencement of the governor's term of office and may hold public hearings throughout the commonwealth.

Once the policy and plan have been adopted by the secretary and the council, the council shall submit the policy and plan to the clerks of the senate and house of representatives and the joint committee on economic development and emerging technologies. The committee shall conduct a public hearing on the policy and plan prior to final approval by the governor. The approved policy and plan shall be published in writing and on the official website of the commonwealth not later than December 31 of that year.

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

Section 22O. Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a state agency or authority shall establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.. In addition, the operational services division within the executive office for administration and finance shall endeavor to ensure that in any fiscal year no less than 15 per cent of statewide procurement contracts are entered with businesses, as so defined, which (i) are independently owned and

operated; (ii) have a principal place of business in the commonwealth; and (iii) would be defined as a small business under applicable federal law.

SECTION 8. Subsection (c) of section 12 of chapter 7A of the General Laws, as appearing in section 4 of chapter 26 of the acts of 2009, is hereby amended by adding the following paragraph:-

The comptroller shall publish a list of state authorities and, in the comptroller's sole discretion, identify those entities within the list that shall be required under generally accepted accounting principles to report to the commonwealth for financial reporting purposes in a schedule and manner the comptroller deems necessary.

SECTION 9. Section 10 of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:- The state treasurer shall semi-annually report to the house and senate committees on ways and means and the joint committee on revenue the lending and banking institutions into which the cash deposits of the commonwealth are being deposited.

SECTION 10. Said chapter 10 is hereby amended by inserting after section 10 the following section:-

Section 10A. The state treasurer shall whenever possible, establish a preference in the deposit of the commonwealth's cash reserves to those lending and banking institutions that exceed the statewide average for lending to small businesses, as defined in section 57 of chapter 23A; provided, however, that this shall not prohibit the treasurer from depositing and investing said reserves in such a manner as to secure the highest rate of return available consistent with the safety of said reserves.

SECTION 11. Section 35J of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 16 and 17, the words 'International Trade Council' and inserting in place thereof the following words:- international trade office.

SECTION 12. Chapter 10 of the General Laws is hereby amended by inserting after section 56 the following section:-

Section 56A. The council shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 13. Section 1 of chapter 23A of the General Laws is hereby amended by striking out, in lines 2 to 4, inclusive, as appearing in the 2008 Official Edition, the words "department of business and technology in this chapter called the department, which shall be under the control of the director of business and technology" and inserting in place thereof the following words:- "Massachusetts office of business development, in this chapter referred to as MOBD, which shall be under the control of the director of business development,".

SECTION 14. Said section 1 of said chapter 23A is hereby further amended by striking out subsection (b), as amended by section 3 of chapter 56 of the acts of 2010.

SECTION 15. Section 3A of said chapter 23A is hereby amended by striking out the definition of 'Enhanced expansion product', inserted by section 2 of chapter 166 of the

acts of 2009, and inserting in place thereof the following definition:-

“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 before or after project certification, but not before January 1 of the year preceding the year in which the project receives 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 expanded or proposed to expand the number of permanent full-time employees at such facility 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; 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.

SECTION 16. The definition of “Facility” in said section 3A of said chapter 23A, as appearing in section 3 of said chapter 166, is hereby amended by inserting after the word “buildings” the following words:- or locations.

SECTION 17. Said section 3A of said chapter 23A is hereby further amended by striking out the definition of “Gateway municipality”, as appearing in said section 3 of said chapter 166, and inserting in place thereof the following definition:-

“Gateway municipality”, a municipality with a population greater than 35,000 and less than 250,000, a median household income below the commonwealth’s average and a rate of educational attainment of a bachelor’s degree or above that is below the commonwealth’s average.

SECTION 18. Said section 3A of said chapter 23A is hereby further amended by striking out the definition of “Manufacturing retention project”, as so appearing, and inserting in place thereof the following definition:-

“Manufacturing retention and job growth 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) retains a minimum of at least 50 permanent full-time positions or creates a minimum of 25 new 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 of at least 50 permanent full-time positions or creates a minimum of 25 new full-time positions 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.

SECTION 19. Said section 3A of said chapter 23A is hereby further amended by inserting after the definition of “Manufacturing retention project proposal”, inserted by said section 3 of said chapter 166, the following definition:

“MOBD”, the Massachusetts office of business development established in section 1.

SECTION 20. The introductory paragraph of subsection (1) of section 3F of said chapter 23A is hereby amended by inserting after the word “retention”, inserted by section 7 of chapter 166 of the acts of 2009, the following words:- and job growth.

SECTION 21. Said subsection (1) of said section 3F of said chapter 23A is hereby further amended by inserting after the word “retention”, inserted by section 8 of said chapter 166, the following words:- and job growth.

SECTION 22. Said subsection (1) of said section 3F of said chapter 23A is hereby further amended by inserting after the word “retention”, inserted by section 14 of said chapter 166, the following words:- and job growth.

SECTION 23. Clause (c) of subsection (5) of said section 3F of said chapter 23A, inserted by section 18 of said chapter 166, is hereby amended by inserting after the word “retention” the following words:- and job growth.

SECTION 24. Section 3I of said chapter 23A is hereby amended by striking out, in lines 2 and 33, as appearing in the 2008 Official Edition, the words “the department” and inserting in place thereof, in each instance, the following words:- Massachusetts office of business development.

SECTION 25. Said chapter 23A is hereby further amended by inserting after section 3I the following 3 sections:

Section 3J. (a) The Massachusetts office of business development shall partner with regional economic development organizations to establish a plan for business development which supports regionally-based efforts to grow and retain existing businesses and attract new business to the commonwealth. To implement the business development plan and to

provide efficient and consistent response to businesses seeking assistance from the commonwealth, the office shall create a regional economic development program in order to provide efficient and consistent response to businesses seeking assistance from the commonwealth. To implement the program the office shall contract with eligible regional economic development organizations, as defined in section 3K, which shall serve as the primary points of contact in the various regions of the state for businesses seeking assistance, services or information from the commonwealth. The contracts and reimbursements shall be designed to support regionally-based efforts to stimulate, encourage, facilitate and nurture economic growth and prosperity in the commonwealth, including, but not limited to, activities related to the growth and retention of existing businesses and the attraction of new businesses into the commonwealth. The contracts shall support a network of partnerships between regional economic development organizations and the Massachusetts office of business development.

The Massachusetts office of business development shall locate staff throughout the regions of the commonwealth in order to establish efficient and rapid access to all state government and quasi-public business services. The Massachusetts office of business development shall provide information to the regional economic development organizations about state economic development, business assistance, capital access and incentive programs, marketing activities and programs offered by agencies, authorities and private entities.

(b) Each contract shall include performance criteria specific to the contracting organization developed under section 16G of chapter 6A and uniform standards for the use of contract funds related to accounting procedures, personnel practices, purchasing procedures and conflict of interest rules. As a condition to its receipt of funds, the contracting organization shall agree to follow these standards and to perform the contracted services in conformity with conflict of interest rules which shall include provisions requiring that in any matter in which a person, corporation or other business entity in which any partner is in any way interested, such interest shall be disclosed in advance and that no partner having such an interest may participate in a decision relating to such person, corporation or other business entity. The contracting organization shall also agree to a biennial audit and examination of its audited financial statements conducted by the auditor of the commonwealth.

(c) The Massachusetts office of business development shall establish standard governance provisions to be required of regional economic development organizations that contract with the commonwealth as provided in this section. The standards shall include the participation of local government officials and a broad range of regional representatives of businesses, nonprofit organizations, higher education institutions, planning professionals, organizations and economic and workforce development professionals.

Section 3K. (a) (1) The Massachusetts office of business development shall award up to 12 contracts for regional business development services. Each contract shall specify the municipalities which comprise the region to be served under that contract.

(2) Eligible organizations shall be corporations, foundations, organizations or institutions that are exempt from federal taxation under section 501(c) of the Internal Revenue Code. Eligible organizations shall have a primary focus on economic development. Governmental regional entities which serve as regional or district planning commissions under chapter 40B, regional employment boards, tourism councils under section 14 of chapter 23A or entities which are a political subdivision of a municipality or wholly owned by a municipality shall not be eligible.

(3) In order to be eligible to be a regional business development service, an applicant shall demonstrate the following:

(i) The applicant operates regionally and its service area or membership includes more than 10 contiguous cities or towns. The organization shall describe the economic interdependency of its contiguous member municipalities and articulate a comprehensive vision for recognition of those municipalities as a self identified region with interrelated economic assets such as industrial base, public infrastructure, research, educational and financial institutions and environmental characteristics.

(ii) The governance structure and leadership of the applicant organization complies with the standards established by the Massachusetts office of business development.

(iii) The applicant is engaged primarily in activities intended to promote job and business retention, creation and attraction across all industry sectors within its identified region.

(iv) The applicant has a history of collaboration with the area business community, local officials, economic development organizations, higher education institutions and other public and private organizations within the identified region. The applicant must describe a plan for a formal program encouraging participation in activities by a wide variety of organizations, governments and businesses operating in the identified region.

(v) The applicant has received or has commitments to receive substantial financial and in kind support from private sources or member municipalities.

(vi) The applicant is capable of and agrees to provide services to the entire region identified in the application.

(b) The Massachusetts office of business development shall give preference in awarding contracts to organizations that have prior experience furnishing advice and assistance to businesses within or seeking to locate to the identified region, a working knowledge of the region, the region's industrial base, the region's demographics and the region's strengths and weaknesses and prior experience and involvement with regional governmental entities including, but not limited to, regional competitiveness councils, regional planning agencies and regional employment boards.

(c) Contracts for services entered into under this section shall include, but not be limited to, the following required services to be performed by the organization on behalf of the commonwealth:

(i) act as the primary contact for businesses seeking assistance from state or local governments, including those seeking to locate within the region or expand existing operations;

(ii) identify public funding sources for business activity and provide assistance in accessing public tax incentive programs;

(iii) identify potential sites for business development and maintain an inventory of key development parcels;

(iv) market the identified region in coordination with the Massachusetts marketing partnership established under section 13A and in compliance with the marketing materials developed by the partnership;

(v) furnish advice and assistance to businesses and industrial prospects which may locate in the region, existing businesses and industries and persons seeking to establish new businesses or industries and engage in related activities;

(vi) establish and maintain a network of public and private expertise related to regional assets, industry clusters, workforce and education opportunities and public tax and regulatory incentive and capital access programs;

(vii) partner with the Massachusetts office of business development representative to the region and representatives of quasi-public agencies and authorities engaged in economic development activities to exchange information and jointly provide direct consultation with businesses seeking to expand or locate to the region;

(viii) act as the primary contact for the region for a business seeking state assistance and incentives in a location decision;

(ix) in partnership with the staff of the Massachusetts office of business development, assist member municipalities with economic development efforts related to business attraction and retention and with access to state economic development programs; and

(x) submit an annual report to the Massachusetts office of business development on the business development activities conducted under the contract. The report shall include: a summary of the preceding year's program activities, objectives and accomplishments; a description of how the programs and marketing strategy conducted under the contract align with the commonwealth's overall economic development and strategies; an analysis of how the contracting organization's involvement in promotion activities has generated prospective business expansion and relocation clients; and a summary of its efforts to obtain funds from local, private and federal sources.

(d) Contracts entered into under this section shall be for a term not longer than 3 years and may provide for the renewal of the contract at the discretion of the Massachusetts office of business development; provided, however, that the renewal shall be for a term not longer than 2 years. Nothing in this subsection shall preclude a regional organization from re-applying to provide services under a new contract.

(e) The Massachusetts office of business development may cancel any contract under this section upon a showing that the regional economic development organization has failed to provide the necessary regional services listed in subsection (c).

(f) The Massachusetts office of business development shall develop a formula to determine funding for contractual reimbursements. That formula shall reflect demographic and economic indicators, including, but not limited to, population and the number of business establishments operating in the region, as well as an assessment of regional needs and the priorities of the statewide economic development plan created under section 16G of chapter 6A. The formula shall also reflect the significant need for increased economic activity in regions which include target areas, as defined in section 2 of chapter 40H. Renewal contracts shall also provide incentives to reward reporting in compliance with performance measurements and to reward achievement of specific performance goals.

(g) Organizations entering into contracts with the commonwealth under this section may enter into additional contracts with the commonwealth to provide additional regional services which do not constitute business assistance activities.

(h) If MOBD determines through the request for proposals process that no organization meets the requirements in this section or a region is not served by any eligible regional economic development organization, then MOBD may either rebid the contract or serve as the primary coordinator for business development initiatives in that region and rebid the contract at its discretion.

Section 3L. (a) The Massachusetts office of business development shall provide initial assistance to a business which contacts the office requesting service. The Massachusetts office of business development shall provide the business with information about the various regional economic development organizations with which it has contracted and continue to serve as primary contact for that business until the business has established a relationship with a particular region. The Massachusetts office of business development shall notify all regional economic development organizations, on a nondiscriminatory basis, of business prospects that have expressed interest to the Massachusetts office of business development in moving to the commonwealth.

(b) The Massachusetts office of business development shall coordinate activity among regional economic development organizations and between regional economic development organizations and the commonwealth's economic development agencies and the commonwealth's initiatives: (i) to ensure that initiatives led by the commonwealth or quasi-public economic development agencies receive information and advice from the regional economic development organizations; and (ii) to ensure that initiatives led by the regional economic development organizations receive information and advice from agencies within the executive branch and from quasi-public economic development agencies.

(c) The Massachusetts office of business development shall support the secretary of housing and economic development in the creation of the statewide economic development plan under section 16G of chapter 6A.

SECTION 26. Section 4 of said chapter 23A, as appearing in the 2008 Official Edition, is hereby amended by striking out the words 'department of economic' and inserting in place thereof the following words:- Massachusetts office of business.

SECTION 27. Said section 4 of said chapter 23A, as so appearing, is hereby further amended by adding the following sentence: The Massachusetts office of business development shall locate staff throughout the regions of the commonwealth in order to partner with the regional economic development organizations and establish efficient and rapid access for businesses and regional organizations to all state government and quasi-public business services.

SECTION 28. Section 5 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 9, the words ‘, in the department of economic development’.

SECTION 29. Section 6 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words ‘of economic development’.

SECTION 30. The first paragraph of said section 6 of said chapter 23A, as so appearing, is hereby amended by adding the following sentence:- The director shall establish an advisory council that shall assist and advise the director on matters related to the administration and evaluation of the regional business development program created under section 3J.

SECTION 31. Section 10A of said chapter 23A, as so appearing, is hereby amended by striking out, in line 20, the words, ‘Said department’ and inserting in place thereof the following words:- The Massachusetts office of business development.

SECTION 32. Said chapter 23A is hereby further amended by striking out sections 13A and 13B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 13A. For the purposes of sections 13A to 13Q, inclusive, the following words shall have the following meanings unless the context clearly requires otherwise,:

‘Foreign offices’, foreign offices for international trade within the international trade office.

‘Partnership’, the Massachusetts marketing partnership created in this section.

‘Tourism’, the office of travel and tourism.

In order to promote common, coordinated and concerted efforts on behalf of the commonwealth, there shall be within the executive office of housing and economic development, but not subject to the supervision or control of the executive office, the Massachusetts marketing partnership which shall coordinate marketing efforts on behalf of the commonwealth and shall oversee the activities of the agencies placed within it.

(a) The partnership shall consist of 11 partners who shall be: the secretary of housing and economic development, who shall be the chair; the director of the Massachusetts office of business development or the director’s designee; the executive director of the Massachusetts Convention Center Authority or the executive director’s designee; the executive director of the Massachusetts Port Authority or the executive director’s designee; the executive director of the Massachusetts Alliance for Economic Development, or its successor organization; and 6 individuals appointed by the governor for terms of 5 years, as follows: 2 persons employed by a business that has a principal place of business in the commonwealth and that exports goods to other countries, 1 of whom shall be selected from

a list of 3 names submitted by the Associated Industries of Massachusetts; 1 person who has significant experience with a public relations or advertising firm doing business in the commonwealth; 1 person who shall be on the faculty of a public or private business school in the commonwealth who is experienced in international business; and 2 persons who shall each represent a regional tourism council in the commonwealth outside of Suffolk county, Middlesex county and Norfolk county. Of the initial partners appointed by the governor, 3 shall serve a term of 2 years and 3 shall serve a term of 5 years.

At least 3 of the governor's 6 appointments shall reside outside of Suffolk county, Middlesex county and Norfolk county. Of the 6 gubernatorial appointments, no more than 3 shall be of the same political party. Each partner shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of the partner's duties, including reimbursement for reasonable costs of travel as deemed necessary by the partnership. A person appointed to fill a vacancy in the office of a partner shall be appointed in a like manner and shall serve for only the unexpired term of the former partner. A partner shall be eligible for reappointment and may be removed by the governor for cause. The partnership shall annually elect 1 partner to serve as vice-chair.

(b) Eight partners shall constitute a quorum and the affirmative vote of a majority of partners present at a duly called meeting, if a quorum is present, shall be necessary for an action to be taken by the partnership. An action required or permitted to be taken at a meeting of the partnership may be taken without a meeting if all of the partners consent, in writing, to the action and the partnership files the written consent with the records of the minutes of the meetings of the partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner shall make full disclosure, under subsection (c), of the partner's financial interest, if any, in matters before the partnership by notifying the state ethics commission, in writing, and the partner shall abstain from voting on a matter before the board in which the partner has a financial interest, unless otherwise permitted under chapter 268A.

(c) Chapters 268A and 268B shall apply to all ex officio partners or the partners' designees and employees of the agencies within the partnership. Chapters 268A and 268B shall apply to all other partners, except that the agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with a person, corporation or other business entity in which any partner is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the partners of the Massachusetts marketing partnership and recorded in the partnership's minutes; and provided, further, that no partner having such an interest or involvement may participate in a decision of the partnership relating to such person, corporation or other business entity. Employment by the commonwealth or service in an agency or political subdivision of the commonwealth shall not be deemed to be such an interest or involvement.

(d) The partnership shall bi-annually elect 1 of its partners as treasurer and 1 of its partners as secretary. The secretary of the partnership shall keep a record of its proceedings

and shall be custodian of all books, documents and papers filed by the partnership and of its minute book and seal. The secretary of the partnership shall cause copies to be made of all minutes and other records and documents of the partnership and shall certify that such copies are true copies and all persons dealing with the partnership may rely upon such certification.

(e) Partners and employees of the agencies within the partnership having access to its cash or negotiable securities shall give bond to the partnership at its expense in such amounts and with such surety as the partnership may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(f) Partners and officers who are not compensated employees of the partnership shall not be liable to the commonwealth, the executive office of housing and economic development or any other person as a result of their activities, whether ministerial or discretionary, as such partners or officers except for willful dishonesty or intentional violations of law. Neither members of the partnership nor a person executing bonds or policies of insurance shall be personally liable on those bonds or policies or be subject to any personal liability or accountability by reason of the issuance of those bonds or policies. The partnership may purchase liability insurance for partners, officers and employees and may indemnify the partners against claims of others.

(g) Upon the termination of the existence of the partnership, 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.

(h) An action of the partnership may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the partnership shall be subject to sections 18 to 25, inclusive of chapter 30A except that section 18 shall not apply to any meeting of partners in the partnership 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 partnership is discussed and decided at the meeting. The partnership shall be subject to all other sections of said chapter 30A and records pertaining to the administration of the partnership shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the partnership shall be considered to be public funds for purposes of chapter 12A.

(i) The partnership shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

Section 13B. There shall be within the partnership the following offices: the office of travel and tourism, the Massachusetts international trade office and the commonwealth marketing office.

SECTION 33. Said chapter 23A is hereby further amended by striking out section 13C, as amended by section 29 of chapter 25 of the acts of 2009, and inserting in place thereof the following section:-

Section 13C. The partnership shall have 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 sections

13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the partnership shall be adopted under chapter 30A;

(2) adopt an official seal and a functional name;

(3) maintain offices at places within the commonwealth as it may determine and to conduct meetings of the partnership in accordance with the by-laws of the partnership;

(4) 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 partnership;

(5) sue and be sued in its own name, plead and be impleaded;

(6) act as the central entity and coordinating organization for marketing initiatives on behalf of the commonwealth and to work in collaboration with governmental entities, regional economic development organizations, bodies, centers, institutes and facilities to advance the commonwealth's interests and investments in travel and tourism, international trade and economic development;

(7) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(8) obtain insurance;

(9) 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;

(10) review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further the marketing of the commonwealth and economic development within the commonwealth;

(11) enter into agreements with public and private entities that deal primarily with economic development, in order to distribute and provide leveraging of funds or services to further economic development in the commonwealth and promote overall economic growth within the commonwealth by fostering collaboration and investments in tourism and international trade initiatives in the commonwealth;

(12) provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;

(13) establish and collect such fees and charges as the department without further appropriation shall determine to be reasonable and consistent with this sections 13A to 13Q, inclusive; 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 of the commonwealth;

(14) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in economic development initiatives as directed in sections 13A to 13Q, inclusive;

(15) provide assistance to local entities, local authorities, public bodies, regional economic development organizations, and private corporations for the purposes of maximizing opportunities for economic development initiatives in the commonwealth;

(16) 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;

(17) exercise any other powers of a corporation organized under chapter 156B;

(18) develop a common Internet portal to be used by state agencies and state authorities to promote the commonwealth's programs providing business assistance and to promote economic development in the commonwealth;

(19) take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by sections 13A to 13Q, inclusive;

(20) establish an advisory council to assist and advise the partnership on matters related to the commonwealth's business marketing efforts;

(21) enter into agreements or other transactions with any person including, without limitation, a public entity or other governmental instrumentality or agency in connection with the powers and duties provided to the partnership under sections 13A to 13Q, inclusive; and

(22) delegate any of the powers under this section to a director having charge of an agency within the partnership.

SECTION 34. Said chapter 23A is hereby further amended by striking out sections 13D and 13E, as appearing in the 2008 Official Edition, and inserting in place thereof the following 16 sections:-

Section 13D. (a) The partnership and the agencies within the partnership 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 laws applicable to agencies under the control of the governor including, but not limited to, chapters 7, 7A, 10 and 29; provided, however, that the comptroller may identify additional instructions or actions necessary for the partnership to manage fiscal operations in the state accounting system and meet statewide and other governmental accounting and audit standards. Unless otherwise exempted by law or the applicable central service agency, the partnership shall participate in other available commonwealth central services including, but not limited, to the state payroll system under section 31 of chapter 29 and may purchase other goods and services provided by state agencies under the direction of the comptroller. The comptroller may chargeback the partnership 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 partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of said chapter 29. This section shall not apply to authorities who are serving as partners of the partnership.

(b) The office of the attorney general shall appear for the partnership in all suits and other civil proceedings in which the partnership is a party or interested or in which the official acts and doings of the partnership 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 partnership shall be considered to be an agency of the commonwealth for purposes of chapter 12.

(c) The Massachusetts office of business development may provide staff support for the Massachusetts marketing partnership; provided, however, that the partnership shall contract with said office or with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include, but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the partnership.

Section 13E. There shall be within the partnership an office of travel and tourism which shall be under the supervision and control of an executive director. The powers and duties given to the executive director of the office of travel and tourism 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 partnership.

The executive director of the office of travel and tourism shall be appointed by the governor, and serve at the pleasure of the governor. The position of executive director of the office of travel and tourism shall be classified under section 45 of chapter 30 and the executive director of travel and tourism shall devote full time during business hours to the duties of the office of travel and tourism and shall give to the state treasurer a bond for the faithful performance of those duties.

The executive director of travel and tourism shall be the executive and administrative head of travel and tourism and shall be responsible for administering and enforcing the laws relative to travel and tourism and to any administrative unit of that office. Powers and duties given to an administrative unit of travel and tourism by a general or special law shall be exercised subject to the direction, control and supervision of the executive director of travel and tourism.

Section 13F. The office of travel and tourism shall serve as the principal agency for promoting the recreational, cultural, historic and scenic resources of the commonwealth to increase its desirability as a location for tourism, convention, travel and recreation-related activities by providing informational, marketing and technical assistance to public and private nonprofit entities organized for similar purposes.

Section 13G. The executive director of travel and tourism may, subject to appropriation and with the approval of the partnership, appoint and may, with like approval, remove all such employees as may be necessary to carry out the work of tourism. Unless otherwise provided by law, all such appointments and removals shall be made under chapter 31. The executive director may, subject to appropriation and the laws and regulations pertaining to the employment of consultants, employ such consultants as the executive director may deem necessary.

Section 13H. There shall be an advisory commission on travel and tourism to the partnership to develop budget recommendations and marketing strategies for the promotion of travel and tourism to the commonwealth. The executive director of travel and tourism shall convene the advisory commission quarterly. The advisory commission shall annually

report its recommendations to the partnership not later than November 1. The advisory commission shall annually file its recommendations with the clerks of the senate and house of representatives not later than November 1. The membership of the commission shall annually elect a chairperson.

The advisory commission shall have 30 members: 1 representative from each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts cultural council and the Massachusetts historical commission; 1 representative of a professional sports franchise located in the commonwealth; 2 representatives of the Massachusetts Visitor Industry Council; the executive director or the executive director's designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau, Southeastern Massachusetts Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau; and the following individuals, who shall not serve as chair: the commissioner of conservation and recreation or the commissioner's designee, the administrator for highways within the Massachusetts Department of Transportation or the administrator's designee, the Massachusetts state coordinator of the United States National Park Service and the house and senate chairs of the joint committee on tourism, arts and cultural development.

Members of this commission shall receive no compensation for their services, but each member shall be reimbursed the member's necessary expenses incurred while engaged in the performance of the member's duties. This commission shall annually, not later than November 1, make a report to the executive director and the secretary of housing and economic development, and may make such special reports as the commission or the executive director of tourism may deem desirable.

Section 13I. The office of travel and tourism may accept gifts or grants of money or property from any source, which shall be held in trust for the use of tourism by the treasurer of the partnership as custodian.

Section 13J. The following offices shall be within the office of travel and tourism: the Massachusetts film office, which shall be the official and lead agency to facilitate motion picture production and development within the commonwealth, and the Massachusetts sports partnership, which shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth.

Section 13K. (a) There shall be within the partnership a Massachusetts international trade office, which shall be under the supervision and control of an executive director. The

executive director shall be appointed by the governor and serve at the pleasure of the governor. The executive director shall devote full time during business hours to the duties of the Massachusetts international trade office. The executive director of the international trade office shall be the executive and administrative head of the office and shall be responsible for administering and enforcing the laws relative to the office and to any administrative unit of the office. The executive director shall also serve as the Massachusetts international trade representative.

(b) The Massachusetts international trade representative shall: (1) serve as the commonwealth's official point of contact with the federal government on matters related to international trade; (2) work with the executive office of housing and economic development and other appropriate state agencies to analyze proposed and enacted international trade agreements and provide an assessment of the impact of those agreements on the commonwealth's economy; (3) serve as the designated recipient of federal requests for the commonwealth to agree to be bound by investment, procurement, services or any other international trade agreements, including those which may infringe upon state law or regulatory authority reserved to the commonwealth; (4) serve as a liaison to the general court on matters of international trade policy oversight including, but not limited to, reporting to members of the general court on a regular basis on the status of ongoing international trade negotiations, international trade litigation and dispute settlement proceedings with implications for existing state laws, state regulatory authority and international trade policy on the commonwealth's economy.

(c) The international trade representative shall, within 30 days of receipt, forward any requests or communications received from the United States Trade Representative relative to any issue of international trade, including requests seeking the commonwealth's consent to be bound by international trade agreements, to the clerks of the house of representatives and the senate, who shall promptly refer the communications or requests to the joint committee on economic development and emerging technologies. The joint committee shall, within 30 days of receipt, conduct a public hearing on any request seeking the commonwealth's consent to be bound by an international trade agreement. The joint committee may issue a report within 120 days of the public hearing including a resolution to the general court relative to the recommendations of the committee on whether the commonwealth should consent to the international trade agreement in question and memorializing the commonwealth's international trade representative and the governor to take appropriate measures within their power to advise the United States Trade Representative of the recommendations of the general court.

Section 13L. (a) There shall be within the international trade office 1 or more foreign offices for international trade. The foreign offices may be located in any country that the executive director of the international trade office determines to be best suited as a location for the furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign offices shall encourage and further trade between foreign businesses and busi-

nesses in the commonwealth. The foreign offices shall also promote investment opportunities in the commonwealth for foreign businesses in order to encourage the location and establishment of such businesses within the commonwealth. For the purposes of furthering foreign trade and investment, the foreign offices, subject to appropriation and approval by the executive director of the trade international office, may contract for such advertising and other communication services as may be necessary. The foreign offices shall maintain an updated list of businesses in the commonwealth and foreign businesses which are or might become active in the import or export of their products and services. The executive director shall consult with the Massachusetts office of business development and the regional economic development organizations designated under section 3K in order to ensure that the businesses and assets of all regions of the commonwealth are included in such lists. The foreign office may also provide additional information and assistance to businesses in the commonwealth that desire to export their goods and services.

The foreign offices shall maintain and give suitable publicity to an updated list of available sites for the location of foreign based businesses in the commonwealth. The foreign offices may make available technical assistance to foreign businesses interested in the establishment of plants or facilities in the commonwealth.

(b) The foreign offices shall, on a regular basis, make all foreign trade information available to the executive director of the international trade office, who shall publish and furnish such information to regional economic development organizations designated under section 3K and to businesses and corporations in the commonwealth which might be interested in, or benefit from the utilization of such information. The executive director of the international trade office may charge a fee not to exceed the actual printing costs for such information, except that no fee shall be charged to regional economic development organizations designated under section 3K.

Section 13M. There shall be a director of each foreign office appointed by the executive director of the international trade office, who shall be a person with at least 2 years of experience in international trade, having had administrative or business experience in the country where the office is located, who shall be fluent in at least 2 languages and who may be a foreign national. The director shall not be subject to chapter 31 or section 9A of chapter 30.

Section 13N. The executive director of the international trade office may, subject to appropriation, enter into leases for office space as may be necessary and to purchase or lease equipment as may be needed for the operation of foreign offices.

Section 13O. The executive director of the international trade office may accept funds in the name of the international trade office and the foreign offices from private and public groups, agencies and persons, which shall be held in trust for use by the treasurer of the partnership as custodian.

Section 13P. The executive director of the international trade office and the director of any foreign office shall annually file a financial report with the clerks of the house of representatives and the senate and the joint legislative committee on economic development

and emerging technologies on the operation and activities of the office. The report shall include a complete evaluation of the results of the activities of the foreign offices and its effects on the business economy of the commonwealth, including the areas of the export of goods and services and in the location of foreign businesses in the commonwealth.

Section 13Q. The international trade office shall contract with the Massachusetts export center to provide technical assistance to companies operating in the commonwealth that export products to other countries.

Section 13R. The executive director of the international trade office may establish an advisory council to assist and advise the director on matters related to the administration and evaluation of the international trade programs provided through the international trade office.

Section 13S. There shall be a commission, within the international trade office, which shall evaluate the continuing impacts on state laws and regulations of international trade policy and international trade agreements, examine proposed international trade agreements, maintain active communications with any individual or entity, as the commission deems appropriate, regarding ongoing developments in international trade agreements and policy; and examine any aspects of international trade, international economic integration and international trade agreements that the members of the commission deem appropriate. For the purposes of this section, 'international trade agreement' shall include any international trade or investment agreement or treaty including, but not limited to, the North American Free Trade Agreement, the Central American Free Trade Agreement and agreements concluded by the World Trade Organization.

The commission shall engage in at least 1 public hearing annually and shall report on the economic and sovereignty impacts of international trade agreements on the commonwealth. The report may include recommendations of support or opposition of revisions in United States trade policy or commitments including, but not limited to, proposed international trade agreements. The annual report shall be transmitted to the clerks of the house of representatives and the senate, the governor, the attorney general, the United States trade representative and each member of the commonwealth's congressional delegation.

The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; the governor or the governor's designee; the attorney general or the attorney general's designee; the state treasurer or the treasurer's designee; a representative from the Massachusetts international trade office; and 9 persons appointed by the governor, 1 of whom shall be a representative of organized labor, 1 of whom shall represent small business, 1 of whom shall be a representative from a human rights organization, 1 of whom shall represent farmers, 1 of whom shall be a representative from an environmental group, 1 of whom shall be a representative of the Massachusetts Municipal Association, 1 of whom shall be engaged in the business of exporting goods internationally,

1 of whom shall be a faculty member of a private law school in the commonwealth, with expertise in issues of constitutional federalism and 1 of whom shall be a faculty member of the University of Massachusetts with experience in economics or labor studies.

SECTION 35. Section 14 of said chapter 23A, as so appearing, is hereby amended by inserting after the word ‘Bureau’, in line 11, the following words:- , the MetroWest Tourism and Visitors Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitors Bureau.

SECTION 36. Said section 14 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words ‘director of economic development’ and inserting in place thereof the following words:- executive director of tourism.

SECTION 37. Said section 14 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words ‘,subject to approval by the director of economic development’ and inserting in place thereof the following words:- of tourism.

SECTION 38. Sections 15 to 28, inclusive, of chapter 23A of the General Laws are hereby repealed.

SECTION 39. Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

SECTION 40. Said Chapter 23A is hereby further amended by striking out section 56, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 56. (a) The secretary of housing and economic development shall coordinate the quasi-public entities and public purpose agencies of the commonwealth as to their economic development projects, programs and plans.

(b) The secretary shall aggregate the data submitted under subsection (i) of section 16G of chapter 6A and shall, not later than December 31, submit an annual report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on labor and workforce development, the joint committee on small business and community development and the joint committee on higher education. The report shall include an analysis of all public lending activities to businesses with an assessment of the economic impact of those activities and an analysis evaluating public lending to small businesses as defined in section 57.

(c) In order to fully utilize all appropriate measures to provide risk capital to small businesses in the commonwealth, the Massachusetts Growth Capital Corporation, the Massachusetts Development Finance Agency and the Massachusetts Technology Development Corporation may establish 1 or more small business investment corporations or special small business investment corporations as provided by the federal Small Businesses Equity Enhancement Act of 1992.

(d) The books and records of the quasi-public entities and public purpose agencies of the commonwealth under this section shall be subject to section 12 of chapter 11 and an

annual audit conducted by an independent auditor. The results of both audits shall be published in conjunction with the publication of audited financial statements.

(e) The secretary of housing and economic development shall from time to time convene the Massachusetts Life Sciences Center established in chapter 23I, the Massachusetts clean energy technology center established in chapter 23J, the Massachusetts Technology Development Corporation established in chapter 40G, the Massachusetts Technology Park Corporation established in chapter 40J, and the Massachusetts Technology Transfer Center established in chapter 75, for the purpose of ensuring that: (1) the agencies' projects, programs and plans are coordinated and consistent with this section; (2) the agencies are sharing administrative functions for efficiencies and cost saving measures; (3) the agencies are sharing information that is beneficial to the growth and expansion of technology related companies in the commonwealth; and (4) the agencies are sharing best practices related to assisting technology related companies with debt and equity products and technical assistance.

SECTION 41. Subsection (a) of section 57 of said chapter 23A, as so appearing, is hereby amended by striking out the definition of 'Small business' and inserting in place thereof the following definition:-

'Small business', a business entity, including its affiliates, that: (i) is independently owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a 'small business' under applicable federal law, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

SECTION 42. Said section 57 of said chapter 23A, as so appearing, is hereby further amended by striking out subsection (i) and inserting in place thereof the following 2 subsections:-

(i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be provided to a borrower under the program and no small business borrower under the program shall be provided a loan under the program for passive real estate purposes.

(j) Any financial institution desiring to become a participating financial institution shall execute an agreement in such form as the agency or its agent may prescribe, which agreement shall contain the terms and provisions set forth in subsections (a) to (i), inclusive and such other terms and provisions as the agency or its agent may deem necessary or appropriate.

SECTION 43. Said chapter 23A is hereby further amended by striking out section 62, as so appearing, and inserting in place thereof the following section:-

Section 62. There shall be a 10 person interagency permitting board within the Massachusetts office of business development. The members of the board shall be comprised of the state permit ombudsman who will serve as the chair of the interagency permitting board, the secretary of housing and economic development, the secretary of transportation, the secretary of energy and environmental affairs, the secretary of public safety and security, the director of the department of housing and community development,

the director of business development, the director of the department of workforce development, the director of the office of consumer affairs and business regulation, and the executive director of the Massachusetts Development Finance Agency; or their designees. Six members shall be a quorum for the transaction of business. The chair shall communicate with municipal officials responsible for local review procedures to determine the municipal perspective on the proposed project, and to facilitate communication between the municipality and state agencies. The interagency permitting board shall consult with each regional office of the Massachusetts office of business development as well as each regional planning agency and regional economic development organizations with which the Massachusetts office of business development has contracted under this chapter in order to better serve local businesses. At the direction of the chair, the board shall meet no fewer than 8 times a year, and shall monitor the development of priority development sites under chapter 43D and investigate ways in which to expedite priority development site projects. The board shall evaluate state agency permit procedures and recommend changes for improved efficiency. The board shall administer the technical assistance grants program established in subsection (b) of section 3 of chapter 43D. The secretary of housing and economic development shall work with the chair of the interagency permitting board and senior staff members to develop a recommended format for an application form and procedure which shall be used by all executive offices when possible.

SECTION 44. Sections 8 to 15, inclusive, of chapter 23D of the General Laws are hereby repealed.

SECTION 45. Chapter 23D of the General Laws is hereby amended by striking out section 16, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:

Section 16. There shall be established within the Massachusetts Growth Capital Corporation a separate fund to be known as the Employee-Ownership Revolving Loan Fund, the proceeds of which shall be used to provide low interest long term loans to individuals for the purchase of such individual's ownership interest in an employee-owned business. The fund shall consist of all monies designated for that fund by the board of directors of the Massachusetts Growth Capital Corporation in consultation with the director of the industrial services program.

Said board shall administer the employee-ownership revolving loan fund program. The application process and the terms and conditions of approving such loans shall be determined by the board in consultation with the director. Said fund shall be subject to the reporting and auditing requirements of section 56 of chapter 23A.

SECTION 46. Section 20 of said chapter 23D, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words 'trustees of the economic stabilization trust' and inserting in place thereof the following words:- directors of the Massachusetts Growth Capital Corporation.

SECTION 47. Chapter 23F of the General Laws is hereby repealed.

SECTION 48. Section 1 of chapter 23G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word ‘bonds’, in line 38, the following words:- ; provided that, notwithstanding anything in this chapter to the contrary, ‘cost of the project’ and ‘costs’ may also include any capital or operating expenditure which may legally be made by any person to which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with respect to any property, whether tangible or intangible, which may be developed or redeveloped by the agency, and may also include any capital or operating expenditure which may legally be made with respect to any property, whether tangible or intangible, for which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or which may be developed or redeveloped by the agency.

SECTION 49. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the definition of ‘Governing body’ the following definition:-

‘Hospital’, a nonprofit hospital within the commonwealth licensed by the department of public health; or a nonprofit health maintenance organization within the commonwealth licensed by the commissioner of insurance; or an affiliated nonprofit person, which is organized and operated for the benefit of, to perform any of the functions of, or to carry out any of the purposes of a licensed nonprofit hospital or health maintenance organization, including operation of a nursing home, comprehensive gerontology facility or congregate care facility or any other nonprofit charitable person in the commonwealth not otherwise eligible to participate under this chapter; provided, however, that such other nonprofit charitable person may only undertake the financing and construction or acquisition of a project or undertake the financing and construction or acquisition of a project or undertake the refunding or refinancing of obligations or of a mortgage or of advances to the extent that such projects, obligations, mortgages, or advances consist of or result from the purchase of energy or from energy conservation or related projects of such other nonprofit charitable person; and provided further, that such other nonprofit charitable person participates in or is a member of a group power purchasing program organized and administered by or on behalf of the agency.

SECTION 50. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by striking out the definition of ‘Institution’ and inserting in place thereof the following definition:-

‘Institution’, a hospital or a nonprofit person organized to operate a facility or facilities that provide cultural or educational services; provided, however, that nothing in this definition shall be construed to limit the power or authority of the agency to provide financing to a person to which the agency is otherwise authorized to provide financing.

SECTION 50A. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the definition of ‘Massachusetts export finance program’ the following definition:-

‘Massachusetts Health and Educational Facilities Authority’, or ‘HEFA’. the authority established under chapter 614 of the acts of 1968.

SECTION 51. Said section 1 of said chapter 23G, as so appearing, is hereby further amended by inserting after the word ‘financing’, in line 188, the following words:- ; provided, however, that notwithstanding anything in this chapter to the contrary, ‘project’ may also include any capital or operating expenditure which may legally be made by any person to which the agency is authorized to provide financing, whether through the issuance of bonds by the agency or otherwise, or any other type of financial assistance, or with respect to any property, whether tangible or intangible, which may be developed or redeveloped by the agency, and the property, whether tangible or intangible, produced or acquired by such expenditure, and may also include any property, whether tangible or intangible, which may legally be the subject of financing by the agency, whether through the issuance of bonds by the agency or otherwise, or of any other type of assistance provided by the Agency, or which may be developed or redeveloped by the agency.

SECTION 52. Subsection (b) of section 2 of said chapter 23G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The agency shall be governed and its corporate powers exercised by a board of directors consisting of the secretary of administration and finance and the secretary of housing and economic development, or their respective designees, and 9 members to be appointed by the governor, 1 of whom shall be experienced in real estate development, 1 of whom shall be experienced in commercial or industrial credit, 1 of whom shall be experienced in mortgage lending, 1 of whom shall be experienced in banking or investment banking, 1 of whom shall be experienced in planning and the redevelopment of environmentally contaminated lands, 1 of whom shall be experienced in health care facility financing, and 1 of whom shall be a representative of organized labor. The secretary of housing and economic development shall serve as chairperson of the board.

SECTION 53. Clause (16) of the first paragraph of section 3 of said chapter 23G, as so appearing, is hereby amended by adding the following words:- ; provided, however, that the agency shall publish and disseminate through its website each fiscal year a schedule of fees or a methodology for determining fees to be charged to institutions under this chapter, which shall result in similar charges for similarly-situated projects, regardless of the size of the participating institution. Before promulgating such schedule, the agency shall hold at least 1 public hearing under section 2 of chapter 30A.

SECTION 54. Said first paragraph of said section 3 of said chapter 23G, as so appearing, is hereby further amended by adding the following clause:-

(34) to make loans, including working capital and contract based loans, provide guarantees, loan insurance or reinsurance or otherwise provide financing or credit enhancing devices for the operation of companies which have a principal place of business in the commonwealth, including but not limited to loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans for the operation of companies.

SECTION 55. Subsection (k) of section 8 of said chapter 23G, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding any provision of this chapter to the contrary, any indebtedness of the Massachusetts Health and Educational Facilities Authority may be refunded under this subsection (k) if said indebtedness was subject to being refunded under chapter 614 of the acts of 1968.

SECTION 56. Said chapter 23G is hereby further amended by striking out sections 27 and 28, as so appearing, and inserting in place thereof the following 2 sections:-

Section 27. (a) There shall be within the agency an Emerging Technology Fund, to which shall be credited appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited to the fund, such additional funds as are subject to the direction and control of the agency, pension funds, federal grants or loans or private investment capital which may properly be applied in furtherance of the objectives of the fund, proceeds from the sale of qualified investments secured or held by the fund, fees and charges imposed relative to the making of qualified investments, as defined and approved under rules approved by the advisory committee created in section 28 for the fund, secured or held by the fund and other monies which may be available to the agency or the advisory committee for the purposes of the fund from another source or sources. The agency shall hold the fund in an account or accounts separate from other funds or accounts and shall manage the fund on behalf of the advisory committee, under rules and policies established by the advisory committee.

(b) The agency, on behalf of the advisory committee, shall invest and reinvest the fund and the income of the fund as follows:

(1) in the making of qualified investments, under rules approved by the advisory committee;

(2) in defraying the ordinary and necessary expenses of administration and operation associated with the fund;

(3) in the investment of funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the commonwealth;

(4) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the obligations become payable; and

(5) for the payment of principal or interest on qualified investments secured by the fund or the payment of a redemption premium required to be paid when such qualified investments are redeemed prior to maturity; provided, however, that monies in the fund shall not be withdrawn at any time in such an amount as would reduce the amount of the fund to less than the minimum requirement established jointly by the agency and advisory committee, except for the purpose of paying binding obligations associated with qualified investments which are secured by the fund as the obligations become payable.

(c) The fund shall be held and applied by the agency, on behalf of the advisory committee, to make qualified investments designed to advance the following public purposes:

(1) to stimulate increased financing for new, renovated or improved manufacturing, research and development and related facilities and financing for the operations of emerging technology companies in the commonwealth by leveraging private financing for highly, productive state-of-the-art facilities or for the operations of emerging technology companies, which will lead to increased and more rewarding employment opportunities in the commonwealth by providing financing related to such facilities including, without limitation, financing of the construction or expansion of such facilities, including specialized real estate improvements and specialized equipment for those facilities; and financing for the operations of emerging technology companies; and

(2) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant-funding sources to fund advanced research and development activities in new and emerging technologies and new application of existing technologies in the commonwealth, so as to serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related to the commercial and industrial base;

(3) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (2) awarded or to be awarded by the federal government, industry or other sources;

(4) to provide low or no interest equipment loans targeted to companies within the defense technology and homeland security sector particularly those that are seeking to become more competitive against out-of-state companies;

(5) 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 emerging technology industries, for productive use by such industries and to make targeted investments in proof of concept funding for emerging technologies; and

(6) to provide matching grants in the field of marine science technology for companies in the commonwealth that receive small business innovation research or small business technology transfer grants from the small business administration. The matching award amount shall be the lesser of \$20,000 or 15 per cent of the small business innovation research or small business technology transfer grant. There shall be a maximum of \$60,000 available per company, including affiliates, per calendar year allocated on a competitive basis, contingent upon the availability of funds. The matching funds shall be used for product development and commercialization.

The agency shall make no such qualified investment under clause (1) of subsection (b) unless the advisory committee finds that, to the extent possible, said qualified investment is such that a definite benefit to the economy of the commonwealth may reasonably be expected as a result. In addition, the agency shall make no such qualified investment under said clause (1) of said subsection (b) unless such qualified investment complies with rules approved by the advisory committee.

Said rules shall define which industries within the commonwealth shall be considered emerging technology industries for purposes of this section; provided, however, that 'emerging technology industries' shall include industries employing new or state-of-the-art technology in biotechnology, marine science technology, pharmaceuticals, clean and renewable energy technology; vehicles powered by clean and renewable energy, defense and homeland security-related technologies, advanced materials, electronics, nanotechnology, environmental, medical device, information technology, plastics and polymers, telecommunications industries involved in the research and development of state-of-the-art medication delivery devices or any other technological field or industry which the advisory committee has classified or shall classify as an emerging technology. Said rules shall also set the terms and conditions for investments which are to constitute qualified investments, which may include, without limitation, loans, working capital and contract based loans, guarantees, loan insurance or reinsurance, equity investments, grants made only under clauses (2) and (5) of subsection (c), or other financing or credit enhancing devices, as made by the agency directly or on its own behalf or in conjunction with other public instrumentalities, or private institutions, or the federal government; provided, however, that said rules shall provide that each such qualified investment made under clause (1) of said subsection (c) shall involve a transaction with the participation of at least 2 at-risk private parties.

Said rules shall, in addition, set forth the terms, procedures, standards and conditions which the agency shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified investments; provided, however, that said rules shall provide that each recipient of a qualified investment shall be required to pay a fee as a condition of such receipt, which fee may take the form of points, an interest rate premium or a contribution of warrants or other form of equity or consideration to the fund as prescribed by the advisory committee; and provided, further, that said rules shall provide for negotiated agreements between the agency and each recipient of a qualified investment regarding the terms and conditions by which the fund's support of a recipient could be reduced or withdrawn.

(d) The agency may solicit investments by private institutions or investors in the activities of the fund and may reach agreements with such private institutions or investors regarding the terms of such investments including, without limitation, the rights of such investors to participate in the income or appropriation of the fund. To help secure investments by private institutions or investors in the activities of the fund, the advisory committee may develop a proposal relative to the creation of a separate investment entity which would allow for the commingling of the resources of the fund with the maximum participation by such private institutions or investors in a manner which is consistent with the public purpose of the fund and under terms and conditions calculated to protect and preserve the assets of the fund; provided, however, that if the creation or operation of such

a separate entity as proposed by the advisory committee would require additional or clarifying amendments to this chapter, said proposal shall include proposed statutory language.

(e) Copies of the approved rules and modifications to the rules shall be submitted to the chairs of the house and senate committees on ways and means and the joint committee on economic development and emerging technologies and the clerks of the house of representatives and the senate.

(f) Qualified investment transactions undertaken by the agency on behalf of the advisory committee under this section shall not, except as specified in this section, be subject to chapter 175, and shall be payable solely from the fund and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the agency or any subdivision of the commonwealth.

(g) The agency, on behalf of the advisory committee, shall not make an expenditure from or commitment of the assets of the fund, including, without limitation, the making of qualified investments secured by the fund, if making such a qualified investment would reduce the amount of the fund below the minimum requirement established by law, unless the agency, at the time of making of such qualified investment, deposits in the fund from the proceeds of that qualified investment or from any fees and charges imposed relative to the making of qualified investments, or otherwise, an amount which, together with the amount in the fund, shall not be less than the minimum requirement; provided, however, that at no time shall the minimum requirement of the fund be less than the maximum amount of principal and interest becoming due in the current and succeeding fiscal year of the agency on all outstanding bonds and other obligations which are secured by the fund or such greater amount as may be set forth in the rules governing the fund.

Section 28. (a) There shall be an advisory committee to the Emergency Technology Fund established in section 27 which shall consist of the director of the Massachusetts office of business development, the director of the John Adams Innovation Institute, the president of the Massachusetts Technology Development Corporation, 3 persons to be appointed by the governor, 1 of whom shall be a representative of an emerging technology industry, 1 of whom shall have knowledge of financing of emerging technology companies and 1 of whom shall have knowledge of technology transfer and commercialization activities at research institutions, and 3 persons to be appointed by the board of the agency, 1 of whom shall be a representative of an emerging technology industry, 1 of whom shall have knowledge of financing of emerging technology companies and 1 of whom shall be a member of the agency's board of directors; provided, however, that the director of the John Adams Innovation Institute and the president of the Massachusetts Technology Development Corporation may designate another person to act in such member's place for a particular purpose, including the right to attend and vote at a meeting of the advisory committee. The executive director of the Massachusetts Technology Transfer Center or the executive director's designee shall serve as an ex-officio and nonvoting member of the advisory committee.

Each appointed member of the advisory committee shall serve for a term of 3 years or until such member's successor is appointed; provided, however, that 1 of the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a term of 1 year, 1 of the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a term of 2 years, and 1 of the governor's initial appointees and 1 of the board of the agency's initial appointees shall serve for a term of 3 years. A person appointed to fill a vacancy on the advisory committee shall be appointed in a like manner and shall be eligible for reappointment. A member of the advisory committee appointed by the governor may be removed by the governor for cause. A member of the advisory committee appointed by the board of the agency may be removed by the board of the agency for cause.

(b) The members shall annually elect a chairman and vice chairman and shall adopt by-laws governing the affairs of the advisory committee. Five members of the advisory committee shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for an action to be taken by the advisory committee; provided, however, that no vacancy in the membership of the advisory committee shall impair the right of a quorum to exercise the powers of the advisory committee.

(c) The members shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(d) The advisory committee may meet as often as the members shall decide; provided, however, that it shall meet at least once in each calendar quarter and its approval shall be necessary for an expenditure from, or commitment of, the assets of the fund or entry into contracts of the type specified in subsection (g).

(e) The advisory committee may, by majority vote, elect, in its discretion, to delegate some or all of the committee's approval rights to the board or the staff of the agency; provided, that, any such delegation may be revoked at any time by majority vote of the advisory committee.

(f) The agency shall manage the qualified investments made from the fund on behalf of the advisory committee including, without limitation, the closing, servicing, monitoring, underwriting and where appropriate, the enforcement of rights with respect to such management and shall provide such staff and supporting assistance as deemed appropriate by the board of directors of the agency to enable the advisory committee to discharge its duties in a manner consistent with its public purpose. Subsection (d), subsections (f) to (i), inclusive and subsection (l) of section 2 of this chapter shall also apply to the members and affairs of the advisory committee.

(g) The advisory committee and the agency may award 1 or more contracts with regard to the management of the fund, which may provide performance-based incentives, with regard to such management.

SECTION 57. Said chapter 23G is hereby further amended by adding the following section:-

Section 44. The agency shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 58. Section 4 of chapter 23I of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'document', in line 35, the following words:- ; provided, however, that the center shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include, but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the center.

SECTION 59. Section 6 of said chapter 23I, as so appearing, is hereby amended by inserting after the figure '75', in line 82, the following words:- to fund activities that facilitate the transfer of technology from the commonwealth's research institutions to the commonwealth's life science industries, for productive use by such industries and to make targeted investments in proof of concept funding for emerging technologies.

SECTION 60. Section 12 of said chapter 23I, as so appearing, is hereby amended by striking out, in line 9, the words 'his designee,' and inserting in place thereof the following words:- the secretary's designee, the executive director of the Massachusetts Technology Transfer Center and.

SECTION 61. Said chapter 23I is hereby further amended by adding the following section:

Section 18. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 62. Chapter 23J of the General Laws is hereby amended by adding the following section:-

Section 9. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 63. Section 11F of chapter 25A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 141, the figure '2' and inserting in place thereof the following figure:- 6.

SECTION 64. Section 1 of chapter 29 of the General Laws is hereby amended by striking out the definition of 'State authority', as amended by section 31 of chapter 25 of the acts of 2009, and inserting in place thereof the following definition:-

'State authority' a body politic and corporate constituted as a public instrumentality of the commonwealth and established by an act of the General Court to serve an essential governmental function' provided, however, that 'state authority' shall not include: (1) a state agency' (2) a city or town' (3) a body controlled by a city or town' or (4) a separate body politic where the governing body is elected, in whole or in part, by the general public or by representatives of member cities or towns.

SECTION 65. Section 1 of chapter 30A of the General Laws, as so appearing, is hereby amended by inserting after paragraph (4) the following paragraph:-

(4A) 'Proposed regulation', a proposal by an agency to adopt, amend or repeal an existing regulation.

SECTION 66. Said section 1 of said chapter 30A of the General Laws, as appearing in the 2008 Official Edition, is hereby further amended by inserting after paragraph (5) the following paragraph:-

(5A) 'Small business', a business entity or agriculture operation, including its affiliates, that: (i) is independently owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a 'small business' under applicable federal law, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

SECTION 67. Section 2 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:-

The notice shall also include a small business impact statement considering the impact of the proposed regulation on small business with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall include the statement of small business consideration on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may be inspected and copied in the office of the state secretary during business hours.

That small business impact statement shall include, but not be limited to, the following:

- (1) an estimate of the number of small businesses subject to the proposed regulation;
- (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation;
- (3) the appropriateness of performance standards versus design standards;
- (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

SECTION 68. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following 2 paragraphs:-

The notice shall also include a small business impact statement considering the impact of the proposed action on small businesses with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall include the small business impact statement on the electronic website of the state secretary; provided, however, that the full text of the small business impact statement may be inspected and copied in the office of the state secretary during business hours.

That small business impact statement shall include, but not be limited to, the following:

- (1) an estimate of the number of small businesses subject to the proposed regulation;
- (2) projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation;
- (3) the appropriateness of performance standards versus design standards;
- (4) an identification of regulations of the promulgating agency, or of another agency or department of the commonwealth, which may duplicate or conflict with the proposed regulation; and
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

SECTION 69. The second paragraph of section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The requirements to file small business impact statements under this section and sections 2, 3 and 5A shall be enforceable by a civil action for mandamus relief, but the sufficiency of the statement filed shall not be grounds for invalidating or staying the effect of the regulation.

SECTION 70. Said section 5 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

Prior to the adoption of a proposed regulation, an agency shall file an amended small business impact statement, which considers, without limitation, whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

- (1) establishing less stringent compliance or reporting requirements for small businesses;
- (2) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (3) consolidating or simplifying compliance or reporting requirements for small businesses;
- (4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation;
- (5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth; and
- (6) minimizing adverse impact on small businesses by using alternative regulatory methods.

SECTION 71. Said chapter 30A is hereby amended by inserting after section 5, as so appearing, the following section:-

Section 5A. Rules and regulations shall be reviewed at least once every 12 years after their publication as the final rules or regulations to ensure that those rules and regulations minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

In reviewing a rule or regulation to minimize economic impact of the rule or regulation on small businesses, the agency shall file a small business impact statement which

considers the following factors:

- (1) the continuing need for the rule or regulation;
- (2) the nature of complaints or comments received concerning the rule or regulation from the public;
- (3) the complexity of the rule or regulation;
- (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other federal, state and local governmental rules and regulations;
- (5) the length of time since the rule or regulation has been enacted, changed; amended or modified; and
- (6) the degree to which technology, economic conditions or other factors have changed in the subject areas affected by the rule or regulation.

SECTION 72. Chapter 30B of the General Laws is hereby amended by adding the following section:-

Section 22. (a) Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a governmental body may, by a majority vote, establish a preference for the procurement of products or services by businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth.

(b) If a governmental body establishes such a preference, the procurement officer responsible for procuring products and services on behalf of the governmental body shall effectuate such preference for the procurement in: (i) advertising for bids, contracts or otherwise and making reasonable efforts to facilitate the purchase of such products or services; and (ii) purchasing products or services by businesses, as defined in said section 3A of said chapter 23A, with their principal place of business in the commonwealth, unless the price of such goods or services exceed, by more than 10 per cent, the price of such goods or services produced by businesses with their principal place of business outside of the commonwealth.

SECTION 73. Section 23 of chapter 32 of the General Laws is hereby amended by inserting after the word 'however', in line 361, as appearing in the 2008 Official Edition, the following words:-, that consistent with sound investment policy and in accordance with the procedures and processes employed to oversee the allocation of traditional investment of funds, the director shall whenever reasonably possible ensure that funds are invested in banks or financial institutions which directly or through any subsidiary may make loans to small businesses, as defined in clause (a) of subdivision (7), and that when electing to make such investments the board shall review the guidelines for investing in small businesses contained in said subdivision (7) and monies shall be invested as much as reasonably possible in such banks, financial institutions or companies which provide capital to small businesses under those guidelines so long as such use is consistent with sound investment policy; provided further.

SECTION 74. Said section 23 of said chapter 32, as so appearing, is hereby further amended by adding the following subdivision:-

(7) The guidelines for investing in small businesses with a principal place of business in the commonwealth shall be:

(a) For the purposes of this section small business shall be a business entity, including its affiliates, that: (i) is independently owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) would be defined as a 'small business' under applicable federal law, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

(b) Investments shall be made by banks or financial institutions with demonstrated experience making capital available to small businesses with good management, which are fast growing and identify the potential to use increased capital to create jobs and which are experiencing difficulty in accessing capital.

(c) Capital shall be provided to small businesses in a variety of financial instruments, including but not limited to: working capital and expansion loans to businesses, both secured and non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans; grants; loan guarantees; and mezzanine and structured finance loans.

(d) Capital shall not be provided unless financial and managerial advisory services are also provided to the business that is served.

SECTION 75. Section 59 of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the TIF zone and for which an agreement has been executed with the owner of the real property under clause (v); provided, however, that the TIF plan shall specify the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for an exemption under this clause; provided, further that the inflation factor for each fiscal year shall be a ratio;

(a) the numerator of which shall be the total assessed value of all parcels of commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment for the current fiscal year attributable to the commercial and industrial real estate as determined by the commissioner of revenue under subsection (f) of section 21C of chapter 59; and

(b) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, that the ratio shall not be less than 1;

SECTION 76. Said section 59 of said chapter 40, as so appearing, is hereby further amended by adding the following clause:-

(viii) requires of an owner of a parcel pursuant to clause (v) to submit to the city or town clerk and the economic assistance coordinating council a report detailing the status of the construction laid out in the plan; the current value of the property; and the number of jobs created to date as a result of the plan; provided, however, that a report shall be filed every 5 years for the term of the tax increment exemption allowed under clause Fifty-first of section 5 of chapter 59; and provided further, that a final report shall be filed in the final year of the exemption.

SECTION 77. Clause (iii) of subsection (a) of section 60 of said chapter 40, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph:-

authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the UCH-TIF zone and for which an agreement has been executed under clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for such exemption under this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:.

SECTION 78. Clause (iii) of subsection (a) of section 60A of said chapter 40, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following introductory paragraph: -

authorize tax increment exemptions from property taxes, under clause Fifty-first of section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real property which is located in the MWT-TIF zone and for which an agreement has been executed with the owner of the parcel under clause (iv); provided, however, that the MWT-TIF plan shall specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent, to be used in calculating the exemptions for the parcel, and for personal property situated on that parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption for each parcel of real property shall be calculated using an adjustment factor for each fiscal year of the specified term equal to the product of the inflation factors for each fiscal year since the parcel first became eligible for such exemption pursuant to this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

SECTION 79. Section 3 of chapter 40A of the General Laws is hereby amended by

inserting after the word ‘more’, in line 25, as so appearing, the following words:- or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars.

SECTION 80. Section 24 of chapter 40B of the General Laws is hereby amended by striking out, in line 17, as so appearing, the words ‘director of’ and inserting in place thereof the following words: secretary of housing and.

SECTION 81. Chapter 40E of the General Laws is hereby repealed.

SECTION 82. Section 2 of chapter 40G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words ‘eleven directors: the director of economic development, the secretary of administration, one’ and inserting in place thereof the following words:- 11 directors: the secretary of housing and economic development, who shall serve as chair, the secretary of administration and finance, 1.

SECTION 83. The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is hereby amended by striking out the fourth sentence.

SECTION 84. Section 3 of said chapter 40G, as so appearing, is hereby amended by inserting after the word ‘business’, in line 8, the following words:- ; provided, however, that the MTDC shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development, which may include, but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the MTDC.

SECTION 85. Chapter 40G of the General Laws is hereby further amended by adding the following section:-

Section 11. The MTDC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 86. Section 2 of chapter 40H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of ‘CDC’ and inserting in place thereof the following definition:-

‘CDC’ or ‘Community Development Corporation’, a non-profit corporation organized under chapter 180, and exempt from taxation under section 501(c) of the Internal Revenue Code and which:

(a) focuses a substantial majority of the corporation’s efforts on serving 1 or more specific neighborhoods or municipalities, a region of the commonwealth or a constituency that is economically disadvantaged;

(b) has as the corporation’s purpose to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income people;

(c) demonstrates to the department of housing and community development that the corporation's constituency, including low and moderate income people, is meaningfully represented on the board of directors of the corporation; provided, however, that in making this determination, the department shall consider the following criteria: (1) the percentage, if any, of the board that is elected by the general membership; (2) the percentage of the board members that are residents of the service area; (3) the percentage of board members that are people of low or moderate income; (4) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community being served; (5) other mechanisms, including committees, membership meetings, that the organization uses to ensure that their constituency has a meaningful role in the governance and direction of the organization; and (6) other criteria as determined by the department.

SECTION 87. The definition of 'Eligible organization' in section 2 of said chapter 40H, as so appearing, is hereby amended by striking out the second sentence.

SECTION 88. Said section 2 of said chapter 40H, as so appearing, is hereby amended by striking out the definition of 'Target area' and inserting in place thereof the following definition:-

'Target area', a contiguous geographic area in which the project is located and is: (1) an economic target area designated under section 3D of chapter 23A; (2) the service area of community development corporation; or (3) a zip code whose current unemployment rate exceeds the state unemployment rate by at least 25 per cent or whose mean household income is at or below 80 per cent of the state mean household income as of the most recent decennial census.

SECTION 89. Chapter 40H of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2A (a) The director of housing and community development shall establish and maintain a list of organizations that have been certified as CDCs consistent with this chapter and develop a process for certifying those organizations; provided, however, that the organizations shall be recertified at least once every 4 years. The process shall include an analysis of the organization's governance and a determination of whether the organization's constituency, including low and moderate income persons, is meaningfully represented on the board of directors of the organization. In making such determination, the director shall consider the following criteria: (i) the percentage, if any, of the board that is elected by the general membership' (ii) the percentage of the board members who are residents of the service area' (iii) the percentage of board members that are persons of low or moderate income; (iv) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community that the organization serves; (v) other mechanisms, including committees, membership meetings and others that the organization uses to ensure that the organization's constituency has a meaningful role in the governance and direction of the organization; and (vi) other criteria as determined by the director of housing and community development.

(b) The director of housing and community development shall file an annual report on December 15 with the speaker of the house of representatives, the president of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on housing, and the chairs of the joint committee on community development and small business providing:

(i) a list of certified CDCs in the commonwealth' and

(ii) a summary of programs, initiatives or partnerships operated by the executive office of housing and economic development, its agencies and quasi-public agencies organized under the executive office, that are designed to build the capacity of CDCs, provide training or technical assistance to CDC employees or board members, provide funding to support CDCs and their programs, projects and initiatives and otherwise help CDCs to engage local residents and businesses to work together to undertake programs, projects and activities which develop and improve urban, rural and suburban communities by creating and expanding economic opportunities for low and moderate income persons together with recommendations for action to enhance the ability of CDCs to advance those activities.

SECTION 90. Section 3 of said chapter 40H, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, the words 'nine directors, four' and inserting in place thereof the following words:- 9 directors, 1 of whom shall be the secretary of the housing and economic development, who shall serve as chair, 3.

SECTION 91. Subsection (b) of said section 3 of said chapter 40H, as so appearing, is hereby amended by striking out the sixth sentence.

SECTION 92. Said chapter 40H is hereby amended by adding the following section:-

Section 9. CEDAC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 93. The third paragraph of section 3 of chapter 40J of the General Laws, as appearing in section 15 of chapter 158 of the acts of 2009, is hereby amended by striking out the first sentence and inserting in place thereof the following 2 sentences:- The secretary of housing and economic development or the secretary's designee shall serve as chairperson. The board shall annually elect from among its members a vice-chairperson and may designate a treasurer and a secretary, who need not be members of the board.

SECTION 94. Section 6A of said chapter 40J is hereby amended by striking out, in line 16, as so appearing, the words 'undersecretary of business' and inserting in place thereof the following words:- secretary of housing and economic.

SECTION 95. Section 6B of said chapter 40J, as so appearing, is hereby amended by striking out, in line 32, the words 'or his designee' and inserting in place thereof the following words:- , who shall serve as chair.

SECTION 96. Subsection (c) of said section 6B of said chapter 40J, as so appearing, is hereby further amended by striking out the second sentence.

SECTION 97. The second paragraph of subsection (b) of section 6D of said chapter 40J, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The council shall consist of 9 members; 1 of whom shall be the secretary of health and human services, who shall serve as the chair; 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the executive director of the health care quality and cost council; 1 of whom shall be the director of the office of Medicaid; 1 of whom shall be the secretary of housing and economic development or the secretary's designee; 4 of whom shall be appointed by the governor, of whom at least 1 shall be an expert in health information technology, 1 shall be an expert in law and health policy and 1 shall be an expert in health information privacy and security.

SECTION 98. Said chapter 40J is hereby further amended by adding the following section:-

Section 13. The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 99. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of 'Base date' and inserting in place thereof the following 2 definitions:-

'Adjustment factor', for each fiscal year of the term of a given development program, the product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately following the base date.

'Base date', the last assessment date of the real property tax immediately preceding the creation of the district.

SECTION 100. The definition of 'Development program' in said section 1 of said chapter 40Q, as so appearing, is hereby amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) the duration of the program which shall not exceed the longer of: (i) 30 years from the date of designation of the district; or (ii) 30 years from project stabilization, as defined in the development program.

SECTION 101. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out the definition of 'Inflation factor' and inserting in place thereof the following definition:-

'Inflation factor', a ratio: (1) the numerator of which shall be the total assessed value of all parcels of residential, commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential, commercial and industrial real estate as determined by the commissioner of revenue under paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1; provided, further, that if the proposed Invested Revenue District does not include

residential property, the assessed value attributable to residential property shall not be included in either the numerator or the denominator in calculating the inflation factor.

SECTION 102. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out, in line 59, the word ‘and’.

SECTION 103. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by inserting after the word ‘located’, in line 61, the following clause:- ; and (8) if applicable, a statement of the city or town electing that the original assessed value not be increased by the adjustment factor.

SECTION 104. Said section 1 of said chapter 40Q, as so appearing, is hereby further amended by striking out the definition of ‘Original assessed value’ and inserting in place thereof the following definition:-

‘Original assessed value’, the aggregate assessed value of the invested revenue district as of the base date; provided, however, that if the city or town has not included an election statement in its investment district development program, the original assessed value in any year shall be equal to the original assessed value as of the base date multiplied by the adjustment factor for that fiscal year.

SECTION 105. The General Laws are hereby amended by inserting after chapter 40U the following 2 chapters:-

CHAPTER 40V.

HOUSING DEVELOPMENT INCENTIVE PROGRAM.

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

‘Certified housing development project’, a housing development project that has been approved by the department for participation in the housing development incentive program.

‘Department’, the department of housing and community development as established by chapter 23B.

‘Gateway municipality’, gateway municipality as defined in section 3A of chapter 23A.

‘Housing development incentive program’ or ‘HDIP’, a program designed to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within housing development zones in gateway municipalities.

‘Housing development project’, a multi-unit residential rehabilitation project that is located in a gateway municipality and once rehabilitated, shall contain at least 80 per cent market rate units.

‘Housing development zone’ or ‘HD zone’, a zone designated by a gateway municipality which shall be characterized by a need for multi-unit market rate residential properties.

‘Market rate residential unit’, a residential unit priced for households above 110 per cent of the area’s household median income.

‘Qualified substantial rehabilitation expenditure’, the cost of substantial rehabilitation meeting the following criteria: (i) an initial certification by the department that the structure meets the definition of certified housing development project; (ii) a second certification by the department, to be issued prior to construction, certifying that if completed as proposed, the rehabilitation work meets the standards required for a certified rehabilitation; and (iii) a final certification by the department, issued when the property is leased or sold by the taxpayer.

‘Sponsors’, sponsors, as defined in section 25 of chapter 23B.

‘Substantial rehabilitation’ and ‘substantially rehabilitated’, the needed major redevelopment, repair and renovation of a property, excluding the purchase of the property, as determined by the department of housing and community development.

Section 2. The department may from time to time designate 1 or more areas of a gateway municipality as an HD Zone and take any and all actions necessary or appropriate to such a designation, upon receipt of a municipal application requesting such designation and representing in its application that the municipality, based on its own independent investigation, has determined that the area proposed for designation has a need for multi-unit residential properties. The application shall include a plan which shall include a detailed description of the construction, reconstruction, rehabilitation and related activities, public and private, contemplated for such zone as of the date of the adoption of the zone plan.

Section 3. Under section 5M of chapter 59, the department may approve a municipality’s application for a tax exemption for a housing development project located within an approved housing development zone.

Section 4. (a) A project may be eligible to be a certified housing development project under this chapter; provided, however, that the proposed project:

- (i) contains 2 or more residential units; provided, however, the project may be a mixed-use development that includes commercial uses in addition to residential units;
- (ii) contains not more than 50 market rate residential units;
- (iii) is located in a designated or proposed HD zone;
- (iv) contains at least 80 per cent market rate units upon completion of the rehabilitation, to be sold or leased;
- (v) has received from the municipality a property tax exemption under section 5M of chapter 59; and
- (vi) is a substantial rehabilitation of an existing property.

(b) The department may from time to time approve 1 or more housing development projects, located in HD zones designated as certified projects under section 2 and take any and all actions necessary or appropriate to such a designation, upon compliance with the following:

- (i) receipt of a project proposal for such a designation requesting such designation from the municipality, submitted in a timely manner, in such form and with such information as the department prescribes, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the sponsors;

(ii) receipt of an executed agreement by the municipality which contains a tax exemption under section 5M of chapter 59 and this section so long as the municipality has determined and incorporated in a formal written determination, based on the information submitted with the project proposal and such additional investigation as the municipality shall make, that the project as described in the proposal and all documentation submitted with the proposal:

(A) is consistent with and can reasonably be expected to benefit significantly from the gateway municipality's plans relative to the project property tax exemption;

(B) together with all other projects previously certified and located in the same project HDIP zone, shall not overburden the municipality's supporting resources; and

(C) together with the municipal resources committed to the project, shall, if certified, have a reasonable chance of increasing residential growth, diversity of housing supply, supporting economic development and promoting neighborhood stabilization in 1 of the municipality's housing development zones of the municipality as advanced in the proposal; and

(iii) receipt with such written approval by the municipality of a request for a designation of the project as a certified project for a specified number of years, which shall be not less than 5 years and not more than 20 years.

(c) The department shall evaluate and either grant or deny any project proposal not later than 90 days from the date of its receipt of a complete project proposal and failure to do so by the department shall result in approval of such project for a term of 20 years. Approval of a project due to the department's failure to act within 90 days shall not constitute approval by the department of any tax incentives provided under chapter 62 or 63.

(d) The department may impose a fee for the processing of applications for the certification of any project under this section.

(e) The department shall review such certified project at least once every 2 years. A certified project shall retain its certification for the period specified by the department in its certification decision unless such certification is revoked prior to the expiration of the specified period. The certification of a project may be revoked only by the department and only upon: (i) the petition of the municipality that approved the project proposal, if the petition satisfies the authorization requirements for a municipal application or the petition of the director of the department; and (ii) the independent investigation and determination of the department that representations made by the sponsors in its project proposal are materially at variance with the conduct of the sponsors subsequent to the certification and such variance is found to frustrate the public purposes that such certification was intended to advance. Upon such a revocation, the commonwealth and the municipality, may bring a cause of action against the sponsors for the value of any economic benefit received by the sponsors prior to or subsequent to such revocation.

Under this section, revocation shall take effect on the first day of the tax year in which the department 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 commissioner shall issue regulations to recapture the value of any credits, exemptions or other tax benefits allowed by the certification under this section.

Annually, on or before the first Wednesday in December, the department 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 joint committee on revenue and the joint committee on housing and community development.

Section 5. The department may award to a sponsor of a certified project tax credits available under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 not to exceed 10 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units in the project. The amount and duration of the credit awarded shall be based on the following factors:

(i) the need for residential development and diversity of housing supply in the gateway municipality;

(ii) the extent to which the project will encourage residential development, expansion of diversity of housing supply, support neighborhood stabilization, and promote economic development in the zone; and

(iii) the percentage of market rate units contained in the project.

(b) The department may, limit any incentive or credit available to a project under subsection (q) of section 6 of chapter 62 and section 38BB of chapter 63 to a dollar amount or in any other manner deemed appropriate by the department.

CHAPTER 40W.

MASSACHUSETTS GROWTH CAPITAL CORPORATION

Section 1. For the purposes of this chapter the following words and terms shall, except where the context clearly indicates otherwise, have the following meanings:

‘Capital participation instruments’, purchase of stock, both common and preferred, convertible securities, warrants, subscriptions, options to acquire, capital loans, and working capital or inventory loans, royalties, and other lawful derivations of the foregoing.

‘Community development corporation’ or ‘CDC’, a certified community development corporation, as defined in section 2 of chapter 40H.

‘Corporation’ or ‘GCC’, the Massachusetts Growth Capital Corporation established in section 2.

‘Equity investment’, any of the following types of investment activity: (a) a purchase of stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company membership interest; or (d) a loan made on such terms that it has sufficient characteristics of equity.

‘Financial products’, loans, equity investments and other similar financing activities including, but not limited to, the purchase of loans originated by a certified community development financial institution, the provision of loan guarantees, or the provision of surety bond guarantees.

‘Project’, (a) the act of making available financial products to small businesses and nonprofit corporations; (b) manufacturing, wholesale, retail, service, or other business activity; (c) economic development activity involving the financing of commercial, industrial or other real estate activity; or (d) other activity from which a community will derive economic benefit.

‘Small business’, a business entity, including its affiliates, that (a) is independently owned and operated; (b) has a principal place of business in the commonwealth; and (c) would be defined as a ‘small business’ under applicable federal law, as established in the United States Code and promulgated from time to time by the United States Small Business Administration.

Section 2. (a) There is hereby established a body politic and corporate to be known as the Massachusetts Growth Capital Corporation. The GCC is hereby constituted a public instrumentality and the exercise by the GCC of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function.

The GCC shall be placed within the executive office of housing and economic development but shall not be subject to the supervision and control of an executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

(b) The corporation shall be governed and its corporate powers exercised by a board of directors, which shall consist of 12 directors; 1 of whom shall be the secretary of housing and economic development, who shall serve as chair; 1 of whom shall be the secretary of administration and finance, or the secretary’s designee; and 10 of whom shall be appointed by the governor. Of the 10 directors appointed by the governor; 3 shall be persons who together shall be experienced in small business financing, other financial instruments, turnarounds of troubled businesses and the organization and operation of employee owned businesses; provided, however, that each such director shall be experienced and knowledgeable in at least 1 such area; 1 shall be a representative of an organization of small businesses or manufacturing companies in the commonwealth; 1 shall be a representative of a community bank in the commonwealth and nominated by the Massachusetts Bankers Association; 1 shall be experienced in community economic development and employed by a CDC or a representative of the Massachusetts Association of Community Development Corporations; 1 shall be a current or retired certified public accountant or chief financial officer; 1 shall be a practicing or retired attorney with a business financing experience; 1 shall be a small business owner; and 1 shall be a representative of organized labor. Each member appointed by the governor shall serve a term of 5 years, except that in making the governor’s initial appointments the governor shall appoint 2 members to serve for a term of 1 year, 2 members to serve for a term of 2 years, 2 members to serve for a term of 3 years, 2 members to serve for a term of 4 years and 2 members to serve for a term of 5 years.

(c) A person appointed to fill a vacancy in the office of a director shall be appointed in a like manner and shall serve for only the unexpired term. A director shall be eligible for

reappointment. A director may only be removed from the director's appointment by the governor for good cause. The directors shall annually elect 1 director as vice-chair and designate a secretary-treasurer who need not be a director. The secretary-treasurer 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, the minute books of the corporation and of its official seal.

(d) Six of the directors of the corporation shall constitute a quorum and 6 affirmative votes shall be necessary for the transaction of business or the exercise of a power or function of the corporation. Each director shall be entitled to reimbursement for the director's actual and necessary expenses incurred in the performance of the director's official duties.

(e) The corporation, its directors, officers and employees shall be subject to sections 1 to 4, inclusive, of chapter 268A except that the corporation may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with a person in which a director of the corporation is interested or involved; provided, however, that such interest or involvement is disclosed in advance to the directors and recorded in the minutes of the corporation; provided, further, that no director having such an interest or involvement may participate in a decision of the directors relating to such person. Employment by the commonwealth or service in an agency of the commonwealth shall not be deemed to be such an interest or involvement.

(f) The directors shall appoint the president of the corporation and shall establish the president's salary. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise administrative affairs and the general management of the corporation. The president may employ such other employees as shall be designated by the directors, shall attend meetings of the directors, 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.

(g) All officers and employees of the corporation having access to its cash and negotiable securities shall give bond to the corporation at its expense in such amounts and with such surety as the directors may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) Directors shall not be liable to the commonwealth, to the agency or to any other person as a result of the director's activities, whether ministerial or discretionary, as such directors, except for willful dishonesty or intentional violations of the law. The corporation may purchase liability insurance for directors, officers, and employees and may indemnify said persons against claims of others.

(i) Documentary materials, data or conversations made or received by a director or employee of the corporation and consisting of, or to the extent that such materials, data or conversations consist of, trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for assistance which the corporation is empowered to render or regarding the competitive position of such applicant in a particular

field of endeavor, shall not be public records of the corporation and shall not be subject to section 10 of chapter 66. A discussion or consideration of such trade secrets or commercial or financial information may be held by the directors in executive session closed to the public notwithstanding chapter 30A, but the purpose of such an executive session shall be set forth in the official minutes of the corporation and no business which is directly related to such purpose shall be transacted nor shall a vote be taken in such an executive session.

Section 3. The GCC shall have the power to:

- (a) adopt by-laws for the regulation of its affairs and the conduct of its business;
- (b) adopt an official seal;
- (c) sue and be sued in its own name;
- (d) make and execute contracts and all other instruments necessary or convenient for the exercise of its power and functions;
- (e) acquire, hold and dispose of personal property for its corporate purposes;
- (f) enter into agreements or other transactions with federal and state agencies;
- (g) acquire real property, or an interest in real property, by purchase or foreclosure, if such acquisition is necessary or appropriate to protect or secure an investment or loan in which the agency has an interest; to sell, transfer and convey such property to a buyer and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;
- (h) invest funds held in reserves or sinking funds, or funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the commonwealth;
- (i) borrow money by the issuance of debt obligations whether tax exempt or taxable and secure such obligations by the pledge of its revenues or of the revenues, mortgages and notes of others; provided, however, that the corporation shall not issue debt obligations if the principal amount of those debt obligations, when added to the principal amount of existing debt obligations issued by the corporation, excluding debt obligations previously refunded or to be refunded by the corporation, would exceed 30 million dollars;
- (j) employ and fix the compensation of a president, who shall be the chief executive officer of the corporation and such other agents, employees, professional and business advisers as may be necessary in the judgment of the directors; provided, however, that the president, professional advisers and business advisers shall not be subject to chapter 31 or section 9A of chapter 30;
- (k) appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (l) procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;
- (m) consent, subject to any contract with noteholders or bondholders, whenever it deems it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification, with respect to rate of interest, time of payment of an installment of principal or interest, or other terms, of a mortgage, mortgage loan, mortgage loan commitment, contract or other agreement to which the GCC is a party;

(n) do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this chapter;

(o) receive and accept from federal and state agencies and public or private entities grants, loans or advances for or in aid of the purposes of this chapter and to receive and accept contributions from a source of either money, property, labor or other things of value, to be held, used and applied for the purposes of this chapter;

(p) create, issue, buy and sell stock and other capital participation instruments; to hold such stock and capital participation instruments and to underwrite the creation of a capital market for these securities;

(q) provide advisory services, technical assistance and training programs to small businesses as may be necessary or desirable to carry out the purposes of this chapter;

(r) exercise other powers, rights or responsibilities of a corporation organized under chapter 156B;

(s) create and issue shares which a person, firm or corporation may purchase; provided, however, that each share issued shall be in the form of non-voting common stock with each share having a par value of \$10; provided, further, that the total value of the shares issued shall not exceed \$25,000,000;

(t) make loans or grants to, or otherwise finance or invest in, a business to further the purposes of this chapter; provided, further, that such loans or grants may be made to certified community development corporations or other community based nonprofit entities for the purpose of such corporations or entities providing financing to businesses;

(u) provide loan guarantees to public or private entities for the purpose of causing such entities to provide financing to a business;

(v) establish and collect such fees, charges and interest rates as the corporation determines to be reasonable; and

(w) require, by contract in a financing agreement, or otherwise, specific operational activities, financial actions or management changes, as conditions for the receipt of a loan, financing or investment by the corporation.

No debt obligation issued under clause (i), stock or capital participation instrument created under clause (p) or share issued under clause (s) shall be or become an indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of each bond, capital participation instrument, share or other evidence of indebtedness that it does not constitute an indebtedness or obligation of the commonwealth but is payable solely from the revenues or income of the Massachusetts Growth Capital Corporation.

Section 4. The corporation shall contract with another public authority for the performance by that authority of core administrative functions, as determined by the secretary of housing and economic development which may include, but shall not be limited to, human resources, financial management, information technology, legal, procurement and asset management, to minimize the administrative costs and expenses of the corporation.

Section 5.

(a) The corporation may participate in a project; provided that, the corporation shall find and incorporate in the official records of the corporation that the project will be of a public benefit such that the project is reasonably expected to:

- (i) support or promote economic development, revitalization or stability;
- (ii) promote employment opportunities for residents of the commonwealth;
- (iii) promote the creation or retention of jobs; or,

(iv) support the creation or expansion of a business sector whose success would enhance the economic development of the commonwealth, enhance the quality of life of residents of the commonwealth or enhance the employment opportunities for residents of the commonwealth.

(b) The corporation shall not participate in a project unless it determines, in writing, that its participation is necessary because funding for the project is not available in the traditional capital markets or that credit has been offered on terms that would preclude the success of the project.

(c) The corporation shall endeavor to participate in projects each year that provide financial products, which in the aggregate total not less than 30 percent of the total capital committed by the corporation over a 3 year period, to projects which enhance the economic development of a target area, as defined in section 2 of chapter 40H, or enhance the quality of life and promote employment opportunities for low and moderate income residents of the commonwealth. If a certified CDC requests that the corporation participate in a project, the corporation shall make a determination of whether the project: (i) is likely to provide employment opportunities to low and moderate income residents of the commonwealth; (ii) is likely to enhance the quality of life of low and moderate income residents of the commonwealth; or (iii) supports the creation or expansion of the business sector in the region served by the CDC. If the corporation enters into an agreement to participate in such a project, the terms of the financial products made available shall favorably reflect the economic and social benefits which inures to the commonwealth from the project.

(d) Each contract shall include a requirement for adequate reporting of financial and other data to the corporation. The contract shall require that a business receiving financial products shall participate in financial and managerial consulting services and the contract shall include a requirement for an annual or other periodic audit of the project books.

Section 6. The corporation shall endeavor to participate in projects each year that provide financial products, which in the aggregate total not less than 20 percent of the total capital committed by the corporation in that year, to minority-owned or women-owned contractors notwithstanding the conditions described in section 5, except that the corporation shall have determined, in writing; (a) that the project plans conform to applicable environmental, zoning, building, planning and sanitation laws; (b) that there is a reasonable expectation that the project will be successful; and (c) that the participation of the corporation is necessary for the successful completion of the proposed project because funding for the project is unavailable in the traditional capital markets, or that credit has been offered on terms that would preclude the success of the project.

Section 7. (a) The GCC may establish or invest in the capital stock of 1 or more corporations organized to increase capital available to small businesses or to engage local residents and businesses to work together to undertake programs, projects and activities which develop and improve urban, rural and suburban communities by creating and expanding economic opportunities for low and moderate income people. Without limitation, such a corporation may:

(1) serve as a financial intermediary between entities undertaking projects and small businesses and public or private sources of capital including, without limitation, direct lenders, guarantors or grant makers. Any corporation so organized may accomplish its purposes by means of (i) investing in the equity capital of; (ii) making direct loans to; or (iii) issuing loan guarantees to entities undertaking projects or to small businesses; and

(2) provide financial and managerial consulting services to entities undertaking projects, small businesses and minority-owned or women-owned contractors.

(b) The GCC may have a controlling or a minority interest in such a corporation, as the directors of the GCC shall determine in the board's discretion; provided, however, that at least 1 director of the GCC shall sit on the board of directors of the corporation.

(c) A corporation established under this section or in which the GCC has invested under this section shall, prior to making an investment in the capital stock of, or loans or loan guarantees to, entities undertaking projects or to small businesses, make the following findings:

(1) that such action is consistent with the objectives of this section and may reasonably be expected to contribute to the redevelopment and economic well-being of the commonwealth, will create or retain jobs or will assist minority or women-owned businesses;

(2) that the funds provided by the GCC will be used solely in connection with the costs of the project or the operation of the small business;

(3) that the contract for participation in a project requires adequate reporting of financial data from the small business or project to such corporation, that the contract requires that a business receiving financial products shall participate in financial and managerial consulting services and that the contract includes a requirement for an annual or other periodic audit of the books of the project or the small business;

(4) that its participation is necessary to the successful completion of the proposed project or to the success of the small business because funding for the project or small business is unavailable in the traditional capital markets or that credit has been offered on terms that would preclude the success of the project or the small business; and

(d) Should the GCC desire to sell or otherwise dispose of stock received under a contract under this section, the small business or entity undertaking a project, or the small business or entity's nominee, shall within 120 days have the right of first refusal upon the sale and the right to meet a subsequent bona fide offer by a third party.

(e) The GCC shall not, nor shall the GCC in combination with a corporation established or invested in by the GCC under this section, own more than 49 percent of the voting stock in a small business.

(f) Upon the request of the GCC, the commissioner of banks shall examine the books of a corporation established or invested in by the GCC under this section if such examination is a condition of the particular investment, lending, loan guaranty or grant program administered by such corporation.

Section 8. (a) The corporation shall establish a program to support the provision of financial and managerial consulting and technical assistance to eligible companies which receive financial assistance from the commonwealth or any of the commonwealth's public authorities. Services supported may include, but shall not be limited to, procurement of investment capital, management, administration, production, product marketing, assisting business in securing federal contracts and business expansion, renovation and diversification. The program shall include: (i) referrals to technical assistance provided without charge to eligible companies by public and private small business support organizations; (ii) financial support to engage private consultants; and (iii) a directory of organizations, experts and consultants available to be engaged to offer financial or managerial consulting services.

(b) The corporation shall coordinate the program with the United State Small Business Administration, the Massachusetts Small Business Development Center Network and other private for profit and nonprofit providers of consulting and technical assistance to small businesses. The corporation shall consult with the commonwealth's public authorities, private business associations and regional economic development organizations in administering the program.

(c) The corporation may provide matching grants to fund consulting and technical assistance to small businesses who receive financial assistance from the commonwealth or any of the commonwealth's public authorities. The grants shall be used by the recipient businesses to pay for mandated small business consulting and technical assistance services. Prior to awarding a grant, the corporation shall have determined that the financial or managerial consulting services mandated as a condition of financial support of the small business are not available without charge from an entity participating in the program and that procuring such services creates a hardship and impedes the likelihood of success of a project. Grants awarded shall require a 100 percent match by the recipient.

Section 9. (a) The GCC may establish an economic stabilization program for the following purposes:

(1) To provide flexible high risk financing necessary to implement a change of ownership, a corporate restructuring or a turnaround plan for an economically viable, but troubled business which faces the likelihood of a large employment loss, plant closure or failure without such a change of ownership, corporate restructuring or turnaround plan. The program shall provide assistance to firms in specific mature industries for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability. The financial participation of the GCC shall aim to supplement private financial institutions and public economic development agencies when such institutions are unable to provide all the financing or bear all of the risk necessary to transfer ownership, restructure or turnaround a business in a situation where the business

might otherwise fail or greatly reduce its employment.

(2) To provide flexible high risk financing in connection with the start-up of employee-owned businesses or the implementation of employee-ownership projects. The financial participation of the GCC shall aim to supplement private financial institutions and public economic development agencies when such institutions are unable to provide all the financing or bear all of the risk necessary to start-up an employee-owned business or implement an employee-ownership project.

(b) The GCC shall endeavor to direct at least 10 percent of the financing provided by the economic stabilization program to businesses that are employee-owned businesses in order to fulfill the purposes of this section.

(c) The GCC may participate in projects under this section; provided, that, the corporation shall find and incorporate in the official records of the corporation that the project will be of a public benefit and:

(1) when providing assistance in connection with the purchase of a troubled business, the directors shall determine and incorporate in the minutes of a meeting of the directors that:

(i) the business is likely to experience a large loss of employment, plant closure, or failure without the loan financing or investment by corporation;

(ii) the business within a specific mature industry requires assistance for the purpose of technological investment or upgrading of management operations in order for the business to maintain future economic stability;

(iii) the business or person seeking to purchase the business has taken or shall take such actions as the directors deem necessary to ensure the business has a reasonable chance to continue as a successful business, including, but not limited to, changes in its operations, financing, or management and that said actions are included as a condition for financing by the corporation in the financing agreement; and

(iv) the business or person seeking to purchase the business has made diligent efforts to obtain the financing necessary to continue its operations or transfer ownership of the business from private financial institutions and public economic development agencies and such financing is unavailable or has been offered on terms that would prevent the successful continuation or change in ownership of the business; or

(2) when providing assistance in connection with an employee-owned business or an employee-ownership project, the directors shall determine and incorporate in the minutes of a meeting of the directors that:

(i) the business or person seeking assistance has taken or shall take such actions as the directors deem necessary to ensure that the employee-ownership project has a reasonable chance to succeed; and

(ii) except with respect to assistance for pre-feasibility and feasibility studies, that such business or person has made diligent efforts to obtain the financing necessary to institute or implement the employee-ownership project from private financial institutions and public economic development agencies, and such financing is unavailable or has been offered on terms that would prevent the successful institution or implementation of the project.

Section 10. The GCC shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 106. Section 92 of chapter 41 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, and in lines 14 and 15, the words ‘two thousand five hundred dollars’, and inserting in place thereof, in each instance, the following figure:- \$7,000.

SECTION 107. The General Laws are hereby amended by inserting after chapter 43D the following chapter:-

CHAPTER 43E.

EXPEDITED STATE PERMITTING

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

‘Growth district’, a district designated from time to time by the secretary of housing and economic development, with the approval of the secretary of energy and environmental affairs, to participate in the growth district initiative.

‘Growth district initiative’, a program established by the executive office of housing and economic development and section 2C of chapter 303 of the acts of 2008 to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects.

‘Issuing authority’, a state agency, commission, department or other state entity that is responsible for issuing permits, granting approvals or otherwise involved in land use development including redevelopment of existing buildings and structures.

‘Permit’, a permit, formal determination, order of conditions, license, certificate, authorization, registration or other approval or determination with respect to the use or development of land, buildings or structures required by an issuing authority. ‘Permit’ shall not include the decision of an agency to dispose of property under its management or control or permits granted by the Massachusetts Water Resources Authority or permits or approvals issued by the department of public utilities or the Energy Facilities Siting Board under chapter 40A and chapter 164 or requests for variances or waivers from state laws or regulations.

‘Priority development site’, priority development site as defined in section 2 of chapter 43D.

‘Project’, project as defined in section 62 of chapter 30.

‘Site’, a privately or publicly owned property that is zoned for commercial or industrial use.

Section 2. (a) Issuing authorities shall complete permit reviews and final decisions within 180 days, or 210 days for permit processes requiring a public comment period, subject to an extension under section 5, for projects that are in: (i) priority development sites designated under chapter 43D; (ii) located within a growth district; (iii) provided the applicant has received a certificate indicating the completion of the process under sections 61 to 62H, inclusive, of chapter 30; and (iv) provided neither the project nor any portion of

the project shall be in a wetland as defined by section 40 of chapter 131, tidelands as defined by section 1 of chapter 91, priority habitat as delineated by the division of fisheries and wildlife under chapter 131A or an area of critical environmental concern as designated by the secretary of energy and environmental affairs.

(b) The time period to complete reviews and issue permit decisions shall begin the day after the issuing authority issues notice that the application materials necessary for the permit are complete. The issuing authority shall notify the applicant in writing within 20 business days from receipt of the completed form of additional information needed or requirements that it may have. The issuing authority may provide for pre-application conferences to facilitate this process.

(c) The resubmission of the application or the submission of such additional information required by the issuing authority shall commence a new 30-day period for review of the additional information.

Section 3. Failure by any issuing authority to take final action on a permit or approval within the 180-day or 210-day period or extended time, if applicable, shall be considered a grant of the permit requested of that authority. In that event, within 3 days after the date of expiration of the time period, the applicant shall file a notice with the issuing authority, attaching the application, setting forth the facts giving rise to the grant and stating that notice of the grant has been mailed, by certified mail, to all parties to the proceedings and all persons entitled to notice of hearing in connection with the application.

Section 4. The grant shall not occur if: (1) the issuing authority has made a timely determination that the application is not complete in accordance with its requirements, properly notified the applicant and the applicant has not made a timely response to complete the application; (2) the issuing authority has determined that the final application contained false or misleading information; or (3) the issuing authority has determined that substantial changes to the project affect the information required to process the permit application have occurred since the filing of the application.

Section 5. The 180 or 210 day time period may be waived or extended for good cause upon written request of the applicant with the consent of the issuing authority or upon written request of the issuing authority with the consent of the applicant. The 180 or 210 day time period shall be extended without consent of the applicant if the issuing authority determines either: (1) that action by another federal, state or municipal government agency is required before the issuing authority may act; (2) that judicial proceedings affect the ability of the issuing authority or applicant to proceed with the application; or (3) that enforcement proceedings that could result in revocation of an existing permit for that facility or activity and denial of the application have been commenced. In those circumstances, the issuing authority shall provide written notification to the applicant and send a copy to the secretary of housing and economic development. When the reason for the extension is no longer applicable, the issuing authority shall immediately notify the applicant and shall complete its decision within the time period specified in this section, beginning the day after the notice is issued. An issuing authority shall not deny a permit exclusively due to a lack of time for

review if the applicant has provided a complete application and met all other obligations under this chapter.

Section 6. The commencement of the time period for an administrative or judicial appeal of a grant under section 3 shall be the date the applicant files notice of the grant under said section 3. The 180 or 210 day timeline shall not apply to an administrative appeal following the issuance of a permit.

Section 7. Nothing in this chapter shall be construed to alter the substantive jurisdictional authority of issuing authorities. Nothing in this chapter shall be construed to modify any requirement of the State Implementation Plan or other requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

Section 8. The secretary of housing and economic development shall promulgate rules and regulations to implement this chapter with the approval of the secretary of energy and environmental affairs. Any agency issuing permits under this chapter may issue rules and regulations to tailor this chapter to the specific permits issued by such agency.

SECTION 108. Clause Sixteenth of section 5 of chapter 59 of the General Laws is hereby amended by striking out paragraph (3), as amended by section 4 of chapter 173 of the acts of 2008, and inserting in place thereof the following paragraph:-

(3) In the case of (i) a manufacturing corporation or a research and development corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a) has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the commonwealth and whose sole member is a manufacturing corporation as defined in section 42B of chapter 63 or is engaged in research and development in the commonwealth and whose sole member is a research and development corporation as defined in said section 42B; and (c) is a disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned by the corporation or the limited liability company other than real estate, poles and underground conduits, wires and pipes; provided, however, that no property, except property entitled to a pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt from taxation if it is used in the manufacture or generation of electricity and it has not received a manufacturing classification effective on or before January 1, 1996. For the purposes of this section, a cogeneration facility shall be an electrical generating unit having power production capacity which, together with any other power generation facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes. For purposes of this paragraph, in determining whether the sole member of a limited liability company treated as a disregarded entity is a manufacturing corporation or a research and development corporation, the attributes and activities of the limited liability company shall be taken into account by the member along with the member's other attributes and activities. This clause as it applies to a research and development corporation, as defined in section 42B of said chapter 63, and as it applies to a limited liability company that is a disregarded entity and whose sole member

is a manufacturing corporation or a research and development corporation shall take effect only upon its acceptance by the city or town in which the real estate, poles and underground conduits, wires and pipes are located.

SECTION 109. Said section 5 of said chapter 59, as appearing in the 2008 Official Edition, is hereby amended by striking out clause Fifty-first and inserting in place thereof the following clause:-

Fifty-first, the value of a parcel of real property which is included within an executed agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv) of subsection (a) of section 60A of chapter 40, and the value of personal property situated on that parcel, but taxes on real and personal property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under section 59, section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than the period specified for the exemption in the agreement. The amount of the exemption under this clause for a parcel of real property shall be the exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the amount by which the parcel's value exceeds the product of its assessed value for the last fiscal year before it became eligible for exemption under this clause multiplied by the adjustment factor determined under said section 59, section 60 or section 60A of said chapter 40. The amount of the exemption under this clause for personal property shall be the exemption percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by the fair cash valuation of the personal property. Taxes on property eligible for exemption under this clause shall be assessed only on that portion of the value of the property that is not exempt under this clause.

SECTION 110. Said chapter 59 is hereby further amended by inserting after section 5L the following section:-

Section 5M. A gateway municipality, as defined in section 1 of chapter 40V, may, by vote of its legislative body, subject to the charter of the municipality, establish an exemption in an amount not less than 10 per cent and not more than 100 per cent of the incremental value of the market rate units contained in a certified housing development project within a housing development zone under chapter 40V, for a period of not less than 5 years and not more than 20 years. For the purposes of this section, 'market rate residential unit' shall mean a market rate residential unit as defined in section 1 of chapter 40V. Such exemption shall be approved by the department of housing and community development, as established in chapter 23B. The department shall promulgate applicable rules and regulations to carry out this section.

SECTION 111. Section 4 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words 'paragraph (b)', in line 32, the following words:- , excepting Part C taxable income derived from the sale of investments which: (1) are in a corporation which is domiciled in the commonwealth with a date of incorporation on or after January 1, 2011 which has less than \$50 million in assets

at the time of investment and complies with subsections (e)(1), (e)(2), (e)(5), and (e)(6) of Section 1202 of the Internal Revenue Service Code; and (2) are held for 3 years or more, which shall be taxed at a rate of 3 per cent; provided, however, that in order to qualify for the 3 per cent rate, such investments shall be made within 5 years of the date of incorporation and, to the extent consistent with the provisions of this subsection, shall be in stock in a corporation that satisfies the requirements for treatment as "qualified small business stock" under section 1202(c) of the federal Internal Revenue Code, without regard to the requirement that the corporation be a C corporation.

SECTION 112. Subsection (g) of section 6 of chapter 62 of the General Laws, inserted by section 21 of chapter 166 of the acts of 2009, is hereby amended by striking out paragraph (1) and inserting 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 section 31A or ceases to be used exclusively in a certified project before the end of the certified project's certification period, or if a certified project's certification is revoked, the recapture provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the certified project's certification period but before the end of such property's useful life, the recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified project's certification shall not require the application of the recapture provisions of subsection (e) of section 31A.

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 an annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from prior years pursuant to subsection (q)(5) of section 6 of this chapter and section 38BB(5) of said chapter 63, 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 under 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 these 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 \$10,000,000 for certified manufacturing retention projects as defined in said sections 3A and 3F of said chapter 23A. Any portion of the 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 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.

SECTION 113. Paragraph (1) of subsection (j) of said section 6 of said chapter 62, as appearing in the 2008 Official Edition, is hereby amended by striking out the figure '2011' and inserting in place thereof the following figure:- 2013.

SECTION 114. Said paragraph (1) of said subsection (j) of said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out the figure '2012' and inserting in place thereof the following figure:- 2014.

SECTION 115. Said section 6 of said chapter 62 is hereby further amended by adding the following subsection: -

(q) (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent awarded by the department of housing and community development established in chapter 23B, hereinafter referred to as 'DHCD', for a certified housing development project, as defined in chapter 40V, in an amount up to ten per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units within the projects, as defined in section 1 of chapter 40V. The credit under this subsection shall be allowed for the taxable year in which department of housing and community development gives the commissioner written notification of completion of the certified housing development project.

(2) Taxpayers eligible for the this credit may, with prior notice to and under regulations adopted by the commissioner of revenue, transfer the credits, in whole or in part,

to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself. If the sponsor of the certified housing development project is a partnership or a limited liability company taxed as a partnership, the credit, if transferred must be transferred by the partnership or the limited liability company. If the credits allowed to a partnership, a limited liability company taxed as a partnership or multiple owners of property are not transferred they shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity. Credits passed through to individual partners and members are not transferable.

(3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than 5 years after the taxable year in which department of housing and community development gives the commissioner written notification of completion of the certified housing development project. If the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee apply.

A transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the credit to the tax for any taxable year beginning more than 5 years after the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project.

(4) For any certified housing development project, qualified rehabilitation expenditures applicable to this credit shall be treated for purposes of this subsection as made on the date that DHCD gives the Commissioner written notification of completion of the certified housing development project.

(5) The total amount of credits that may be authorized by DHCD in a calendar year pursuant to this subsection and section 38BB of chapter 63 shall not exceed \$5,000,000 and shall include: (1) credits granted during the year pursuant to this subsection or said section 38BB of said chapter 63; (2) carry forwards of credits from prior years pursuant to this subsection or said section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the commissioner to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by the DHCD in a calendar year shall not be applied to awards in a subsequent year. The DHCD 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 an-

nual cap to the secretary of administration and finance and the secretary of housing and economic development.(6) The commissioner, in consultation with the DHDC, shall prescribe regulations necessary to carry out this subsection.

SECTION 116. Section 6I of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 70 and 71, the words ‘, if allocated a federal low income housing tax credit with respect to a project,’.

SECTION 117. Said section 6I of said chapter 62 is hereby further amended by striking out, in line 72, as so appearing, the words ‘the same’ and inserting in place thereof the following word:- a.

SECTION 118. Section 1 of chapter 62C, as amended by section 39 of chapter 131 of the acts of 2010, is hereby further amended by striking out the definition of ‘Tax credit program’ and inserting in place thereof the following definition:-

‘Tax credit program’, (i) the tax credit in subsection (j) of section 6 of chapter 62 and section 38Q of chapter 63; (ii) the dairy farmer tax credit in subsection (o) of said section 6 of said chapter 62 and the dairy farm tax credit in section 38Z of said chapter 63; (iii) the U.S.F.D.A. user fees credit in section 31M of said chapter 63 and subsection (n) of said section 6 of said chapter 62; (iv) the film tax credit in subsection (b) of section 38X of said chapter 63 and subsection (l) of said section 6 of said chapter 62; (v) the historic rehabilitation tax credit in section 38R of said chapter 63 and section 6J of said chapter 62; (vi) the life sciences investment tax credit in section 38U of said chapter 63 and subsection (m) of said section 6 of said chapter 62; (vii) the low-income housing tax credit in section 31H of said chapter 63 and section 6I of said chapter 62; (viii) the medical device tax credit in section 31L of said chapter 63 and section 6 1/2 of said chapter 62; (ix) the refundable research credit in subsection (j) of section 38M of said chapter 63; (x) the economic development incentive program in subsection (g) of said section 6 of said chapter 62 and section 38N of said chapter 63; and (xi) any transferrable or refundable credits under chapter 62 and 63 established on or after July 1, 2010.

SECTION 119. Subsection (b) of section 21 of chapter 62C of the General Laws, as amended by section 34 of chapter 27 of the acts of 2009, is hereby further amended by adding the following clause:-

(26) the disclosure to members of the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, established by Executive Order 499, of information relating to the classification by a business entity of individuals providing services to such business entity as employees or independent contractors, including but not limited to information relating to the business entity’s withholding or failure to withhold personal income tax pursuant to chapter 62B with respect to payments to particular individuals and the amount of any such payments or withholding.

SECTION 120. Subparagraph (b) of paragraph 5 of section 30 of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Losses sustained in any taxable year prior to January 1, 2010, may be carried forward for not more than 5 years

and may not be carried back. Losses sustained in any taxable year beginning on January 1, 2010 may be carried forward for not more than 20 years and may not be carried back.

SECTION 121. Clause (c) of said paragraph 5 of said section 30 of said chapter 63, as so appearing, is hereby amended by striking out subclause (iii).

SECTION 122. Said paragraph 5 of said section 30 of said chapter 63, as so appearing, is hereby further amended by adding the following 2 clauses:-

(d) A business corporation that incurs losses before the corporation becomes subject to tax liability in the commonwealth shall not be allowed to carry those losses forward under this section.

(e) Notwithstanding any other provision of this section, when a corporation is allowed to carry forward net operating losses under this section, the loss shall be determined and carried forward by multiplying the loss by the corporation's apportionment percentage as determined under this chapter for the taxable year in which the loss is sustained, with respect to the business that generated the loss and is to be deducted by the corporation from its taxable net income allocated or apportioned to the commonwealth. The commissioner shall adopt rules or regulations to implement this section and to coordinate the application of this section with the other provisions of this chapter.

SECTION 123. Paragraph (1) of subsection (c) of section 31H of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by striking out the words ‘, if allocated a federal low income housing tax credit with respect to a project,’.

SECTION 124. Said paragraph (1) of said subsection (c) of said section 31H of said chapter 63, as so appearing, is hereby further amended by striking out the words ‘the same’ and inserting in place thereof the following word:- a.

SECTION 125. Paragraph (3) of subsection (c) of section 32B of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by adding the following clause:-

(iv) Where a combined group determines its taxable net income or loss on a water's edge basis, an item of income of a corporation that is organized outside of the United States shall not be included in the combined group's taxable income to the extent that such item is exempt from United States federal income tax by virtue of a federal income tax treaty. Any items of expense and apportionment factors related to such item of exempt income shall be excluded in the determination of taxable net income or loss to the extent provided in regulations issued by the commissioner. However, any such item of exempt income shall be taken into account to determine whether the corporation is included in the water's edge group under clause (ii) or (iii). If a corporation organized outside of the United States is included in a water's edge combined group and has an item of income that is exempt from United States federal income tax by virtue of a federal tax treaty, the corporation shall be considered to be included in the combined group under that clause only with regard to any items of income described in that clause that are not so exempt, taking into account items of expense and apportionment factors associated with such items of non-exempt income to the extent provided by regulations issued by the commissioner. Nothing in this clause shall prevent the commissioner from adjusting, under sections 31I, 31J, 31K or 39A of this chapter, section 3A of chapter 62C, or any other provision of law, any deduction claimed by

the payer for amounts that are excluded from the combined group's taxable income under this clause. The commissioner may require the reporting of the amounts of such excluded income and the documentation of any claimed treaty exemption as conditions to be met by a payer claiming a deduction of such payments.

SECTION 126. Section 38N of said chapter 63 is hereby amended by striking out subsection (a), as appearing in section 23 of chapter 166 of the acts of 2009, and inserting in place thereof the following subsection:

(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 under this subsection for real property leased under an operating lease.

The total amount of credits that may be authorized by the economic assistance coordinating council in a calendar year under subsection (g) of section 6 of chapter 62 and this section shall not exceed an annual cap equal to \$25,000,000 minus the credits granted and carryforwards of credits from prior years under subsection (5) of section 38BB of this chapter and paragraph (5) of subsection (q) of section 6 of chapter 62 and shall include: (1) refundable credits granted during the year under said subsection (g) of said section 6 of said chapter 62 or this section; (2) nonrefundable credits granted during the year under 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 under 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 these 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 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 section 31A or ceases to be used exclusively in a certified project before the end of the certified project's certification period, or if a certified project's certification is revoked, the recapture provisions of subsection (e) of section 31A shall apply. If such property is disposed of after the certified project's certification period but before the end of such property's useful life, the recapture provisions of subsection (e) of section 31A shall apply. The expiration of a certified project's certification shall not require the application of the recapture provisions of subsection (e) of section 31A.

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.

SECTION 127. Section 38Q of said chapter 63, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 3, the figure '2011' and inserting in place thereof the following figure:- 2013.

SECTION 128. Said section 38Q of said chapter 63, as so appearing, is hereby further amended by striking out, in line 8, the figure '2012' and inserting in place thereof the following figure:- 2014.

SECTION 129. Said chapter 63 is hereby further amended by inserting after section 38AA the following section: -

Section 38BB. (1) A credit shall be allowed against the tax liability imposed by this chapter, to the extent awarded by the department of housing and community development, in this section referred to as 'DHCD', established in chapter 23B, for a certified housing development project, as defined in chapter 40V, in an amount up to 10 per cent of the cost of qualified substantial rehabilitation expenditures of the market rate units within the project, as defined in section (1) of chapter 40V. The credit under this section shall be allowed for the taxable year in which DHCD gives the commissioner of revenue written notification of completion of the certified housing development project.

(2) Taxpayers eligible for the this credit may, with prior notice to and under regulations adopted by the commissioner of revenue transfer the credits, in whole or in part, to any individual or entity, and the transferee shall be entitled to apply the credits against the tax with the same effect as if the transferee had incurred the qualified rehabilitation expenditures itself.

(3) If the credit allowable for any taxable year exceeds the taxpayer's tax liability for that tax year, the taxpayer may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the taxpayer apply the credit to the tax for any taxable year beginning more than 5 years after the taxable year in which DHCD gives the commissioner written notification of completion of the certified housing development project. If the credit is transferred by the taxpayer, the carry over provisions applicable to the transferee shall apply.

A transferee shall use the credit in the year it is transferred. If the credit allowable for any taxable year exceeds the transferee's tax liability for that tax year, the transferee may carry forward and apply in any subsequent taxable year, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the transferee apply the credit to the tax for any taxable year beginning more than 5 years after the taxable year in which DHCD gives the commissioner of revenue written notification of completion of the certified housing development project.

(4) For any certified housing development project, qualified rehabilitation expenditures applicable to this credit shall be treated for purposes of this section as made on the date that DHCD gives the commissioner of revenue written notification of completion of the certified housing development project.

(5) The total amount of credits that may be authorized by DHCD in a calendar year under this section and subsection (q) of section (6) of chapter 62 shall not exceed \$5,000,000 and shall include: (1) credits granted during the year under this section or said subsection (q) of section (6) of chapter 62; (2) carry forwards of credits from prior years under this section or said subsection (q) of section (6) of chapter 62, to the extent that such credit carry forwards are estimated by the commissioner of revenue to offset tax liabilities during the year. Any portion of the \$5,000,000 annual cap not awarded by DHCD in a calendar year shall not be applied to awards in a subsequent year. DHCD 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.

(6) The commissioner of revenue, in consultation with DHCD, shall adopt regulations necessary to carry out this section.

SECTION 130. Section 45 of chapter 75 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 15, the words 'director of

business and technology' and inserting in place thereof the following words:- secretary of housing and economic development.

SECTION 131. Said section 45 of said chapter 75, as so appearing, is hereby further amended by striking out, in line 19, the words, 'department of business technology' and inserting in place thereof the following words:- Massachusetts office of business development.

SECTION 132. Said section 45 of said chapter 75, as so appearing, is hereby further amended by striking out, in lines 25 to 27, inclusive, the words 'director of business and technology, or his designee, the director of science and technology within the department of business and technology and 7' and inserting in place thereof the following words:- secretary of housing and economic development, who shall serve as chair, the executive director of the Massachusetts development finance agency, the president of the Massachusetts life sciences center, the executive director of the Massachusetts clean energy center, the director of the John Adams Innovation Institute, the president of the Massachusetts Technology development corporation and 8.

SECTION 133. Said chapter 75 is hereby further amended by inserting after section 45 the following section:-

Section 45A. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 134. Section 184B of chapter 94 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of 'Food department' and inserting in place thereof the following definition:-

'Food department', any seller other than a food store or warehouse club with any grocery item section, area, or display and which sells one hundred or more different food items for consumption off the seller's premises at least in part to individuals for their own personal, family, or household use; provided, however, that any food section which is within a larger business and is the functional equivalent of a supermarket with its own separate checkout, may be deemed a food store by the director of standards.

SECTION 135. Said section 184B of said chapter 94, as so appearing, is hereby further amended by striking out the definition of 'Food store' and inserting in place thereof the following definition:-

'Food store', any store, shop, supermarket, grocer, convenience store, or other seller whose primary business is selling either food for consumption off the seller's premises alone or in combination with grocery items or other nondurable items typically found in a supermarket, and such items are sold at least in part to individuals for their own personal, family, or household use. For purposes of this section and sections 184C to 184E, a warehouse club shall not be considered a food store.

SECTION 136. The definition of 'Food store' in said section 184B of said chapter

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94 is hereby amended by striking out the words 'For purposes of this section and sections 184C to 184E, a warehouse club shall not be considered a food store, inserted by section 135 .

SECTION 137. Section 184B of said chapter 94, as so appearing, is hereby further amended by adding the following definition:-

'Warehouse club', a retail store in which customers pay annual membership fees in order to purchase items at member-only prices.

SECTION 138. The definition of 'Warehouse club' in said section 184B of said chapter 94 is hereby repealed.

SECTION 139. Section 12 of said chapter 138, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The local licensing authority of any city or town wherein the granting of licenses under this section is authorized, notwithstanding any limitation on the number of licenses the city or town is authorized to grant in section 17, may grant a license to the holder of a farmer-winery license under section 19B or from any other state for service to travelers, strangers, and other patrons and customers who are at least 21 years of age, such wine to be served and drunk on the premises of the winery at such locations on the premises of the farm as the local licensing authority may deem reasonable and proper. For purposes of this section, a farm shall have the meaning ascribed to it in section 1A of chapter 128.

SECTION 140. Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the figure '19C', in line 18, the following words:- , or to an applicant licensed to operate as a farmer-winery under said section 19B or in any other state.

SECTION 141. Said section 15 of said chapter 138, as so appearing, is hereby further amended by inserting after the word 'fee', in line 47, the following words:- and nothing shall prohibit the local licensing authority from establishing reduced fees for special licenses issued under section 15F.

SECTION 142. Said chapter 138 is hereby further amended by inserting after section 15A the following section:-

Section 15F. Notwithstanding any other provision of chapter 138, in any city or town wherein the granting of licenses to sell wine is authorized under this chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-winery under section 19B or in any other state, a special license for the sale of wine produced by or for the licensee in sealed containers for off-premise consumption at an indoor or outdoor agricultural event. All sales of wine shall be conducted by an agent, representative, or solicitor of the licensee to customers who are at least 21 years of age. A licensee under this section may provide, without charge, samples of wine to prospective customers at an indoor or outdoor agricultural event. All samples of wine shall be served by an agent, representative, or solicitor of the licensee to individuals who are at least 21 years of age and all samples shall be consumed in the presence of such agent, representative, or solicitor of the licensee; pro-

vided, however, that no sample shall exceed one (1) ounce of wine and no more than 5 samples shall be served to an individual prospective customer. For the purposes of this section, the term ‘agricultural event’ shall be limited to those events certified by the department of agricultural resources as set forth in this section.

An applicant for a special license under this section shall first submit a plan to the department of agricultural resources that shall demonstrate that the event is an agricultural event. The plan shall include a description of the event, the date, time and location of the event, a copy of the operational guidelines or rules for the event, written approval that the prospective licensee has been approved as a vendor at the event, including the name and contact information of the on-site manager, and a plan depicting the premises and the specific location where the license will be exercised.

Upon review of the plan, the department may certify that the event is an agricultural event; provided, however, that in making that determination, the department shall consider the following factors: (i) operation as a farmers’ market or agricultural fair approved or inspected by the department; (ii) frequency and regularity of the event, including dates, times and locations; (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager; (vi) training of the on-site manager; (vii) operational guidelines or rules, which shall include vendor eligibility and produce source; (viii) focus of event on local agricultural products grown or produced within the market area; (ix) types of shows or exhibits, including those which are described in clause (f) of the first paragraph of section 2 of chapter 128; and (xi) sponsorship or operation by an agricultural or horticultural society organized under the laws of the commonwealth, or by a local grange organization and/or association whose primary purpose is the promotion of agriculture and its allied industries. The department of agricultural resources may promulgate rules and regulations necessary for the operation, oversight, approval, and inspection of agricultural events under this section.

An applicant for a license under this section shall file with the local licensing authority along with its application proof of certification from the department of agricultural resources that the event is an agricultural event. A special license under this section shall designate the specific premises, and dates and times covered. A special license may be granted for an indoor or outdoor agricultural event which takes place on multiple dates and/or times during a single calendar year but no special license shall be granted for an agricultural event that will not take place within 1 calendar year. The special license shall be displayed conspicuously by the licensee at the licensed premises. A copy of a special license granted by the local licensing authority shall be submitted by the authority to the commission at least 7 days prior to the date the agricultural event is first scheduled to begin. The local licensing authority may charge a fee for each special license granted, but such fee shall not exceed fifty \$50. A special license granted under this section shall be nontransferable to any other person, corporation, or organization and shall be clearly marked nontransferable on its face.

The commission may promulgate rules and regulations it deems appropriate to effectuate the purposes of this section.

SECTION 143. Section 17 of said chapter 138, as so appearing, is hereby amended by adding the following paragraph:

In addition to the number of licenses otherwise authorized to be granted pursuant to this section, a city or town may grant additional licenses under sections 12, 15 or 15F to the holder of a farmer-winery license under section 19B or in any other state for the sale of wine produced by or for the applicant. A license granted by a city or town under said section 12, 15 or 15F shall not be include as a license for purposes of determining the number of licenses allowed to be granted by a city or town under this section. A license granted pursuant to this paragraph shall be nontransferable to any other person, corporation or organization and shall be clearly marked nontransferable on its face.

SECTION 144. Section 19B of said chapter 138, as so appearing, is hereby amended by inserting after the word ‘section’, in line 97, the following words:- 15, 15F or

SECTION 145. Said section 19B of said chapter 138, as so appearing, is hereby further amended by striking out, in line 99, the word ‘and’, the second time it appear.

SECTION 146. Said section 19B of said chapter 138, as so appearing, is hereby amended by inserting after the word ‘country’ in line 100,, the following word:-

(5) at retail by the glass or bottle to be consumed on the premises prescribed by a license issued by local authority pursuant to section twelve of this chapter.

SECTION 147. Said section 19B of said chapter 138, as so appearing, is hereby further amended by striking out subsection (h) and inserting in place thereof the following words:-

(h) A winegrower shall not sell at retail to consumers any wine or winery product not produced by or for the winery and sold under the winery brand name. All retail sales shall be made on the winery premises, except where a winegrower obtains additional licenses for the sale of wine to consumers at additional locations off the winery premises at locations authorized by a license issued pursuant to sections 15 and 15F.

SECTION 148. Section 52C of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph: -

An employer shall notify an employee within 10 days of the employer placing in the employee’s personnel record any information to the extent that the information is, has been used or may be used, to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject todisciplinary action. An employer receiving a written request from an employee shall provide the employee with an opportunity to review such employee’s personnel record within 5 business days of such request. The review shall take place at the place of employment and during normal business hours. An employee shall be given a copy of the employee’s personnel record within 5 business days of submission of a written request for such copy to the employer. An employer shall not be required to allow an employee to review the employee’s personnel record on more than 2 separate occasions in a calendar year;

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provided, however, that the notification and review caused by the placing of negative information in the personnel record shall not be deemed to be 1 of the 2 annually permitted reviews.

SECTION 149. Section 1H of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out the definition of the word 'department' and inserting in place thereof the following definition:-

'Department', the department of public utilities.

SECTION 150. Section 14 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words 'and 30' and inserting in place thereof the following words:- , 30 and 30A.

SECTION 151. Said section 2 of said chapter 167F, as so appearing, is hereby amended by inserting after paragraph 30 the following paragraph: --

30A. To participate in the activities of the Massachusetts Growth Capital Corporation created under chapter 40W by making capital available to the corporation by making an investment or deposit in or grant to said corporation, an affiliate or subsidiary of said corporation or any fund managed by said corporation.

SECTION 152. The first paragraph of section 168 of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the sixth sentence the following sentence:-

Any insurance policy procured under this section shall contain the following disclosure notice to the policyholder: This policy is insured by a company which is not admitted to transact insurance in the commonwealth, is not supervised by the commissioner of insurance and, in the event of an insolvency of such company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund under chapter 175D. The commissioner may by regulation amend the foregoing disclosure notice.

SECTION 153. Said section 168 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 61, the word 'or'.

SECTION 154. Said section 168 of said chapter 175, as so appearing, is hereby further amended by inserting after the figure '20A,' in line 65, the following words:- ; or (c) such company is an eligible alien unauthorized insurer, as defined in section 168A.

SECTION 155. Said chapter 175 is hereby further amended by inserting after section 168 the following section:-

Section 168A. (a) As used in this section "eligible alien unauthorized insurer" shall mean a company formed under the laws of any government or state other than the United States or 1 of its states or its territories that has filed an application with the commissioner under clause (4) of subsection (c), which application has been approved by the commissioner.

(b) Notwithstanding any general or specific law to the contrary, a special broker licensed by the commissioner pursuant to section 168 of this chapter may procure insurance from any company formed under the laws of any government or state other than the United

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States or one of its states or its territories that is not authorized to transact business in the commonwealth if:

(1) such company has been determined by the commissioner to be an eligible alien unauthorized insurer pursuant to clause (4) of subsection (c);

(2) the special broker has executed and filed an affidavit with the commissioner within 20 days after procuring such insurance stating that the full amount or type of insurance cannot be obtained from among companies admitted to transact insurance in the commonwealth after a diligent effort has been made to do so and that the amount of insurance procured in such company is only the excess over the amount so procurable from admitted companies;

(3) the procured policy contains the disclosure notice required by section 168; and

(4) all other requirements of this section and section 168 that are not inconsistent with this subsection have been met.

Insurance procured under this section shall be valid and enforceable as to all parties.

Nothing in this section shall be deemed to amend or modify any of the provisions of, or any of the exemptions specified in, section 168 that are inconsistent with this section.

(c) No company shall be determined to be an eligible alien unauthorized insurer unless it:

(1) has provided satisfactory evidence to the commissioner of its good reputation and financial integrity;

(2) has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction in an amount not less than \$20,000,000;

(3) has in force a United States trust fund of not less than the greater of:

(i) \$5,400,000; or

(ii) a percentage of its United States surplus lines gross liabilities arising from business written on or after January 1, 1998, excluding aviation, wet marine, transportation insurance and direct procurement placements, such percentage to equal to the percentage and subject to any cap employed by the International Insurers Department of the National Association of Insurance Commissioners, as of December 31 next preceding the date of determination, where: (A) the liabilities are maintained in an irrevocable trust account in the United States in a qualified financial institution, on behalf of United States policyholders consisting of cash, securities, letters of credit or other investments of substantially the same character and quality as those which are eligible investments under this chapter for the capital and statutory reserves of admitted insurers to write like kinds of insurance in the commonwealth; provided, however, that the trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall satisfy the requirements of the Standard Form Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners; (B) the company may request approval from the commissioner to use the trust fund to pay valid surplus lines claims; provided, however, that the balance of the trust fund shall never be less than the minimum amount required by this subsection; and (C) in calculating the trust fund amount

required by this subsection, credit shall be given for surplus lines deposits separately required and maintained for a particular state or territory of the United States, not to exceed the amount of the company's loss and loss adjustment reserves in that particular state or territory; and

(4) has submitted to the commissioner an application evidencing the company's compliance with the requirements of this section that has been approved by the commissioner.

(d) The application required by clause (4) of subsection (c) shall be on forms issued or approved by the commissioner and shall include the following information regarding the alien unauthorized insurer applicant:

(1) evidence that the unauthorized alien insurer has been listed by the International Insurers Department of the National Association of Insurance Commissioners;

(2) a certified audited financial statement of the eligible alien unauthorized insurer reflecting information as of a date not more than 12 months prior to the submission of the application evidencing compliance with the capital and surplus requirements of clause (2) of subsection (c) and an actuarial opinion as to the adequacy of and methodology used to determine the insurer's loss reserves;

(3) a copy, certified by the trustee, of the United States trust agreement required by clause (3) of subsection (c) prepared in accordance with the National Association of Insurance Commissioner's Standard Form Trust Agreement for Alien Excess or Surplus Lines Insurers;

(4) a copy, certified by the trustee, of the most recent quarterly statement of account or list of assets in the trust account required by clause (3) of subsection (c) evidencing that the alien unauthorized insurer has in force, as of the end of the most recent quarter, assets in the amounts required by said clause (3) of said subsection (c);

(5) a certified copy of the eligible alien unauthorized insurer's current license or certificate of authority issued by its domiciliary jurisdiction indicating that the company is authorized to insure the types of risks in its domiciliary jurisdiction that it proposes to insure in the commonwealth;

(6) a certificate of good standing or substantially similar documentation issued by the eligible alien unauthorized insurer's domiciliary jurisdiction;

(7) biographical affidavits, on forms promulgated by the National Association of Insurance Commissioners or approved by the commissioner for all executive officers, directors and senior management personnel of the eligible alien unauthorized insurer, prepared not more than 12 months prior to the submission date of the application required by clause (4) of subsection (c); and

(8) such additional information as the commissioner may require in order to determine that the eligible alien unauthorized insurer complies with the requirements of this section.

(e) The commissioner may refuse to approve an application under this section if the

commissioner determines that such refusal will be in the public interest. In reviewing an application, the commissioner may consider:

(1) the length of time the insurer has been authorized in its domiciliary jurisdiction and elsewhere;

(2) the unavailability of the particular coverages from authorized insurers or unauthorized insurers meeting the requirements of this section and section 168; .

(3) the size of the company as measured by its assets, capital and surplus, reserves, premium writings, insurance in force or other appropriate criteria;

(4) the kinds of business the company writes, its net exposure and the extent to which the company's business is diversified among several lines of insurance and geographic locations; and

(5) the past and projected trend in the size of the company's capital and surplus considering such factors as premium growth, operating history, loss and expense ratios or other appropriate criteria

(f) The commissioner may revoke a company's status as an eligible alien unauthorized insurer in accordance with the terms and conditions of section 5 the commissioner has determined that the insurer:

(1) is in unsound financial condition or has acted in an untrustworthy manner;

(2) no longer meets the standards in subsection (c);

(3) has willfully violated the laws of the commonwealth; or

(4) does not conduct a proper claims practice.

SECTION 156. Section 21 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, lines 6 and 35, the following words, 'two thousand dollars' and inserting in place thereof, in each instance, the following figure:- \$7,000.

SECTION 157. Section 22 of said chapter 218, as so appearing, is hereby amended by adding the following paragraph:-

The procedure shall include the beginning of actions with an entry fee of \$30 for claims of \$500 or less, \$40 for claims of greater than \$500 but less than or equal to \$2000, \$90 for claims of greater than \$2000 but less than or equal to \$5000, and \$140 for claims greater than \$5000, plus the surcharge required by section four C of chapter two hundred and sixty-two, but without summons and complaint and without requirement, except by special order of court, of any pleading other than a concise written statement of the claim.

SECTION 158. Chapter 465 of the acts of 1956 is hereby amended by inserting after section 21 the following section:-

Section 21A. The authority shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

SECTION 159. The fourth paragraph of section 15 of chapter 701 of the acts of 1960, as most recently amended by chapter 167 of the acts of 1990, is hereby amended by striking out, in line 4, the word 'ten' and inserting in place thereof the figure:- 25.

SECTION 160. Section 3 of chapter 614 of the acts of 1968 is hereby amended by inserting before the definition of 'Authority', the following definition:-

‘Agency’, the Massachusetts Development Finance Agency established by chapter 23G, as amended.

SECTION 161. Subsection (a) of section 4 of chapter 614 of the acts of 1968, as amended by section 6 of chapter 454 of the acts 1969,, is hereby further amended by striking out the fourth, fifth, sixth, seventh and eighth sentences and inserting in place thereof the following sentence:- Said authority shall be governed by the board of the Massachusetts Development Finance Agency as established by section 2 of chapter 23G and the board members of the agency shall serve as trustees for any existing authority trust.

SECTION 162. Section 4 of said chapter 614 of the acts of 1968 is hereby repealed.

SECTION 163. Subsection (b) of said section 4 of said chapter of chapter 614 of the acts of 1968, as amended is hereby further amended by adding the following sentence: The executive director, assistant executive director, and any other employees of the Authority who act as trustees for any trust established under the authority granted by this chapter shall not approve matters in their capacity as trustees without first receiving approval from the board.

SECTION 164. Chapter 190 of the acts of 1982 is hereby amended by inserting after section 40 the following section:-

Section 40A. The Authority shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

SECTION 165. Section 6 of chapter 528 of the acts of 1990, as amended by section of chapter 131 of the acts of 2010, is hereby further amended by striking out the words ‘August 1,2010’ and inserting in place thereof the following ‘September 30, 2010.’

SECTION 166. Section 64 of chapter 365 of the acts of 1996, as amended by chapter 352 of the acts of 2004, is hereby amended by adding the following sentence:-

The corporation shall be subject to section 16G of chapter 6A and section 56 of chapter 23A of the General Laws.

SECTION 167. Notwithstanding any general or special law to the contrary, within 4 years of the effective date of this act, each agency shall review the agency’s rules and regulations currently existing to determine whether such rules and regulations should be continued without change or should be amended or rescinded to minimize economic impact of those rules and regulations on small businesses in a manner consistent with the stated objective of applicable statutes. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date the agency shall publish a statement certifying that determination. The agency may extend the completion date by 1 year at a time for a total of not more than 5 years.

SECTION 168. The state secretary shall immediately notify all agencies required to file rules or regulations under section 5 of chapter 30A of the General Laws of the new requirements regarding small business impact statements.

SECTION 169. Notwithstanding any other general or special law to the contrary a

stock purchase agreement between the commonwealth and Community Development Finance Corporation in existence on the effective date of this act which contains outstanding obligations on the part of the commonwealth and which has been pledged as security for the payment of debt obligations issued by the Community Development Finance Corporation which are also outstanding on the effective date of this act shall continue to constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth remains pledged for the benefit of the Community Development Finance Corporation and of the holders of said debt obligations of the Community Development Finance Corporation until the terms of said debt obligations are satisfied.

SECTION 170. The secretary of housing and economic development, in consultation with the economic assistance coordinating council, shall promulgate regulations that reflect the changes implemented in section 74A of this act.

SECTION 171. Notwithstanding any other general or special law to the contrary, the pension reserves investment management board established under section 23 of chapter 32 of the General Laws shall review its investment portfolio and to the extent it is reasonably possible it shall invest not less than \$25,000,000 and not more than \$50,000,000 in banks or financial institutions which make capital available to small businesses under the guidelines of subdivision (7) of section 23 of chapter 32 of the General Laws and shall make such investment a priority of the portfolio as long as such investment is consistent with sound investment policy.

SECTION 172. To meet the expenditures necessary in carrying out section 2B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$75,000,000. All such bonds issued by the commonwealth shall be designated on their face, Job Creation by Small Business Act of 2010, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2045. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

SECTION 173. Notwithstanding any general or special law to the contrary, certain regulatory approvals are hereby extended as provided in this section.

(a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

‘Approval’ except as otherwise provided in subsection (b), any permit, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of the municipal, regional or state governmental entity,

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concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law or ordinance.

‘Development’, division of a parcel of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of a building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

‘Tolling period’, the period beginning August 15, 2008, and continuing through August 15, 2010.

(b) (1) Notwithstanding any general or special law to the contrary, an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval.

(2) Nothing in this section shall be deemed to extend or purport to extend:

(i) a permit or approval issued by the government of the United States or an agency or instrumentality of the government of the United States or to a permit or approval, of which the duration of effect or the date or terms of its expiration are specified or determined by or under law or regulation of the federal government or any of its agencies or instrumentalities;

(ii) a comprehensive permit issued by a board of appeals under sections 20 to 23, inclusive, of chapter 40B of the General Laws; or;

(iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife under chapter 131 for hunting, fishing or aquaculture.

(3) Nothing in this section shall affect the ability of a municipal, regional or state governmental entity, including an agency, department, commission or other instrumentality of a municipal, regional or state governmental entity to revoke or modify a specific permit or approval or extension of a specific permit or approval under this section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.

(4) In the event that an approval tolled under this section is based upon the connection to a sanitary sewer system, the approval’s extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this section. Priority regarding the distribution of further gallonage to a permit holder who has received the extension of an approval under this section

shall be allocated in order of the granting of the original approval of the connection.

(5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for an approval to receive an extension, all commitments made by the original owner or petitioner under the terms of the permit must be upheld by the new owner or petitioner. If the new owner or petitioner does not meet or abide by those commitments then the approval shall not be extended under this section.

(6) Nothing in this section shall be construed or implemented in such a way as to modify a requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

SECTION 174. Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 175. Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 14, 2010 and August 15, 2010. An excise erroneously or improperly collected during the days of August 14, 2010 and August 15, 2010, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 176. Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 14, 2010, and August 15, 2010.

SECTION 177. On or before December 31, 2010, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, without this act.

SECTION 178. The commissioner of revenue shall issue instructions or forms or promulgate rules or regulations, necessary for the implementation of this act.

SECTION 179. Eligible sales at retail of tangible personal property under sections 175 and 176 are restricted to those transactions occurring on August 14, 2010 and August 15, 2010. Transfer of possession of or payment in full for the property shall occur on 1 of those days, and prior sales or layaway sales shall be ineligible.

SECTION 180. (a) There shall be a commission to study the feasibility of establishing a bank owned by the commonwealth or by a public authority constituted by the commonwealth.

(b) The commission shall consist of the secretary for administration and finance and the secretary of housing and economic development or their respective designees, who shall serve as co-chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller or the comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of whom shall be a member of the senate; 1 person to be appointed by the minority leader of the senate; 2 persons to be appointed by the speaker of the house of representatives; 1 of whom shall be a member of the house of representatives; 1 person to be appointed by the minority leader of the house; the executive directors of the Massachusetts Development Financing Agency and the Massachusetts Housing Finance Agency or their designees; president of the Massachusetts Growth Capital Corporation or the president's designee; and 8 persons to be appointed by the governor who shall not be employees of the executive branch, 3 of whom shall be drawn from a list of 5 names submitted by the Massachusetts Bankers Association, at least 1 of whom shall be a representative of a community bank operating in the commonwealth, 1 of whom shall be drawn from a list of 3 names submitted by the Associated Industries of Massachusetts, 1 of whom shall be drawn from a list of 3 names submitted by the Small Business Association of New England and 1 of whom shall be a professor at an institution of higher education in the commonwealth who has researched and published articles on banking. Of the governor's remaining appointments, not more than 1 may be a representative of a financial services firm located in the commonwealth. The governor shall ensure geographic diversity in the governor's appointments to the commission. The members of the commission shall be appointed not later 90 days after the effective date of this act.

(c) The commission shall examine the technical, legal and financial feasibility of establishing a commonwealth-owned bank, including but not limited to a commonwealth-owned bank for infrastructure investment purposes. The commission shall seek participation in its deliberations from the president of the Federal Reserve Bank of Boston or the president's designee. The commission shall evaluate the experiences of other states with state-owned banks, identifying the financial performance of such banks and evaluating the lending practices of such banks to show whether such banks successfully fill lending gaps not filled by the private sector. The commission shall also evaluate the manner in which public funds are invested or deposited by the commonwealth and its political subdivisions including funds managed by the state treasurer; the Massachusetts Municipal Depository Trust and state and local pension funds. The commission shall examine the infrastructure investment activities conducted by other states with state-owned banks. The

commission shall also examine the lending practices, including lending to support infrastructure, of the existing public agencies in the commonwealth that perform lending services. The Massachusetts development finance agency, Massachusetts Housing Finance Agency, Health and Educational Facilities Authority, Massachusetts Growth Capital Corporation and any other public authority in the commonwealth that lends money shall cooperate fully with the commission and shall supply information reasonably required by the commission to carry out its charge.

(d) The commission shall hold at least 3 public hearings in distinct geographic regions of the commonwealth.

(e) The commission shall publish its findings and recommendations, together with drafts of legislation, if any, necessary to carry those recommendations into effect, in a written report not later than 1 year after the effective date of this act. The report shall be published on the official website of the commonwealth, and shall be contemporaneously filed with the house and senate committees on ways and means and the house and senate chairs of the joint committee on financial services.

SECTION 181. There shall be a commission to develop an index of creative and innovative education in the public schools. The commission shall consist of the commissioner of elementary and secondary education, the secretary of housing and economic development, the secretary of labor and workforce development, or their designees, the executive director of the Massachusetts cultural council, 3 members to be appointed by the senate who shall reside in different geographic regions, 3 members to be appointed by the house who shall reside in different geographic regions and 5 persons to be appointed by the governor who shall reside in different geographic regions, 1 of whom shall be a representative of the Massachusetts Advocates for the Arts, Sciences and Humanities, 1 of whom shall be a representative of the Associated Industries of Massachusetts and 1 of whom shall be a representative of the Massachusetts Business Roundtable. Each of the members shall be an expert or have experience in the fields of education, public policy, artistic development, workforce development or cultural development. The members of the commission shall be appointed no later than 30 days after the effective date of this act.

In the course of its deliberations, the commission shall develop recommendations on how to produce and implement an index of creative and innovative education in the public schools, what funding or finance measures the commonwealth would need to implement that index and any recommendations for interagency agreements, intermunicipal agreements or other cooperative agreements that would be required to foster creative and innovative education programs in the public schools. The index shall rate every public school on teaching, encouraging and fostering creativity in students. The index shall be based in part on the creative opportunities in each school as measured by the availability of classes and before-school and after-school programs offered by and through school districts that provide creative opportunities for students including, but not limited to, arts education, debate clubs, science fairs, theatre performances, concerts, filmmaking and independent research.

The commission shall measure and encourage skill building in increasingly critical areas to employers such as creativity, creative thinking skills, innovation and teamwork. The commission may hold public hearings to assist in the collection and evaluation of data and testimony. The commission shall complete a written report detailing any factors to be considered in the index and any financial measures that would be necessary for implementation. The commission shall submit a report to the governor, the clerks of the senate and house of representatives, the joint committee on tourism, arts and cultural development and the joint committee on education not later than December 31, 2010.

Any research, analysis or other staff support that the commission reasonably requires shall be provided by the department of elementary and secondary education, the executive office of housing and economic development and the executive office of labor and workforce development, in cooperation with the Massachusetts cultural council.

SECTION 182. There shall be a commission to study on alternative, dependable sources for funding tourist visitor centers in order to improve tourism throughout the commonwealth.

The commission shall be chaired jointly by the executive director of travel and tourism or the executive director's designee and the executive director of business development or the executive director's designee. The commission shall also include the house and the senate chairs of the joint committee on tourism, arts and cultural development or their designees, 1 representative from the Massachusetts Visitor Industry Council, and 5 additional members to be appointed by the governor who shall be from geographically diverse areas and each of whom is a representatives of a regional tourism council, including the Berkshire Hills Visitors Bureau, the Southeastern Massachusetts Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the MetroWest Tourism and Visitor's Bureau, the Johnny Appleseed Trail Association, Inc., the Hampshire County Tourism and Visitor's Bureau, and the Nantucket Island Chamber of Commerce.

The study shall include but not be limited to effects of funding cuts on staffing and services, as well exploring alternative, dependable sources to fund tourist centers. The commission shall report the results of the study to the office of travel and tourism, the office of business development, the joint committee on tourism, arts and cultural development, and the house and senate committees on ways and means no later than December 31, 2010.

SECTION 183. Notwithstanding any other general or special law to the contrary. The Executive Office of Labor and Workforce Development shall partner with the Department of Higher Education and the Department of Veteran Services to study and report back its finding on the feasibility of creating a program to give returning veterans opportun-

ities to attend community colleges and technological trade programs within the Commonwealth that will assist veterans with already acquired technical skills from military service and assist them in transitioning those skills into a civilian workforce setting. The findings of said report are due by December 31, 2010.

SECTION 184. The Massachusetts Growth Capital Corporation established pursuant to chapter 40W shall examine the Massachusetts opportunity rebuilding and expansion infrastructure program as filed in the 2009-2010 legislative session and make legislative recommendations for filing and action on the implementation of said program to the clerks of the house of representatives and senate before July 31, 2011.

SECTION 185. Notwithstanding any general or special law to the contrary, the executive office of housing and economic development, in consultation with the executive office of energy and environmental affairs, shall conduct a study on the costs and benefits of recent electricity market reforms. The study shall include, but not be limited to:

(i) an analysis of the economic and reliability implications of implementing administrative, regulatory and legislative mandates as they pertain to electricity;

(ii) the extent to which these mandates impact the rates paid by residential, commercial and industrial customers in the commonwealth and contribute to the bill savings realized by these customers; and

(iii) the extent to which these mandates contribute to economic development in the state.

The study shall be completed with stakeholder input, including representatives from various sectors of the commonwealth's economy. The study shall be completed and submitted to the joint committee on telecommunications, utilities and energy and the joint committee on economic development and emerging technologies no later than December 31, 2010.

SECTION 186. Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency shall establish fees under clause (16) of section 3 of chapter 23G of the General laws for fiscal years 2011, 2012 and 2013 that are no higher than the fees charged by that agency or the Massachusetts Health and Educational Facilities Authority in fiscal year 2010. For those 3 fiscal years, the requirement to hold a public hearing in said clause (16) of said section 3 shall be suspended. The Massachusetts Development Finance Agency shall use all reasonable efforts to ensure that any additional revenue realized in those 3 fiscal years resulting from changes in chapter 23G in this act shall be used by the agency to expand the availability of the agency's programs.

SECTION 187. Notwithstanding any general or special law to the contrary, the term the 'Massachusetts Health and Educational Facilities Authority' or 'HEFA', wherever either appears in a general or special law, except as they appear in this act, shall mean the 'Massachusetts Development Finance Agency'; provided, however, that such change of reference shall not restrict or limit in any manner the exercise by the Massachusetts Development Finance Agency of its rights, powers, duties or purposes, or to its ownership

and holding of properties and assets under chapter 23G or any other provision of law applicable to the Massachusetts Development Finance Agency, including without limitation the power of the Massachusetts Development Finance Agency to issue bonds under said chapter 23G or under any such other provision.

SECTION 188. (a) On October 1, 2010, the Massachusetts Health and Educational Facilities Authority, as established by section 4 of chapter 614 of the acts of 1968, shall be dissolved, without any further action, and the rights, powers and duties, and properties of the Authority shall on and after such date be exercised, performed, owned and held by the Massachusetts Development Finance Agency as established by chapter 23G, as amended. All real estate, property rights, personal property, funds, moneys, revenues, receipts, contract rights, trust agreements, any rights or interests of the Authority in any trusts or trust property, or other intangible assets, equipment or other ownership, possessory, or security interests or mortgages of any kind whatsoever, or any portion thereof held by the Authority, including, without limitation, funds previously appropriated by the commonwealth for the Authority, shall be deemed for record notice and otherwise, as applicable, to belong to the Agency on the same basis and with the same interest as previously held by the Authority, as applicable. Any and all obligations and liabilities of said Authority shall become obligations and liabilities of the Agency. Any resolution taken by or commitment made by the Authority with respect to any financing, including loans, bond issuances, guarantees and insurance and any other action made by the Authority shall become resolutions of the Agency.

(b) All duly existing contracts, leases, trusts, or obligations of the Authority that are in force immediately before the effective date of the dissolution of the Authority shall be deemed to be the obligations of the Agency. No existing right or remedy under this section shall be lost, impaired or affected by this act. The Agency shall have authority to exercise all rights and enjoy all interests conferred upon the 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 Authority to the Agency 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 Agency 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 Agency's ownership of any interest in real or personal property formerly held by the Authority and transferred pursuant to the provisions of this act and establishing and confirming the limits of property so transferred.

(d) This act shall not limit or impair the rights, remedies, or defenses of the commonwealth, the Agency, or the Authority in or to any action or proceeding, including, without limitation, any brought under chapter 258 of the General Laws. Actions and proceedings against or on behalf of the Authority shall continue unabated and, from and after the date of dissolution of the Authority, may be completed against or by the Agency.

(e) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued by the Authority shall be impaired, and the Agency as successor in interest to the Authority shall maintain the covenants of the trust indentures pertaining to such bonds so long as such bonds shall remain outstanding.

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

(g) All books, papers, records, documents, equipment, buildings, facilities, cash and other property and assets, both personal and real, including all such property and assets held in trust, which on October first, two thousand and ten are in the custody of the Authority shall be transferred to the Agency.

SECTION 189. Notwithstanding any general or special law to the contrary, as of the effective date of this act, the Massachusetts Development Finance Agency shall develop and implement a transfer plan, subject to the approval of the secretary of administration and finance, providing for the orderly transfer of personnel, all assets, liabilities, obligations, debts listed, including but not limited to those listed in section 125 of this act, from the Authority to the Agency, consistent with the provisions contained in section 125 of this act. The transfer shall be complete by October 1, 2010.

SECTION 190. (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 Massachusetts Sports and Entertainment Commission, as the transferor agency, to the Massachusetts marketing partnership, as the transferee agency; (2) the functions of the Community Development Finance Corporation and the Economic Stabilization Trust, as transferor agencies, to the Massachusetts Growth Capital Corporation, as the transferee agency; (3) the functions of the department of business development, as the transferor agency, to the Massachusetts office of business development, as the transferee agency; (4) the functions of the office of travel and tourism in the department of business development, as the transferor agency, to the office of travel and tourism in the Massachusetts marketing partnership, as the transferee agency; (5) the functions of the office of international trade and investment in the department of business development, as the transferor agency, to the Massachusetts international trade office in the Massachusetts marketing partnership, as the transferee agency; (6) the functions of the Massachusetts Health and Educational Facilities Authority, as transferor agency, to the Massachusetts Development Finance Agency, as the transferee agency and (7) the function of the office of small business and entrepreneurship, as the transferor agency, to the Massachusetts Office of Business Development, 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 under 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 an employee a right not held immediately before the date of said transfer, or to prohibit a 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 transferee agency.

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

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

(f) All duly existing contracts, leases, assets 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.

(g) All transfers under this section shall be completed by October 1, 2010.

SECTION 191. The Massachusetts office of business development shall, within 180 days of the effective date of this act, publish and release a solicitation for a competitive regional economic development bidding process under section 3K of chapter 23A. The solicitation shall seek applications from eligible organizations under said section 3K to act as the commonwealth's primary agents for business development in various regions of the commonwealth. If MOBD determines through this process that there are no proposals to appropriately serve a particular region, then MOBD shall serve as the primary coordinator

for business development initiatives in that region and reopen the bidding process at its discretion.

The Massachusetts office of business development may implement the bidding process as a phased, multi-step process that may include 1 or more of the following prior to the issuance of a request for proposals:

(i) a request for information that would inform the development of a request for proposals;

(ii) call for solutions that would focus on regional approaches to meet the needs of specified industry sectors or clusters or locations in the commonwealth; and

(iii) a request for qualifications that would determine the pool of entities that would be eligible to apply for funding.

The Massachusetts office of business development shall not initiate the bidding process under this section until the Massachusetts office of business development promulgates the formula for contractual reimbursement required in sections 3J and 3K of chapter 23A.

SECTION 192. Notwithstanding any general or special law to the contrary, the Massachusetts Development Finance Agency shall promptly transfer \$15,000,000 of the Emerging Technology Fund, established pursuant to chapter 141 of the acts of 2003, to the Massachusetts Growth Capital Corporation established under chapter 40W of the General Laws.

SECTION 193. The provisions of section 111 shall not be deemed severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, all of the provisions of this section shall be deemed to be void.

SECTION 194. Sections 65 to 70, inclusive shall only apply to regulations proposed after the effective date of this act.

SECTION 195. Sections 105 and 11 shall take effect upon their passage.

SECTION 196. Sections 48 to 53, inclusive, and sections 55, 162 and 186 shall take effect on October 1, 2010.

SECTION 197. Sections 112, 115 and 126 shall take effect on January 1, 2011.

SECTION 198. Sections 99 to 104, inclusive, shall apply only to district created on or after the effective date of this act.

SECTION 199. Section 105 shall apply to qualified substantial rehabilitation expenditures incurred on or after its effective date; provided however, that sections 3 and 5 of chapter 40V of the General Laws shall take effect on January 1, 2011.

SECTION 200. Section 108 shall be effective for tax years beginning on or after January 1, 2011.

SECTION 201. Section 111 shall be effective for tax years beginning on or after January 1, 2011.

SECTION 202. Sections 136 and 138 shall take effect on December 1, 2011.

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SECTION 203. Sections 121 and 122 shall be effective for net operating losses and loss carry forwards determined or claimed as a deduction in tax years beginning on or after January 1, 2010. The commissioner or revenue may adopt rules or regulations to address any transition issues in implementing this section.

SECTION 204. Section 125 shall apply to taxable years beginning on or after January 1, 2009.

SECTION 205. Section 44 shall be effective on October 1, 2010.

SECTION 206. Except as otherwise provided, this act shall take effect on August 1, 2010.

This bill was returned on August 5, 2010, by the Governor to the Senate, the branch in which said bill was originated, with His objections in writing to the following items therein:

Items Disapproved:

SECTIONS: 134, 135, 136, 137, 138, and 202.

The remainder of the bill was approved by the Governor on August 5, 2010 at ten o'clock and forty-five minutes, A.M.

Chapter 241. AN ACT AUTHORIZING THE TOWN OF COHASSET TO GRANT CERTAIN INTERESTS IN LAND ACQUIRED FOR CONSERVATION, OPEN SPACE AND WATER PROTECTION PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The town of Cohasset, acting by and through its board of selectmen and board of water commissioners, may grant to the Trustees of Reservations or to a government body of the commonwealth or a nonprofit organization whose mission is to conserve the natural resources, a conservation restriction on, easements over and other lesser interests in all or a portion of the parcels listed below and shown on a plan entitled “Brass Kettle Brook Conservation Area, Cohasset, Massachusetts” dated September 22, 2008, which is on file with the board of water commissioners for conservation, open space and water protection purposes. The town, acting by and through its board of selectmen and board of water commissioners may grant and reserve to National Grid (USA), Inc. easements for use of portions of such parcels for the purposes of maintaining poles, wires, conduits and other facilities and improvements necessary for the transmission of electricity and intelligence, as shown on a plan entitled “Compiled Plan of Land off King Street, Cohasset, MA” dated October 3, 2007, which is on file with the board of water commissioners.

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MAP	PARCEL	LOCATION	MAP	PARCEL	LOCATION
54	19	Off Riverview Drive	60	13	Off King Street
54	24	Off Riverview Drive	65	1	Off King Street
54	27	Off Riverview Drive	65	2	Off King Street
54	25	Off Riverview Drive	65	3	Off King Street
54	33	Off Riverview Drive	65	4	Off King Street
56	12	Off King Street	65	5	Off King Street
56	14	Off Doane Street	65	6	Off King Street
56	15	Off Doane Street	65	6B	Off King Street
56	16	Off Doane Street	65	7	Off King Street
56	16A	Off Doane Street	65	8	Off King Street
56	52	Off Doane Street	65	9	Off King Street
59	11	Off King Street	65	10	Off King Street
59	12	Off King Street	65	18	Off King Street
59	13	Off King Street	65	19	Off King Street
60	1	Off King Street	65	19	Off King Street
60	2	Off King Street	65	35	Off King Street
60	3	Off King Street	66	1	Off King Street
60	4	Off King Street	66	2	Off King Street
60	5	Off King Street	66	3	Off King Street
60	6	Off King Street	66	4	Off King Street
60	7	Off King Street	66	5	Off King Street
60	8	Off King Street	66	6	Off King Street
60	9	Off King Street	66	7	Off King Street
60	10	Off King Street	72	1	Off Howes Lane
60	11	Off King Street	72	2	Off Howes Lane
60	12	Off King Street	72	3	Off Howes Lane

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

Approved August 5, 2010.

**Chapter 242. AN ACT AUTHORIZING THE TOWN OF WINTHROP AND
THE WINTHROP HOUSING AUTHORITY TO GRANT
CERTAIN EASEMENTS FOR UNDERGROUND ELECTRIC
AND INTELLIGENCE TRANSMISSION AND DISTRIBUTION
CABLES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Winthrop may grant a permanent subsurface easement to the Massachusetts Electric Company for the purpose of installing, maintaining and operating underground transmission and distribution cables, through a certain parcel of land located in said town which was acquired by the town for park and recreation purposes and subsequently converted to use for school and educational purposes, pursuant to chapter 14 of the acts of 1999. The parcel is described in a deed dated August 10, 1967, recorded in the Suffolk county registry of deeds at book 8139, page 299, as affected by a certain deed of release dated March 30, 1999, recorded in the Suffolk registry at book 23931, page 169 and a certain Declaration of Covenant, dated May 21, 1999, recorded in said Suffolk county registry of deeds at book 23931, page 172. The permanent subsurface easement located on land of the town of Winthrop shall enter the land of the town of Winthrop from Kennedy road and shall run in an easterly direction to land now or formerly of the Winthrop Housing Authority. The easement contains an area of approximately 1,861 square feet and shall be approximately 20 feet in width as shown on a plan entitled "PLAN OF EASEMENT, WINTHROP HOUSING AUTHORITY, WINTHROP, MASSACHUSETTS", prepared for National Grid, dated October, 2009 and prepared by Oak Engineers, Brown's Wharf, Newburyport, MA 01950. The full, fair and reasonable consideration for the easement granted under this section shall be \$25,000.

SECTION 2. Notwithstanding any general or special law to the contrary, the Winthrop Housing Authority may grant a permanent subsurface easement to the Massachusetts Electric Company for the purpose of installing, maintaining and operating underground transmission and distribution cables, through a certain parcel of land located in the town of Winthrop, as described in a deed dated July 11, 1967, recorded in the Suffolk registry of deeds at book 8131, page 598 and a deed dated February 22, 1974, recorded with said Suffolk registry of deeds at book 8728, page 735. The permanent subsurface easement located on land of the Winthrop Housing Authority shall enter the land of the Winthrop Housing Authority from land of the town of Winthrop and shall run in a generally easterly direction to land now or formerly of the Faretra Family Trust. The easement contains an area of approximately 17,577 square feet and shall be approximately 20 feet in width as shown on the plan described in section 1. The full, fair and reasonable consideration for the easement granted under this section shall be \$250,000.

SECTION 3. The easement rights to be granted in both subsurface easements authorized in sections 1 and 2 are more specifically defined as follows:

(1) the exclusive, perpetual right and easement to construct, reconstruct, install, repair, replace, maintain, operate, use, inspect and patrol for the transmission and distribution of high and low voltage electric energy and for the transmission of intelligence, by any means, whether now existing or hereafter devised, lines of buried cables or conduits or both or any combination of the same, any of which may be installed or constructed at the same or different times, together with all ducts, raceways, conductors, terminals, sustaining and pro-

TECTIVE fixtures, underground expansion stabilizers, manholes, hand holes, junction boxes, foundations, fittings and all housings, connectors, switches and any other equipment or appurtenances reasonably required, collectively hereinafter referred to as the “facilities”, including, without limitation, such footbridges, causeways and ways of access, if any, as may be necessary for the convenient construction, reconstruction, installation, repair, replacement, maintenance, operation, use, inspection and patrolling of the facilities;

(2) the perpetual, exclusive right and easement to renew, replace, remove, add to, modify and otherwise change the facilities and any part thereof and all appurtenances thereto and the locations thereof within the easement areas, as described in said sections 1 and 2;

(3) the perpetual right and easement to pass and repass on foot and with vehicles and equipment along the easement areas to and from the adjoining lands and to pass and repass over other lands of the grantor to and from the easement areas as reasonably required;

(4) the perpetual right and easement from time to time, without further payment therefor, to clear and keep cleared by physical, chemical or other means, the easement areas of trees, underbrush and above and below ground buildings, structures or objects; provided, however, that the first clearing may be for less than the full width and may be widened from time to time to the full width; and

(5) the perpetual right and easement to pave, excavate, remove soils from, fill or change the grade of the easement areas as is reasonable, necessary and proper in the exercise of the foregoing rights and easements.

SECTION 4. The land described in section 1 is subject to a restriction under the “Declaration of Covenant” entered into between the town of Winthrop and the United States Department of Education dated May 21, 1999, and recorded in the Suffolk county registry of deeds in book 23931, page 172 and the grant of the easement by the town of Winthrop pursuant to said section 1 is not authorized under said Declaration of Covenant and shall be subject to advance written approval by the United States Department of Education.

SECTION 5. The town of Winthrop and the Winthrop Housing Authority shall execute, acknowledge and deliver to the United States Department of Education, or its successor, and the Massachusetts Electric Company, its successors and assigns, such further deeds or instruments or other documents as may be necessary to effectuate the purposes of this act.

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

Approved August 5, 2010.

**Chapter 243. AN ACT ESTABLISHING THE CENTER POND RESTORATION
AND PROTECTION DISTRICT IN THE TOWN OF BECKET.**

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall, unless the context clearly

requires otherwise, have the following meanings:-

“Board of assessors”, the board of assessors for the town of Becket.

“Committee”, prudential committee established in this act.

“District”, the Center Pond Restoration and Protection District established in this act.

“District property”, land assessed for real estate taxes by the town of Becket board of assessors not owned by the commonwealth or its political bodies which (a) abuts directly on the shoreline of the Center Pond or (b) has improved property that does not abut directly on the shoreline and has a deeded access to Center Pond.

“Improved property”, land on which there is a dwelling.

“Proprietors”, owners of district property, but not including the commonwealth or its political subdivisions.

SECTION 2. There is hereby established a district within the town of Becket, a body politic and corporate to be known as the Center Pond Restoration and Protection District. That district shall be generally bounded and comprised of district property that is owned by proprietors.

The district shall have the right to sue and be sued in its own name, and plead and be impleaded. The district shall be deemed to be a public employer and its members, officers and employees deemed to be public employees as defined in section 1 of chapter 258 of the General Laws; provided, however, that neither the district nor any officer or employee thereof shall be liable in tort except pursuant to the provisions of said chapter 258; and provided, further, that the district may indemnify its officers and employees to the extent provided in said chapter 258.

SECTION 3. The district shall have the following powers:-

(a) to inspect, investigate, repair, maintain, protect, improve, reconstruct and construct the Center Pond Dam subject to the obtaining of necessary approvals from and, as required, under the supervision of appropriate local, state and federal governmental agencies, departments and offices, including the town of Becket, the department of conservation and recreation, the office of dam safety, the department of environmental protection, the department of fish and game and the division of fisheries or divisions, boards and successors thereof;

(b) to initiate and coordinate research and surveys in order to gather data on the lake, related shore lands, watershed and the drainage basin and other matters directly pertaining to the reclamation, protection and maintenance of the lake for general recreation use;

(c) to manage, control and supervise the Center Pond Dam, equipment and facilities necessary or appropriate to accomplish the purposes for which the district is formed, including, but not limited to, weed control and water level control; provided, that the level of Center Pond shall be maintained at an adequate level, as determined by the prudential committee, between June 1 and October 15, unless dangerous to do so; provided, further, that, the district shall have no authority or right to limit the recreational use of Center Pond or land within the district or construct, maintain or repair any roads or other facilities except those necessary or advisable for the maintenance, repair, protection and improvement of the

Center Pond Dam;

(d) to make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power permitted to the district by this act;

(e) to adopt an annual budget and to raise, appropriate and expend funds in such amount to carry out the purposes for which the district is formed;

(f) to acquire, by gift, purchase or lease, dispose of, lease and encumber real and personal property for the purposes for which the district is formed;

(g) to construct, acquire by lease or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies, facilities and services as are required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns in the commonwealth under the General Laws;

(h) to apply for, accept and expend financial assistance from the federal government, the commonwealth and the town of Becket either directly or jointly with and through the town;

(i) to apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances for or in aid of the purposes for which the district is formed;

(j) to employ and fix the compensation of such persons, including consultant experts as may be deemed necessary in the judgment of the committee;

(k) to borrow at the first or any subsequent meeting of the district for the purpose of meeting preliminary or current expenses such sums as may be necessary and to issue therefore general obligation temporary notes for a period of not more than 2 years; provided that such notes shall be issued only in anticipation of assessments and other revenues of the district of the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise permitted in this act;

(l) to invest any funds not required for the immediate use of the district in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of the district;

(m) to procure insurance against any loss or liability which may be sustained or incurred in carrying out the purposes of this act in such amount as the committee shall deem necessary and appropriate and with 1 or more insurer who shall be licensed to furnish such insurance in the commonwealth;

(n) to acquire by eminent domain the fee or such other interest in real estate as the committee shall elect for the purpose of inspecting, investigating, repairing, maintaining, protecting, improving, reconstructing and constructing the Center Pond Dam and for providing access to and from the Center Pond Dam; and

(o) to perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provision of the General Laws.

SECTION 4. (a) Within 60 days of the effective date of this act, the selectmen of the town of Becket shall call a meeting of the proprietors of the lands to be included in the district. To establish an initial list of proprietors, the selectmen shall consult with the board of assessors, who shall furnish to the selectmen a listing of all property owners as of January 1, 2009 who are owners of district property or who, within the reasonable knowledge or belief of the assessors, are owners of district property.

(b) Upon receiving such lists, the selectmen shall prepare and mail to each such proprietor a notice, signed by the selectmen, stating a time and place of a meeting to occur within said 60 day period, but not less than 14 days from the date of mailing said notice. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the district. The selectmen shall, not later than 14 days prior to the date of such meeting, cause a copy of the notice to be posted in 1 or more public access locations within the town of Becket. The meeting shall be held at a public access building in the town of Becket unless some other location within the town shall be agreed upon by a majority of the selectmen.

(c) At the first meeting of the district, 1 selectman from the town of Becket shall initially preside and shall call the meeting to order. That selectman shall thereupon determine whether a quorum is present. A quorum shall consist of a majority of the proprietors being present or represented by proxies duly executed and placed in the hands of the other proprietors prior to the first meeting of the district. Lacking a quorum, the proprietors shall have no power to act, but the selectmen of the town may, in the manner provided in subsection (b), call additional meetings for the same purpose within a further 60 day period.

(d) Provided that a quorum has been determined to be present under subsection (c), the meeting shall then proceed to the following matters:

(1) Election of a temporary clerk, who shall be sworn by 1 of the selectmen present, and a moderator who shall thereupon preside.

(2) The taking of a vote to determine whether the district authorized by this act shall be established and organized, which vote shall require an affirmative vote of two-thirds of the proprietors present or represented by proxy. If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in the affirmative and upon the required majority, the meeting shall next proceed to consider the order of business set forth in paragraphs (3) to (7), inclusive.

(3) The adoption of district by-laws and form of district seal.

(4) The election by ballot of a district clerk and a district treasurer, who may be the same person, and who shall be a proprietor, to hold office until 1 year from the next succeeding annual meeting. At each subsequent annual meeting a clerk and treasurer shall be elected by ballot for 1 year terms.

(5) The election by ballot of an initial 3 member prudential committee, with 1 member

to hold office for 3 years, 1 member to hold office for 2 years and 1 member to hold office for 1 year, all from the next succeeding annual meeting. At each annual meeting after the first, a member of the committee shall be elected by ballot for 3 years to replace the member whose term is expiring. The officers of the district, elected under paragraph (4) and this paragraph, shall each hold office until a successor is elected and qualified. Persons eligible for nomination and election to the prudential committee shall be at least 18 years of age and entitled to vote as proprietors.

(6) The adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by assessment upon the real property within the district held by proprietors.

(7) The consideration of such other business as shall be consistent with the power and authority conferred by this act.

(e) The district clerk shall retain all proxy votes cast at the initial meeting, together with the minutes of the meeting as part of the permanent record of the district. The clerk shall further prepare a certificate of the vote taken to organize the district and shall affix thereto the form of seal, as adopted by the initial meeting of proprietors and shall obtain the endorsement of the selectman who initially presided at the meeting. Such certificate shall be forwarded to the attorney general of the commonwealth within 30 days of the adjournment of the meeting.

SECTION 5. (a) At the initial district meeting and at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section. There shall be 1 vote available to be cast for each district property parcel assessed for real estate taxes by the board of assessors of the town of Becket as set forth in section 1 irrespective of whether there is more than 1 owner for such parcel and excluding land owned by the commonwealth or its political bodies.

(b) In the event of more than 1 owner, the proprietors shall designate, in writing, to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf of those proprietors at such meeting and such person shall be presumed as qualified and authorized to present signatories; provided, that each individual of a married couple which owns district property shall be presumed to be qualified to vote and no written proxy shall be required to be furnished for either individual.

(c) The authority of a person to cast a proxy vote on behalf of a proprietor shall be determined by the clerk.

(d) All proxies must be tendered, in writing, prior to the commencement of any district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting the proxy and the date of execution.

(e) The proprietors may adopt in the district by-laws an approved form of proxy to satisfy the requirements of this section. The duration of a proxy shall be as established by district by-law.

SECTION 6. (a) Unless otherwise provided in the district by-laws, annual meetings of the district shall be held on the last Saturday in May or at such other time as the committee shall establish.

(b) Annual or other special meetings of the district shall be called by warrant under the hands of the committee, notice of which shall be given at least 14 days before such meeting. The warrant shall be mailed first class, postage pre-paid to each proprietor of record in the district and a copy of the warrant shall be directed to a constable of the town of Becket or to some other person who shall cause a copy of the warrant to be posted in 1 or more public place within the town or cause it to be advertised in a newspaper published at least weekly within Berkshire county and having a general circulation within the town.

(c) The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon thereat. The committee shall insert in the warrant:

(1) of the annual meeting all subjects requested of them, in writing, by 10 or more proprietors; and

(2) for each special district meeting all subjects requested of them, in writing, by 20 or more proprietors.

(d) The prudential committee shall call a special district meeting at its behest or upon request, in writing, of not fewer than 20 proprietors. Special meetings so requested shall be held not later than 30 days after the receipt of such request.

(e) No action taken at the annual or any special district meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more district meetings for district purposes may be called for by the same warrant.

(f) At the initial district meeting and every annual meeting thereafter a moderator shall be chosen by ballot for a term of 1 year and shall have similar powers to those of the moderator of a town meeting.

(g) District meetings shall be governed by chapter 39 of the General Laws except as otherwise expressly provided in this act.

(h) The board of assessors of the town of Becket shall, at least 30 days prior to the annual district meeting, prepare and forward to the committee a true and complete alphabetical listing with addresses of the owners reflected in their records as of January 1 of that year and from the records maintained by the assessors pursuant to chapter 59 of the General Laws and other related provisions. A copy of such list shall be maintained in a manner accessible to the owners and the general public at all reasonable times by the committee and the district clerk and shall further be available for inspection at the annual meeting and any special meeting of the district. The board of assessors shall likewise maintain a list of owners by separate list or special designation on their list of all assessed parcels.

(i) Quorum requirements for annual meetings and special meetings of the district shall be the same as those specified for the initial district meeting under subsection (c) of section 4 or otherwise as the committee shall determine in its by-laws, provided always that the quorum requirements for any meeting at which there may be a vote to amend the district's

by-laws shall be no less than 50 per cent of the eligible and qualified proprietors in person or represented by proxy.

(j) Any matter to be voted upon at an annual or special meeting of the district shall require only a majority of those proprietors present in person or represented by proxy and voting on the question, except for the following actions which shall require a two-thirds vote:

- (1) a vote to petition for dissolution of the district;
- (2) a vote to purchase, to take by eminent domain or otherwise acquire real property;
- (3) a vote to finance any undertaking which is authorized by this act to be financed in whole or in part by the issuance of long-term notes or bonds by the district; or
- (4) a vote to amend the district by-laws.

SECTION 7. The prudential committee shall have and may exercise the following powers and duties:

(a) to expend the money raised and borrowed by the district for the purposes permitted to the district;

(b) to prepare an annual budget for the management and operation of the district and to submit that budget at the annual district meeting to the proprietors for their approval; provided, however, that the budget shall include the committee's estimate of those monies required to be raised and appropriated by means of assessment upon the proprietors, by borrowing, or otherwise to be received;

(c) to apply in the name of the district for grants, loans and other assistance from both governmental and non-governmental entities;

(d) to enter into agreements and contracts, subject to prior appropriation, involving the purpose or lease of services, equipment and supplies consistent with the powers granted by this act;

(e) to hire, supervise, suspend and discharge such employees as the prudential committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a district superintendent who shall have charge on a day-to-day basis of all district employees and who shall be responsible on behalf of the prudential committee for the conduct and supervision of all work to be performed by, or on behalf of, the district under this act; provided, however, that compensation and benefits for the district superintendent and all other employees shall be subject to prior appropriation as determined by vote of the prudential committee;

(f) to adopt by-laws for the regulation of the affairs of the district and the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with other applicable provisions of the General Laws;

(g) to expend money duly budgeted and appropriated by the proprietors; and

(h) to exercise the authority conferred upon it by district by-law.

SECTION 8. (a) The prudential committee shall meet as often as necessary, but in no event less frequently than every 6 months. A quorum of the prudential committee shall be required at all meetings for the conduct of any business, and shall consist of a majority of its voting members.

(b) The initial meeting of the prudential committee shall occur not later than 30 days following the establishment of the district. Thereafter the prudential committee shall schedule 1 meeting to occur in each year immediately following the adjournment of the annual district meeting.

(c) At the initial meeting and at all subsequent meetings immediately following the annual district meeting, the prudential committee shall elect from its members a chairman who shall preside at all committee meetings and shall serve until the chairman's successor shall be elected at the meeting following the annual district meeting.

(d) The prudential committee shall also elect a vice-chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for a like term.

(e) The district may, subject to a prior appropriation, provide appropriate compensation for district officers, including the expense of travel, meals and lodging for such officers residing outside the district. The prudential committee shall serve without compensation but shall be entitled to reasonable travel and lodging expenses.

SECTION 9. The district treasurer shall receive and take charge of all money belonging to the district, and pay over and account for that money according to the order of the district or of its prudential committee. No other persons shall pay any district bill; provided, however, that this provision shall not prohibit the treasurer from paying such bill by the use of a bank treasurer's or cashier's check. The treasurer shall further have the authority given to an auditor by section 50 of chapter 41 of the General Laws, and shall annually render a true account of the treasurer's receipts and disbursements and report of the treasurer's official acts to the district. The treasurer shall give bond annually for the performance of the treasurer's duties in a form approved by the commissioner of revenue and in such sum, not less than the amount established by the commissioner of revenue, as shall be fixed by the prudential committee, and if the treasurer fails to give such bond within 10 days after being elected or appointed, or if within 10 days after the expiration of said bond or any renewal of said bond, the treasurer fails to file a renewal thereof, the prudential committee shall declare the office vacant and the vacancy shall be filled by the prudential committee in the manner set forth in section 11.

SECTION 10. The district clerk shall, in addition to the other duties specified herein, take all minutes at district meetings and at meetings of the prudential committee and maintain a record of such minutes in a manner provided for the maintenance of records of minutes of town meetings and of meetings by the boards of selectmen in the commonwealth. The clerk shall further be the official responsible for certifying copies of all votes taken at a district meeting or a meeting of the prudential committee.

SECTION 11. Any vacancy occurring in the office of clerk, treasurer or member of the prudential committee may be filled by the proprietors for the remainder of the unexpired term at any special district meeting called for that purpose, or in the case of a vacancy in the office of clerk or treasurer or disability effecting either of those officers, the prudential committee may appoint a person to fill the vacancy until an election can be held or the disability

is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure thereof. A temporary treasurer appointed to fill a vacancy shall give bond in the same manner as the treasurer.

SECTION 12. (a) At its initial meeting, and at the annual meeting every year thereafter, the district shall adopt, by two-thirds vote, a method to be employed during the fiscal year for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt 1 or more of the following methods of financing:

(1) The district may levy assessments upon the real estate situated within the district totaling the sum required to meet the district budget.

(2) The district may incur debt by a temporary loan in anticipation of the collection of assessments during the fiscal year in which said debt is incurred or during the next succeeding fiscal year.

(3) The district may incur debt, up to the amount determined by the committee, for district improvements or major equipment purchases and may issue notes or bonds for that purpose. If the committee approves, the district may issue those notes or bonds on the condition that the first payment on account of the principal shall be deferred for up to 5 years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of up to 25 years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities and equipment to be so funded.

Indebtedness incurred by the district under subsection (3) shall be subject to chapter 44 and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds and thereafter it shall receive an appropriation from another governmental entity to cover such part, if any, of the expenses of such improvements, the committee, unless otherwise mandated by the terms and conditions of the grant from such governmental unit, may make all or any part of such appropriation available to redeem notes or bonds of the district and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities and for equipment.

(b) Bonds or notes issued under this section shall be the general obligations of the district.

(c) That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which will be due during the ensuing fiscal year together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the costs of which is not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall have voted to raise by assessment upon land and improvements of the proprietors within the district shall be the subject of a separate vote at the initial district meeting. The schedule of assessed valuations

of land and improvements established by the board of assessors for the same fiscal year under chapter 59 of the General Laws shall be relied upon as the basis for determination of the pro-rata share of the district budget voted to be raised and appropriated by the proprietors upon their lands and improvements lying within the district.

(d) Following the adjournment of the initial district meeting and each annual district meeting thereafter, the clerk of the district shall certify to the assessors of the town of Becket all sums of money voted to be raised by district assessment and the method and means of assessment duly voted upon at such meeting. The assessors of the town of Becket shall, without further vote, assess such amounts upon the lands of the proprietors within the district, which shall be collected by the town tax collector who shall act as collector for the district and have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises in relation to town taxes. The collector shall remit weekly to the district treasurer all sums collected by the collector on account of such assessments. An assessment made under this act shall be a lien upon the land assessed therefor, in the same manner as a lien for real estate taxes assessed by the town under section 37 of chapter 60, and other related provisions of the General Laws.

SECTION 13. The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns in the commonwealth.

SECTION 14. Unless otherwise specified in this act, or otherwise required by the General Laws, all actions permitted to be taken at annual or special district meetings shall require a majority vote of those proprietors entitled to vote at that meeting who are present, or represented by proxy, so long as a quorum is present. Likewise, all actions permitted to be taken by the prudential committee shall require a majority vote of the committee members present at said meeting so long as a quorum is present.

SECTION 15. The district shall include in its initial, and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the town of Becket, as the district shall annually establish.

SECTION 16. No member of the prudential committee, the town of Becket nor any agency or department of the commonwealth shall be obligated for any debts, liabilities, obligations or expenses made, suffered or incurred by the district. The proprietors of the district shall not be individually liable or obligated with respect to debts or other obligations made, suffered or incurred by the district except with respect to the payment as assessments upon their land as provided for in this act.

SECTION 17. No provision of this act shall be deemed to modify or amend any power, authority or jurisdiction now or hereafter vested in any agency, department or unit of state, local or federal government as it relates to the use, operation or enjoyment of Center Pond available for use by the general public for recreational use and other purposes now or hereafter permitted or required by federal, state or local law, regulation or by-law.

SECTION 18. The district shall establish in its initial budget, and shall maintain in

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all subsequent fiscal year budgets, an overlay account and a reserve fund as provided for towns under section 25 of chapter 59 and section 5C of chapter 40 of the General Laws. The district may establish and maintain a stabilization fund under the provisions of section 5B of said chapter 40. The district shall be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.

SECTION 19. Immediately upon being elected, and from time to time thereafter, the district clerk shall cause a review to be made of the records required to be maintained by the board of assessors for the town of Becket, including copies of deeds furnished to said board by the registry of deeds, and shall otherwise take such actions as shall be reasonably necessary to establish the district property and the proprietors. The clerk shall cause to be prepared 1 or more maps which shall show the location of all real estate within the district and shall be based, in whole or in part, upon the maps required to be maintained by said board of assessors. Thereafter, at any special meeting called for the purpose of establishing the district property and the proprietors and not later than the next annual meeting, the district clerk shall furnish the prudential committee with a list of owners and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district.

SECTION 20. The district shall continue until dissolved by law; provided, however, that no such law shall take effect so long as the district shall have obligations outstanding without adequate provision for the complete payment or satisfaction thereof. Such dissolution may be initiated by the general court or by two-thirds vote at a regular or special district meeting and shall provide for all assets to be transferred to either the town of Becket or the commonwealth as shall be provided in the dissolution vote.

SECTION 21. If the initial meeting of the district fails to occur or the certified vote evidencing the establishment of the district is not filed with the attorney general of the commonwealth within 1 year after this act takes effect, this act shall cease to be operative.

SECTION 22. This act shall take effect upon its passage.

Approved August 5, 2010.

**Chapter 244. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL
ASSET MANAGEMENT AND MAINTENANCE TO CONVEY
CERTAIN LAND TO THE TOWN OF TEWKSBURY.**

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

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey to the town of Tewksbury for recreation and open space purposes a portion of a certain parcel of state-owned land located on Livingston street in said town, currently under the care and control of the department of public health, containing 25.535 acres, more or less, as shown on a plan of land titled "Tewksbury Athletic Fields, Livingston Street, Tewksbury, Massachusetts," dated April 1, 2009, prepared for the division of capital asset management by Nitsch Engineering, which plan is on file with the division of capital asset management and maintenance. The parcel shall be designated and used by the town of Tewksbury solely for recreational and open space purposes.

SECTION 2. As consideration for the conveyance of the parcel described in section 1, the town of Tewksbury shall be responsible for any costs, liabilities or expenses of any kind for the maintenance and protection of a cemetery located on land of the commonwealth adjacent to the parcel described in said section 1 in accordance with standards developed by the commissioner of capital asset management and maintenance and the commissioner of public health.

SECTION 3. The town of Tewksbury shall be responsible for all costs and expenses of the transaction authorized in this act as determined by the commissioner of capital asset management and maintenance including, but not limited to, the costs of any surveys and other expenses relating to the conveyance of the parcel. The town of Tewksbury shall also be responsible for all costs, liabilities and expenses of any nature and kind in connection with the operation, maintenance and ownership of the parcel.

SECTION 4. The deed or other instrument conveying the parcel to the town of Tewksbury shall provide that if the parcel ceases at any time to be used for the purposes set forth in section 1 or if the town of Tewksbury does not maintain and protect the cemetery on commonwealth land in accordance with the requirements of section 2, title to the parcel shall, at the election of the commonwealth, after the giving of notice to the town of Tewksbury and an opportunity to cure, revert to the commonwealth.

Approved August 5, 2010.

**Chapter 245. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET
MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN
LAND IN THE CITY OF SOMERVILLE TO THE SOMERVILLE
HOUSING AUTHORITY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital asset management and maintenance to convey a certain parcel of land in the city of Somerville for the creation of affordable housing for elderly residents, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation and the Massachusetts Water Resources Authority, may convey, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, by deed, to the Somerville housing authority, a political subdivision of the commonwealth, a certain parcel of land located at 485 Mystic Valley parkway a/k/a 149 Capen street in the city of Somerville and consisting of approximately 1.39 acres, together with approximately 25,000 gross square feet of building space and associated infrastructure, most recently used as a waterworks system under chapter 372 of the acts of 1984. The parcel's approximate location is shown on a plan entitled "Easement Plan of Land, Capen Court Senior Housing, 1 Capen Court, Plan of Land in Somerville, Massachusetts" prepared by Design Consultants, Inc. dated January 16, 2008, which plan is on file with the commissioner of capital asset management and maintenance and recorded at the Middlesex south registry of deeds, book 52011, pages 361 and 362. The exact boundaries of the property shall be determined by the commissioner, based on a survey. The deed shall contain an acknowledgement that the Mystic Valley parkway and the Alewife Brook parkway are parkways which have been designated and restricted to pleasure vehicles only by the department of conservation and recreation and that the use of the Mystic Valley parkway and the Alewife Brook parkway is subject to the generally-applicable regulations for such parkways of the department of conservation and recreation, as such regulations may be amended.

The conveyance of the parcel described in this section shall reserve non-exclusive permanent volumetric easements for the benefit of the commonwealth and the Massachusetts Water Resources Authority for a 30 inch water main and a 60 inch water main currently existing on the parcel, such easements to be shown on plans to be approved by the commissioner. The easements may be used to access, maintain, repair and reconstruct the existing water lines and related equipment currently held by the Massachusetts Water Resources Authority existing within the reserved permanent volumetric easements. The easements shall be 35 feet in width, measuring a distance of at least 15 feet on either side of the existing pipeline and shall extend the full length of the pipeline on the parcel. The easements shall be non-exclusive; provided, however, that, unless the written consent of the Massachusetts Water Resources Authority is obtained, no buildings or structures shall be erected or maintained in or upon any part of the easements nor shall any trees or shrubs be planted. Subject to the prior review and approval of the Massachusetts Water Resources Authority, the easement and pipeline may be relocated at the sole expense of the fee owner.

SECTION 2. The purchaser of the parcel conveyed under section 1 shall pay a consideration of \$1. Additional consideration for the conveyance of the parcel shall be the undertaking to complete and operate affordable senior housing on the parcel under certain use restrictions and regulatory agreements to be entered into in connection with the affordable housing subsidies granted with respect to the parcel.

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SECTION 3. The commissioner of capital asset management and maintenance, 30 days before the execution of a deed authorized by this act or any subsequent amendment thereof, shall submit the deed or amendment and a report thereon to the inspector general for the inspector general's review and comment. The inspector general shall issue the review and comment within 15 days of receipt of a deed or amendment. The commissioner shall submit the deed 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 and regulatory oversight at least 15 days before the execution of the deed.

SECTION 4. The purchaser shall be responsible for all costs associated with the conveyance authorized by this act, including, but not limited to, any appraisal, survey, recording or legal costs and any other expenses incurred by the commonwealth in connection with the conveyance and shall be responsible for all costs, liabilities and expenses of any nature and kind for its ownership and use.

SECTION 5. The use of the parcel shall be restricted to the development and operation of affordable senior housing under section 2. If the property ceases to be used for such purpose, title to the property shall, after notice and an opportunity to cure from the commonwealth, revert to the commonwealth.

Approved August 5, 2010.

**Chapter 246. AN ACT RELATIVE TO HEALTH INSURANCE AND OTHER
BENEFITS IN THE TOWN OF PHILLIPSTON.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the actions of the town of Phillipston and its board of selectmen since acceptance by the town in 1966 and the vote of town meeting under Article 45 of the 1986 annual town meeting warrant to provide insurance and benefits authorized by section 10 of chapter 32B of the General Laws, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed as if the town of Phillipston had properly voted to approve the question set forth in said section 10 of said chapter 32B in accordance with law. The town may continue to provide such insurance and benefits under said chapter 32B as if the voters of the town had properly approved the question set forth in said section 10 of said chapter 32B; provided, however, that such actions are otherwise taken in accordance with said chapter 32B.

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

Approved August 5, 2010.

**Chapter 247. AN ACT AUTHORIZING THE TOWN OF BREWSTER TO USE
CERTAIN TOWN-OWNED LAND FOR GENERAL TOWN
PURPOSES, INCLUDING RENEWABLE ENERGY PROJECTS.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the land that on November 17, 1997 the inhabitants of the town of Brewster voted to take by eminent domain for municipal purposes and that on January 6, 1998 the selectmen of the town of Brewster took for the purpose of public water supply, watershed protection, passive recreation and for other public purposes is thereby placed under the care, custody, control and management of the selectmen for general town purposes which shall include, but shall not be limited to, public water supply, watershed protection, passive recreation and renewable energy projects developed by the town or by parties with whom the town may contract.

SECTION 2. The land described in section 1 is shown on the Brewster assessors' map 46 as parcels 12-2, 12-3 and 12-5, and it is described in the "Order of Taking by Eminent Domain of Land in Brewster, Barnstable County" which was recorded and registered on January 6, 1998 and which took the land described in land court certificate of title 141983 as lot 2 and lot 3 and in the deed recorded in book 5502, page 7 of the registry of deeds of the county of Barnstable.

SECTION 3. As a condition of the change in use authorized in section 1, if the parcel is used for renewable energy development purposes, the town of Brewster 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 conservation commission and such parcel shall be dedicated for conservation, park or water protection purposes. If no suitable parcel is available for transfer to the conservation 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. Any land so acquired shall be placed under the jurisdiction of the conservation commission and shall be dedicated or restricted to conservation, park or water protection purposes. The parcel dedicated pursuant to this section, shall be of equal or greater size and value for conservation, park or water supply purposes as the disturbed area of the parcel described in section 1.

SECTION 4. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1, the use of the land shall revert to the town of Brewster for conservation, water supply or public park purposes.

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

Approved August 5, 2010.

Chapter 248. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF AMESBURY 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. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the city known as the town of Amesbury 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 Apps N' Taps, LLC, located at 9 Water street in the town of Amesbury. The license shall be subject to all of said chapter 138 except said section 17.

(b) 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 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.

(c) If the license granted under this chapter 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 August 5, 2010.

Chapter 249. AN ACT AUTHORIZING THE COMMONWEALTH TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF DARTMOUTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conveyance of land in the town of Dartmouth for veterans 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. Notwithstanding section 40E through 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, may convey a parcel of land located at 262 State road in the town of Dartmouth, formerly known as the Massachusetts State Police Barracks in Dartmouth, to the Dartmouth Housing Authority to provide affordable housing for veterans. The parcel is described in book 01062, page 0496 of the Bristol county southern district registry of deeds. This parcel of land was purchased by the commonwealth on September 24, 1952.

SECTION 2. The consideration for the conveyance to the Dartmouth Housing Authority shall be \$1. The Dartmouth Housing Authority shall be responsible for all costs and expenses of the transaction authorized by this act as determined by the commissioner of capital asset management and maintenance, including, but not limited to, expenses relating to the conveyance of the parcel and shall be responsible for all costs, liabilities and expenses for its leasehold.

SECTION 3. The deed or other instrument conveying the property described in section 1 to the Dartmouth Housing Authority or its successors in title, shall provide that if for any reason the property ceases to be used solely for the purposes described in section 1, title to the property shall revert to the commonwealth under the care and control of the division of capital asset management and maintenance following the giving of written notice and an opportunity to cure in accordance with a procedure to be specified in the deed conveying the property and upon the recording of a notice by the commissioner with the Bristol county southern district registry of deeds and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and to the prior approval of the general court.

Approved August 5, 2010.

Chapter 250. AN ACT MODIFYING A CONSERVATION RESTRICTION IN THE TOWN OF NORTH ANDOVER.

Be it enacted, etc., as follows:

Notwithstanding sections 31, 32 and 33 of chapter 184 of the General Laws, the town of North Andover may modify the conservation restriction the town placed on the property known as the North Andover Town Farm. The town shall modify the use only in the areas of the property described as Area 1 and Area 2 identified as follows:

Conservation Restriction Amendment Plan, Town Farm- Dale Street, North Andover, MA, Assessors Map 64, Lots 9, 18, 20, 64, prepared for the Town of North Andover by New England Engineering Services Inc., 1600 Osgood Street, Building 20 Suite 2-64, Dated May 12, 2008 and stamped by Benjamin C. Osgood Jr. P.E., File No. 1532-5-12-08 containing 1- 3 sheets, hereinafter referred to as the "amendment plan" which shall be incorporated by reference herein, being a portion of the property known as the North Andover Town Farm, approximately 158.93 acres, more or less,

Being an area of land on the South side of Dale Street containing 3.4 Acres more or less and described as follows:

Beginning at a point 99.20 feet west of the northeast corner of a parcel described as Assessor's Map 64 Parcel 20 at the southerly side of Dale Street.

Thence on a bearing South 30 degrees 45 minutes 41 seconds East for a distance of

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69.31 feet to a point, thence turning South 6 degrees 24 minutes 5 seconds West 86.79 feet to a point, thence turning South 18 degrees 49 minutes 53 seconds East 310.85 feet to a point, thence turning South 80 degrees 48 minutes 03 seconds West 444.87 feet to a point, thence turning North 53 degrees 45 minutes 20 seconds West 195.90 feet to a point on the southerly line of Dale Street, thence turning North 52 degrees 20 minutes 9 seconds East 36.29 feet along Dale Street to a point, thence turning North 56 degrees 50 minutes 58 seconds East 261.28 feet along Dale Street to a point, thence turning North 50 degrees 30 minutes 19 seconds East 48.42 feet along Dale Street to a point, thence turning North 39 degrees 53 minutes 23 seconds East 54.18 feet along Dale Street to a point, thence turning North 43 degrees 48 minutes 19 seconds East 218.77 feet along Dale Street to the point of beginning; and

Being an area of land on the North side of Dale Street containing 3.2 Acres more or less and described as follows:

Beginning at a point at the northwest corner of a parcel described as Assessor's Map 64 Parcel 18 at the northerly side of Dale Street. Thence on a bearing North 27 degrees 6 minutes 11 seconds West for a distance of 316.19 feet to a point, thence turning North 58 degrees 45 minutes 51 seconds East 438.38 feet to a point, thence turning South 31 degrees 14 minutes 9 seconds East 304.05 feet to a point on the Northerly line of Dale Street, thence turning South 57 degrees 46 minutes 19 seconds East 113.53 feet along Dale Street to a point, thence turning South 57 degrees 13 minutes 29 seconds West 347.78 feet along Dale Street to the point of beginning. The care, custody, and control of this land, described as Area 1 and Area 2, shall be with the Conservation Commission.

The amendment and modification shall be subject to and conditioned upon all necessary and proper permitting and approvals required by and for the town of North Andover including, but not limited to, the planning department, conservation, health department, zoning department, building department and the department of public works.

The Article 42 conservation restriction - Town Farm, approved at the May 13, 1997 town meeting shall remain in full force and effect for all areas of Town Farm as approved at the May 13, 1997 town meeting that are outside of the metes and bounds of Area 1 and Area 2 of the amendment and modification.

Approved August 5, 2010.

Chapter 251. AN ACT RELATIVE TO THE LICENSURE OF CERTAIN HEALTH PLANS.

Be it enacted, etc., as follows:

Section 14 of chapter 176G of the General Laws, as appearing in the 2008 Official

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Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A license granted to a health maintenance organization pursuant to this section shall be renewed every 2 years. The fee for such renewal, in an amount determined by the commissioner, shall be not less than \$1,000.

Approved August 5, 2010.

Chapter 252. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE A BOAT RAMP IN THE CITY OF CAMBRIDGE.

Be it enacted, etc., as follows:

(a) Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation and using such competitive proposal process as the division considers necessary or appropriate, may lease and enter into other agreements, for terms not to exceed 25 years, with 1 or more operators, for the boat ramp in North Point Park in the city of Cambridge so as to provide for the continued use, operation, maintenance, repair and improvement of the boat ramp together with the land and appurtenances associated thereto.

There shall be an option for renewal or extension for operation and maintenance services not exceeding an additional 5 years. Any such renewal or extension shall be at the discretion of the division of capital asset management and maintenance in accordance with the original contract terms and conditions or with contract terms and conditions more favorable to the commonwealth. Each lease shall contain a provision that requires the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured, protecting the commonwealth against all personal injury or property or other damage arising from the boat ramp during the term of the lease.

Each lease and other agreement shall be on terms acceptable to the commissioner of capital asset management and maintenance, after consultation with the commissioner of conservation and recreation and, notwithstanding any general or special law to the contrary, shall provide for the lessee to manage, operate, improve, repair and maintain the property. Any such lease or other arrangement requiring capital improvements to be made shall include a description of the required capital improvements and, at minimum, performance specifications. The consideration for the lease shall be the full and fair market value of the lease of the parcels as determined by the commissioner of capital asset management and maintenance pursuant to 1 independent professional. The appraisal shall be prepared in accordance with usual and customary professional appraisal practices by a qualified appraiser

commissioned by the commissioner of capital asset management and maintenance. All consideration received from the leases or other agreements shall be payable to the department of conservation and recreation for deposit into the General Fund.

(b) Notwithstanding any general or special law to the contrary, the inspector general shall review and approve any appraisals pursuant to subsection (a) and the review shall include an examination of the methodology utilized for establishing a lease consideration. Within 30 days after receiving a lease, the inspector general shall prepare a report of his review and file the report with the commissioner of capital asset management and maintenance. Within 30 days after receiving the inspector general's report, 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, but not later than 15 days before the execution of any agreement or other document relating to the lease.

(c) Notwithstanding any general or special law to the contrary, the lessee shall be responsible for all costs and expenses, including, but not limited to, costs associated with any engineering, surveys, appraisals, and lease preparation related to the transfers and conveyances authorized in this act as such costs may be determined by the commissioner of capital asset management and maintenance. The lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the maintenance, use and operation of the boat ramp.

(d) To ensure a no-net-loss of lands protected for conservation purposes, the lessee shall convey, or cause to be conveyed, to the commonwealth land or an interest in land to be held by the department of conservation and recreation for conservation purposes. The land or interest in land shall be of equal or greater value than as determined in accordance with subsection (a) and shall be acceptable to the department, in its discretion.

Approved August 5, 2010.

Chapter 253. AN ACT RELATIVE TO THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.

Be it enacted, etc., as follows:

Clause (p) of the second paragraph of section 12 of chapter 294 of the acts of 1961, as appearing in section 7 of chapter 168 of the acts of 2004, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The limitations imposed by this paragraph shall not apply to an aggregate investment of not in excess of the applicable federal deposit insurance limit in a deposit of a banking corporation, the deposits of which banking corporation are insured by the Federal Deposit Insurance Corporation.

Approved August 5, 2010.

Chapter 254. AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT PERMANENT VOLUMETRIC EASEMENTS RELATIVE TO VERTICAL TRANSPORTATION IMPROVEMENTS OVER CERTAIN PARCELS OF LAND IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the city of Boston may dispose of certain real property under the control of the Boston parks and recreation commission for a permanent easement for the development, construction, installation, operation and replacement of an elevator, elevator head house and bollards at the Park street MBTA station on Boston Common.

Approved August 5, 2010.

Chapter 255. AN ACT RELATIVE TO LIMITING CERTAIN TYPES OF DUAL ALCOHOL LICENSURE.

Be it enacted, etc., as follows:

SECTION 1. Section 15 of chapter 138 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

No person, firm, corporation, association or other combination of persons, directly or indirectly, or through an agent, employee, stockholder, officer or other person or any subsidiary licensed under sections 18 and 19 shall be granted a license under this section after January 1, 2011.

SECTION 2. The fifth paragraph of section 18 of said chapter 138, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- No person, firm, corporation, association or other combination of persons, directly or indirectly, or through an agent, employee, stockholder, officer or other person or a subsidiary licensed under section 15 shall be granted a license under this section after January 1, 2011.

Approved August 5, 2010.

Chapter 256. AN ACT REFORMING THE ADMINISTRATIVE PROCEDURES RELATIVE TO CRIMINAL OFFENDER RECORD INFORMATION AND PRE- AND POST-TRIAL SUPERVISED RELEASE.

Be it enacted, etc., as follows:

SECTION 1. Section 116C of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 16 and 31, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 2. Section 167 of said chapter 6 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “one hundred and sixty-eight to one hundred seventy-eight” and inserting in place thereof the following words:- 168 to 178L, inclusive.

SECTION 3. Said section 167 of said chapter 6, as so appearing, is hereby further amended by inserting before the definition of “Criminal justice agencies” the following 3 definitions:-

“All available criminal offender record information”, adult and youthful offender convictions, non-convictions and pending criminal court appearances, but excluding criminal records sealed under section 34 of chapter 94C or sections 100A to 100C, inclusive, of chapter 276 or the existence of such records.

“Board”, the criminal record review board established under section 168.

“Commissioner”, the commissioner of criminal justice information services under section 167A.

SECTION 4. Said section 167 of said chapter 6, as so appearing, is hereby further amended by inserting after the definition of “Criminal justice agencies” the following 2 definitions:-

“Criminal offender record information”, records and data in any communicable form compiled by a Massachusetts criminal justice agency which concern an identifiable individual and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings, sentencing, incarceration, rehabilitation, or release. Such information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any consequent proceedings related thereto. Criminal offender record information shall not include evaluative information, statistical and analytical reports and files in which individuals are not directly or indirectly identifiable, or intelligence information. Criminal offender record information shall be limited to information concerning persons who have attained the age of 17 and shall not include any information concerning criminal offenses or acts of delinquency committed by any person before he attained the age of 17; provided, however, that if a person under the age of 17 is adjudicated as an adult, information relating to such criminal offense shall be criminal offender record information. Criminal offender record information shall not include information concerning any offenses which are not punishable by incarceration.

“Department”, the department of criminal justice information services established pursuant to section 167A.

SECTION 5. Said section 167 of said chapter 6, as so appearing, is hereby further amended by inserting after the definition of “Evaluative information” the following definition:-

“Executive office”, the executive office of public safety and security.

SECTION 6. Said section 167 of said chapter 6, as so appearing, is hereby further amended by inserting after the definition of “Interstate systems” the following definition:-

“Person”, a natural person, corporation, association, partnership or other legal entity acting as a decision maker on an application or interacting directly with a subject.

SECTION 7. Said section 167 of said chapter 6, as so appearing, is hereby further amended by inserting after the definition of “Purge” the following 4 definitions:-

“Requestor”, a person, other than a criminal justice agency, submitting a request for criminal offender record information to the department.

“Secretary”, the secretary of public safety and security.

“Self-audit”, an inquiry made by a subject or his legally authorized designee to obtain a log of all queries to the department by any individual or entity, other than a criminal justice agency, for the subject’s criminal offender record information, but excluding any information relative to any query conducted by a criminal justice agency.

“Subject”, an individual for whom a request for criminal offender record information is submitted.

SECTION 8. Said chapter 6 is hereby further amended by inserting after section 167 the following section:-

Section 167A. (a) There shall be within the executive office a department of criminal justice information services which shall be under the supervision and control of a commissioner. The commissioner shall be appointed by the secretary and shall be a person of skill and experience in the field of criminal justice. The commissioner 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 commissioner shall serve at the pleasure of the secretary, 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 commissioner, or in the case of disability as determined by the secretary, the secretary may designate an acting commissioner to serve as commissioner until the vacancy is filled or the absence or disability ceases. The acting commissioner shall have all the powers and duties of the commissioner and shall have similar qualifications as the commissioner. The commissioner shall not be subject to the provisions of chapter 31 or section 9A of chapter 30.

(b) The commissioner may appoint such persons, including experts and consultants, as he shall deem necessary to perform the functions of the department. The provisions of chapter 31 and section 9A of chapter 30 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 commissioner, appointments to such positions in the department shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under 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 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 the department which is not subject to 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 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 the employee. 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.

(c) The department shall provide for and exercise control over the installation, operation and maintenance of data processing and data communication systems, hereinafter called the public safety information system, which shall include, but shall not be limited to, the criminal justice information system. The system shall be designed to ensure the prompt collection, exchange, dissemination and distribution of such public safety information as may be necessary for the efficient administration and operation of criminal justice agencies and to connect such systems directly or indirectly with similar systems in this or other states. The department shall be responsible for all data processing, management of the public safety information system, supervision of all personnel associated with the system and the appointment of all such personnel.

(d) The department shall provide access to the public safety information system to criminal justice agencies, as defined in section 167. The department may, subject to chapter 30A, hear and investigate complaints pertaining to misuse of the public safety information system and issue sanctions and penalties for misuse. The commissioner may refer complaints for further review to the criminal record review board, any state or federal agency or prosecuting authority.

(e) The department may, in consultation with the board, adopt rules and regulations for: (i) the implementation, administration and enforcement of this section; (ii) the control, installation and operation of the public safety information system accessed and utilized by criminal justice agencies; and the collection, storage, access, dissemination, content, organization and use of criminal offender record information by requestors; provided, however, any consumer reporting agency accessing the criminal offender record information from the department shall be deemed in compliance with any rule or regulation promulgated hereunder so long as its applicable policies are in compliance with the state and federal Fair Credit Reporting Acts.

(f) The department shall ensure that no backlog of criminal offender records requests develop that impedes the processing of necessary information related to employment, housing and other essential activities and services. If a backlog develops, the commissioner

shall report the nature of the backlog and its impact on services to the secretary of public safety and shall take action to remediate the cause of the backlog.

(g) The department may enter into contracts and agreements with, and accept gifts, grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association, or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and may be expended by the department in accordance with the conditions of the gift, grant, contribution or bequest, without specific appropriation.

SECTION 9. Section 168 of said chapter 6, as appearing in the 2008 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be a criminal history systems board, hereinafter called the board, consisting of the following persons: the secretary of public safety and security, who shall serve as chair, the secretary of labor and workforce development, the attorney general, the chair of the Massachusetts sentencing commission, the chief counsel for the committee for public counsel services, the chair of the parole board, the commissioner of correction, the commissioner of probation, the commissioner of youth services and the colonel of state police, or their designees, all of whom shall serve ex officio, and 10 persons to be appointed by the governor for a term of 3 years, 1 of whom shall represent the Massachusetts District Attorneys Association, 1 of whom shall represent the Massachusetts Sheriffs' Association, 1 of whom shall represent the Massachusetts Chiefs of Police Association, 1 of whom shall represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall be a provider of victim services, 2 of whom shall have experience in the areas of workforce development, ex-offender rehabilitation or economic development and 2 of whom shall be persons who have experience in issues relating to personal privacy. Upon the expiration of the term of any appointive member, the member's successor shall be appointed in a like manner for a term of 3 years.

SECTION 10. Said section 168 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 50 and 51, the words "five hundred dollars for each willful violation thereof, after notice and hearing as provided by applicable law" and inserting in place thereof the following words:- \$1,000 for a knowing violation thereof, \$2,500 for a second knowing violation, and \$5,000 for a third or subsequent knowing violation, after notice and hearing as provided by applicable law; provided, however, that the board shall not issue any orders, sanctions or fines against a law enforcement officer who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal offender record information in the furtherance of the officer's official duties.

SECTION 11. Said section 168 of said chapter 6, as so appearing, is hereby further amended by striking out the fourth and sixth paragraphs.

SECTION 12. Said chapter 6, as so appearing, is hereby further amended by striking out section 168 and inserting in place thereof the following section:-

Section 168. (a) There shall be a criminal record review board within the department of criminal justice information services consisting of the following persons: the secretary of public safety and security, who shall serve as chair, the attorney general, the secretary of labor and workforce development, the chair of the Massachusetts sentencing commission, the chief counsel for the committee for public counsel services, the chair of the parole board, the commissioner of correction, the commissioner of probation, the commissioner of youth services, the colonel of state police and the presidents of the Massachusetts District Attorneys Association, the Massachusetts Sheriffs' Association and the Massachusetts Chiefs of Police Association, or their designees, all of whom shall serve ex officio, and 5 persons to be appointed by the governor, 1 of whom shall represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall have experience in the areas of workforce development or ex-offender rehabilitation and 2 of whom shall be persons who have experience in issues relating to personal privacy. Upon the expiration of the term of any appointive member, his successor shall be appointed in a like manner for a term of 3 years.

The chair shall hold regular meetings, 1 of which shall be an annual meeting, and shall notify all board members of the time and place of all meetings. Special meetings may be called at any time by a majority of the board members and shall be called by the chair upon written application of 9 or more members. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties.

(b) The board may hear complaints and investigate any incidents alleging that a person that has requested or received criminal offender record information has failed to provide the subject with the criminal offender record information in his possession prior to questioning the subject about his criminal history in connection with a decision regarding employment, volunteer opportunities, housing or professional licensing or in connection with an adverse decision on such an application on the basis of the criminal offender record information. The board may hear complaints and investigate any incidents alleging any other violation of sections 168 to 178A, inclusive, or violation of board rules and regulations. The board may charge and collect a fee, established by the secretary, as a condition for filing a complaint, which fee may be waived upon a finding of indigency. Any complaint filed with the board shall be supported by a written declaration by the complainant that it is made under the penalties of perjury. An answer filed by a responding party shall be signed under the penalties of perjury by an individual with personal knowledge of its contents. In conducting investigations and hearings, the board, or department staff designated by the board, shall have the power to summons witnesses, compel their attendance and testimony, require the production of books, records and documents, administer oaths and have access to all criminal offender record information. The chair of the board may appoint a member, panel of 3 board members or a hearing officer to conduct hearings, according to the standard rules of adjudicatory procedure or other rules which the department may adopt, in consultation with the board. Following review of a complaint by a member, panel or hearing officer, the board,

by a vote of two-thirds of the members present and voting, shall issue a ruling as to the findings of the board. In accordance with its findings, the board may issue orders and sanctions enforcing this section and the board's rules and regulations, including, but not limited to, a remand for additional fact finding, the imposition of civil fines payable to the commonwealth not to exceed \$5,000 for each knowing violation and conditions on continued access to criminal offender record information or revocation of access; provided, however, that the board shall not issue any orders, sanctions or fines against a law enforcement officer who, in good faith, obtains or seeks to obtain, or communicates or seeks to communicate criminal offender record information in the furtherance of the officer's official duties. The board may at any time refer a complaint for criminal prosecution under section 178 of this chapter.

The board shall make an annual report of the volume and disposition of complaints without identifying data on any complainant or other information that would include criminal offender record information relative to any person reviewed by the board to the governor and file a copy thereof with the state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate. The annual report shall also be available to the public upon request.

SECTION 13. Section 168A of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "criminal history systems board" and inserting in place thereof the following word:- department.

SECTION 14. Section 168B of said chapter 6, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words 'criminal history systems board' and inserting in place thereof the following words:- department.

SECTION 15. Section 168C of said chapter 6, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words 'criminal history systems board' and inserting in place thereof the following words:- department.

SECTION 16. Section 171 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 1 and 10, the word "board" and inserting in place thereof, in each instance, the following word:- department.

SECTION 17. Section 171 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 to 7, inclusive, the words "(b) assuring the prompt and complete purging of criminal record information, insofar as such purging is required by any statute or administrative regulation, by the order of any court of competent jurisdiction, or to correct any errors shown to exist in such information; and (c) " and inserting in place thereof the following words:- ;and (b).

SECTION 18. Said section 171 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 35to48, inclusive, the words "Any individual aggrieved by an agency's decision denying access to evaluative information may appeal the denial in writing within thirty days thereafter to the board or to a three member panel thereof, as the

board may determine, and the board or such panel or any court under section one hundred and seventy-seven shall have access to any certificate. The adoption of such regulations by each criminal justice agency shall be subject to the approval of the board, and shall be promulgated within time limits set by the board. If any criminal justice agency holding evaluative information fails to promulgate such regulations, then the board shall promulgate such regulations with respect to that criminal justice agency. Evaluative information shall be subject to the provisions of section one hundred and seventy-two and section one hundred and seventy-eight, as if such information was criminal offender record information.”

SECTION 19. Said chapter 6, as so appearing, is hereby further amended by inserting after section 171 the following section:-

Section 171A. In connection with any decision regarding employment, volunteer opportunities, housing or professional licensing, a person in possession of an applicant’s criminal offender record information shall provide the applicant with the criminal history record in the person’s possession, whether obtained from the department or any other source prior to questioning the applicant about his criminal history. If the person makes a decision adverse to the applicant on the basis of his criminal history, the person shall also provide the applicant with the criminal history record in the person’s possession, whether obtained from the department or any other source; provided, however, that if the person has provided the applicant with a copy of his criminal offender record information prior to questioning the person is not required to provide the information a second time in connection with an adverse decision based on this information.

Failure to provide such criminal history information to an applicant pursuant to this section may subject the offending person to investigation, hearing and sanctions by the board. Nothing in this section shall be construed to prohibit a person from making an adverse decision on the basis of an individual’s criminal history or to provide or permit a claim of an unlawful practice under chapter 151B or an independent cause of action in a court of civil jurisdiction for a claim arising out of an adverse decision based on criminal history except as otherwise provided under chapter 151B.

A person who annually conducts 5 or more criminal background investigations, whether criminal offender record information is obtained from the department or any other source, shall maintain a written criminal offender record information policy providing that, in addition to any obligations required by the commissioner by regulation, it will: (i) notify the applicant of the potential adverse decision based on the criminal offender record information; (ii) provide a copy of the criminal offender record information and the policy to the applicant; and (iii) provide information concerning the process for correcting a criminal record.

SECTION 20. Section 172 of said chapter 6, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “privacy”, in lines 14 and 40, the following words, in each instance:- and the importance and value of successful reintegration of ex-offenders.

SECTION 21. Said chapter 6, as so appearing, is hereby further amended by striking out section 172 and inserting in its place thereof the following section:-

Section 172. (a) The department shall maintain criminal offender record information in a database, which shall exist in an electronic format and be accessible via the world wide web. Except as provided otherwise in this chapter, access to the database shall be limited as follows:

(1) Criminal justice agencies may obtain all criminal offender record information, including sealed records, for the actual performance of their criminal justice duties. Licensing authorities, as defined in section 121 of chapter 140, may obtain all criminal offender record information, including sealed records, for the purpose of firearms licensing in accordance with sections 121 to 131P, inclusive, of chapter 140. The criminal record review board may obtain all criminal offender record information, including sealed records, for the actual performance of its duties.

(2) A requestor authorized or required by statute, regulation or accreditation requirement to obtain criminal offender record information other than that available under clause (3) may obtain such information to the extent and for the purposes authorized to comply with said statute, regulation or accreditation requirement.

(3) A requestor or the requestor's legally designated representative may obtain criminal offender record information for any of the following purposes: (i) to evaluate current and prospective employees including full-time, part-time, contract, internship employees or volunteers; (ii) to evaluate applicants for rental or lease of housing; (iii) to evaluate volunteers for services; and (iv) to evaluate applicants for a professional or occupational license issued by a state or municipal entity. Criminal offender record information made available under this section shall be limited to the following: (i) felony convictions for 10 years following the disposition thereof, including termination of any period of incarceration or custody, (ii) misdemeanor convictions for 5 years following the disposition thereof, including termination of any period of incarceration or custody, and (iii) pending criminal charges, which shall include cases that have been continued without a finding until such time as the case is dismissed pursuant to section 18 of chapter 278; provided, however, that prior misdemeanor and felony conviction records shall be available for the entire period that the subject's last available conviction record is available under this section; and provided further, that a violation of section 7 of chapter 209A and a violation of section 9 of chapter 258E shall be treated as a felony for purposes of this section.

(4) Any member of the general public may upon written request to the department and in accordance with regulations established by the department obtain the following criminal offender record information on a subject: (i) convictions for any felony punishable by a term of imprisonment of 5 years or more; (ii) information indicating custody status and placement within the correction system for an individual who has been convicted of any offense and sentenced to any term of imprisonment, and at the time of the request: is serving a sentence of probation or incarceration, or is under the custody of the parole board; (iii) felony convictions for 2 years following the disposition thereof, including any period of in-

carceration or custody; and (iv) misdemeanor convictions for 1 year following the disposition thereof, including any period of incarceration or custody.

(5) A subject who seeks to obtain his own criminal offender record information and the subject's legally designated representative may obtain all criminal offender record information from the department pertaining to the subject under section 175.

(6) The commissioner may provide access to criminal offender record information to persons other than those entitled to obtain access under this section, if the commissioner finds that such dissemination to such requestor serves the public interest. Upon such a finding, the commissioner shall also determine the extent of access to criminal offender record information necessary to sustain the public interest. The commissioner shall make an annual report to the governor and file a copy of the report with the state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate documenting all access provided under this paragraph, without inclusion of identifying data on a subject. The annual report shall be available to the public upon request.

(7) Housing authorities operating pursuant to chapter 121B may obtain from the department conviction and pending criminal offender record information for the sole purpose of evaluating applications for housing owned by such housing authority, in order to further the protection and well-being of tenants of such housing authorities.

(8) The department of telecommunications and energy may obtain from the department all available criminal offender record information for the purpose of screening applicants for motor bus driver certificates and applicants who regularly transport school age children or students under chapter 71B in the course of their job duties. The department of public utilities shall not disseminate such information for any purpose other than to further the protection of children.

(9) The department of children and families and the department of youth services may obtain from the department data permitted under section 172B.

(10) A person providing services in a home or community-based setting for any elderly person or disabled person or who will have direct or indirect contact with such elderly or disabled person or access to such person's files may obtain from the department data permitted under section 172C.

(11) The IV-D agency as set forth in chapter 119A may obtain from the department data permitted under section 172D and section 14 of chapter 119A.

(12) A long-term care facility, as defined in section 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and any continuing care facility as defined in section 1 of chapter 40D may obtain from the department data permitted under section 172E.

(13) The department of early education and care may obtain from the department data permitted under section 172F.

(14) Operators of camps for children may obtain from the department data permitted under section 172G.

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(15) An entity or organization primarily engaged in providing activities or programs to children 18 years of age or younger that accepts volunteers may obtain from the department data permitted under section 172H.

(16) School committees or superintendents that have contracted with taxicab companies to provide for the transportation of pupils pursuant to section 7A of chapter 71 may obtain from the department data permitted under section 172I.

(17) The commissioner of banks may obtain from the department data permitted under section 172J, section 3 of chapter 255E and section 3 of chapter 255F.

(18) A children's camp or school that plans to employ a person or accept a volunteer for a climbing wall or challenge course program may obtain from the department data permitted under section 172K.

(19) A victim of a crime, a witness or a family member of a homicide victim, as defined in section 1 of chapter 258B, may obtain from the department data permitted under section 178A.

(20) The motor vehicle insurance merit rating board may obtain from the department data permitted under section 183.

(21) The department of early education and care, or its designee, may obtain from the department data permitted under sections 6 and 8 of chapter 15D.

(22) The district attorney may obtain from the department data permitted under section 2A of chapter 38.

(23) A school committee and superintendent of any city, town or regional school district and the principal, by whatever title the position be known, of a public or accredited private school of any city, town or regional school district, may obtain from the department data permitted under section 38R of chapter 71.

(24) The Massachusetts Port Authority may obtain from the department data permitted under section 61 of chapter 90.

(25) The department of social services may obtain from the department data permitted under section 26A of chapter 119, section 3B of chapter 210.

(26) The state racing commission may obtain from the department data permitted under section 9A of chapter 128A.

(27) A court, office of jury commissioner, and the clerk of court or assistant clerk may obtain from the department data permitted under section 33 of chapter 234A.

(28) The pension fraud unit within the public employee retirement administration commission may obtain from the department data permitted under section 1 of chapter 338 of the acts of 1990.

(29) Special education school programs approved under chapter 71B may obtain from the department all criminal offender record information provided for in paragraph (3) of subsection (a).

(30) The department shall configure the database to allow for the exchange, dissemination, distribution and direct connection of the criminal record information system to criminal record information systems in other states and relevant federal agencies including

the Federal Bureau of Investigation and Immigration and Customs Enforcement that utilize fingerprint or iris scanning and similar databases.

(b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses as defined in section 178C of chapter 6 that are punishable by a term of incarceration in state prison shall remain in the database permanently and shall be available to all requestors listed in paragraphs (1) through (3), inclusive, of subsection (a) unless sealed under section 100A of chapter 276.

(c) The department shall specify the information that a requestor shall provide to query the database, including, but not limited to, the subject's name, date of birth and the last 4 digits of the subject's social security number; provided, however, that a member of the public accessing information under paragraph (4) of subsection (a) shall not be required to provide the last four digits of the subject's social security number. To obtain criminal offender record information concerning a subject pursuant to subsection (a)(2) or (a)(3), the requestor must certify under the penalties of perjury that the requestor is an authorized designee of a qualifying entity, that the request is for a purpose authorized under subsection (a)(2) or (a)(3), and that the subject has signed an acknowledgement form authorizing the requestor to obtain the subject's criminal offender record information. The requestor must also certify that he has verified the identity of the subject by reviewing a form of government-issued identification. Each requestor shall maintain acknowledgement forms for a period of 1 year from the date the request is submitted. Such forms shall be subject to audit by the department. The department may establish rules or regulations imposing other requirements or affirmative obligations upon requestors as a condition of obtaining access to the database; provided, however, that such additional rules and regulations are not in conflict with the state and federal Fair Credit Reporting Acts.

In connection with any decision regarding employment, volunteer opportunities, housing or professional licensing, a person in possession of an applicant's criminal offender record information shall provide the applicant with the criminal history record in the person's possession, whether obtained from the department or any other source, (a) prior to questioning the applicant about his criminal history and (b) if the person makes a decision adverse to the applicant on the basis of his criminal history; provided, however, that if the person has provided the applicant with a copy of his criminal offender record information prior to questioning the person is not required to provide the information a second time in connection with an adverse decision based on this information. Failure to provide such criminal history information to the individual in accordance with this section may subject the offending person to investigation, hearing and sanctions by the board.

(d) Except as authorized by this section, it shall be unlawful to request or require a person to provide a copy of his criminal offender record information. Violation of this subsection is punishable by the penalties set forth in section 178.

(e) No employer or person relying on volunteers shall be liable for negligent hiring practices by reason of relying solely on criminal offender record information received from

the department and not performing additional criminal history background checks, unless required to do so by law; provided, however, that the employer made an employment decision within 90 days of obtaining the criminal offender record information and maintained and followed policies and procedures for verification of the subject's identifying information consistent with the requirements set forth in this section and in the department's regulations.

No employer shall be liable for discriminatory employment practices for the failure to hire a person on the basis of criminal offender record information that contains erroneous information requested and received from the department, if the employer would not have been liable if the information had been accurate; provided, however, that the employer made an employment decision within 90 days of obtaining the criminal offender record information and maintained and followed policies and procedures for verification of the individual's information consistent with the requirements set forth in this section and the department's regulations.

Neither the board nor the department shall be liable in any civil or criminal action by reason of any criminal offender record information or self-audit log that is disseminated by the board, including any information that is false, inaccurate or incorrect because it was erroneously entered by the court or the office of the commissioner of probation.

(f) A requestor shall not disseminate criminal offender record information except upon request by a subject; provided, however, that a requestor may share criminal offender record information with individuals within the requesting entity that have a need to know the contents of the criminal offender record information to serve the purpose for which the information was obtained; and provided further, that upon request, a requestor shall share criminal offender record information with the government entities charged with overseeing, supervising, or regulating them. A requestor shall maintain a secondary dissemination log for a period of one year following the dissemination of a subject's criminal offender record information. The log shall include the following information: (i) name of subject; (ii) date of birth of the subject; (iii) date of the dissemination; (iv) name of person to whom it was disseminated; and (v) the purpose for the dissemination. The secondary dissemination log shall be subject to audit by the department.

Unless otherwise provided by law or court order, a requestor shall not maintain a copy, electronic or otherwise, of requested criminal offender record information obtained from the department for more than 7 years from the last date of employment, volunteer service or residency or from the date of the final decision of the requestor regarding the subject.

(g) The department shall maintain a log of all queries that shall indicate the name of the requestor, the name of the subject, the date of the query, and the certified purpose of the query. A self-audit may be requested for no fee once every 90 days. The commissioner may impose a fee in an amount as determined by the secretary of public safety and security, for self-audit requests made more than once every 90 days. Upon request, the commissioner may transmit the self-audit electronically. Further, if funding is available and technology reasonably allows, the department shall establish a mechanism that will notify a subject, or

an advocate or agent designated by the subject, by electronic mail or other communication mechanism whenever a query is made regarding the subject. The self-audit log and query log shall not be considered a public record.

(h) Notwithstanding the provisions of this section, the motor vehicle insurance merit rating board may disseminate information concerning convictions of automobile law violations as defined in section 1 of chapter 90C, or information concerning a charge of operating a motor vehicle while under the influence of intoxicating liquor that results in assignment to a driver alcohol program as described in section 24D of chapter 90, directly or indirectly, to an insurance company doing motor vehicle insurance business within the commonwealth, or to such insurance company's agents, independent contractors or policyholders to be used exclusively for motor vehicle insurance purposes.

(i) Notwithstanding any other provisions of this section, information indicating custody status and placement within the correction system shall be available to any person upon request; provided, however that no information shall be disclosed that identifies family members, friends, medical or psychological history, or any other personal information unless such information is directly relevant to such release or custody placement decision, and no information shall be provided if its release would violate any other provisions of state or federal law.

(j) The parole board, subject to sections 130 and 154 of chapter 127, the department of correction, a county correctional authority or a probation officer with the approval of a justice of the appropriate division of the trial court may, in its discretion, make available a summary, which may include references to criminal offender record information or evaluative information, concerning a decision to release an individual on a permanent or temporary basis, to deny such release, or to change the individual's custody status.

(k) Notwithstanding any other provision of this section or any other general or special law to the contrary, members of the public who are in fear of an offender may obtain from the department advance notification of the temporary or permanent release of an offender from custody, including but not limited to expiration of a sentence, furlough, parole, work release or educational release. An individual seeking access to advance notification shall verify by a written declaration under the penalties of perjury that the individual is in fear of the offender and that advance notification is warranted for physical safety reasons.

(l) Any individual or entity that receives or obtains criminal offender record information from any source in violation of sections 168 through 175 of this chapter, whether directly or through an intermediary, shall not collect, store, disseminate, or use such criminal offender record information in any manner or for any purpose.

(m) Notwithstanding this section or chapter 66A, the following shall be public records: (1) police daily logs, arrest registers, or other similar records compiled chronologically; (2) chronologically maintained court records of public judicial proceedings; (3) published records of public court or administrative proceedings, and of public judicial administrative or legislative proceedings; and (4) decisions of the parole board as provided in section 130 of chapter 127.

(n) The commissioner, upon the advice of the board, shall promulgate rules and regulations to carry out the provisions of this section.

SECTION 22. Said chapter 6, as appearing in the 2008 Official Edition, is hereby further amended by striking out section 172A and inserting in place thereof the following section:-

Section 172A. The commissioner shall assess a fee for each request for criminal offender record information or self-audit, according to a fee structure established by the secretary of public safety and security. No fee shall be assessed for a request made by a victim of crime or a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, or for a request made by any local, state or federal government entity. The commissioner shall waive the fee or a portion of the fee from such other persons as provided in the department's rules and regulations. The department is authorized to enter into contracts and agreements for reduced or bulk fees for requestors who make extensive use of the database.

The department shall be authorized, subject to appropriation, to retain a portion of the revenues received by the commonwealth under this section for the following purposes: to assist ex-offenders in obtaining and maintaining employment, including, but not limited to, workforce development training and other applicable training programs, training and auditing requestors described in subsection (a) of section 172, providing education and assistance regarding the correction of criminal records, including but not limited to, training judges, providing the necessary information to employers and other applicable persons in possession of an applicant's criminal offender record information, and to operate and maintain the public safety information system and the criminal records review board.

SECTION 23. Said chapter 6, as so appearing, is hereby further amended by inserting after section 172B the following section:-

Section 172B½. Municipalities may, by local ordinance, require applicants for licenses in specified occupations to submit a full set of fingerprints for the purpose of conducting a state and national criminal history records check pursuant to sections 168 and 172 and 28 U.S.C. §534. Fingerprint submissions may be submitted by the licensing authority to the identification unit within the department of state police through the criminal history systems board, or its successor, for a state criminal records check and to the Federal Bureau of Investigation for a national criminal records check.

Municipalities may, by local ordinance, establish the appropriate fee charged to applicants for administering a fingerprinting system. For the purposes of section 2LLL of chapter 29, \$30 of the fee shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund and the remainder of the fee may be retained by the licensing authority for costs associated with the administration of the system.

SECTION 24. Section 172C of said chapter 6, as so appearing, is hereby amended by striking out, in lines 30 and 31, the words "criminal history systems board" and inserting in place thereof the following word:- department.

SECTION 25. Said chapter 6 is hereby further amended by striking out section 172E, as so appearing, and inserting in place thereof the following section:-

Section 172E. Notwithstanding any provision of section 172 to the contrary, criminal offender record information shall be available to a long term care facility, as defined in section 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and to any continuing care facility as defined in section 1 of chapter 40D, for the purpose of evaluating applicants under final consideration as, or an individual currently working as, an employee, a volunteer or a provider of care, treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision, recreation or other services for an elderly or disabled person or for the purpose of evaluating applicants under final consideration for, or an individual currently working in, a position involving direct or indirect contact with such elderly or disabled persons or access to such persons' personal information. A long-term care facility, assisted living residence or continuing care facility shall obtain all available criminal offender record information from the department on such applicant or current staff member. A long-term care facility, assisted living residence or continuing care facility which obtains information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of the elderly or the disabled; provided, further that dissemination among and between long term care facilities, assisted living residences or continuing care facilities shall be permitted.

SECTION 26. Section 172G of said chapter 6, as so appearing, is hereby amended by striking out, in line 5, the words 'criminal history systems board' and inserting in place thereof the following word:- department.

SECTION 27. Section 172H of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words "that accepts volunteers,".

SECTION 28. Said section 172H of said chapter 6, as so appearing, is hereby further amended by striking out, in line 5, the words 'criminal history systems board' and inserting in place thereof the following word:- department.

SECTION 29. Said section 172H of said chapter 6, as so appearing, is hereby further amended by striking out, in line 6, the words "a volunteer" and inserting in place thereof the following words:- an employee, volunteer, vendor or contractor.

SECTION 30. Section 172I of said chapter 6, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "criminal history systems board" and inserting in place thereof the following word:- department.

SECTION 31. Section 172J of said chapter 6, as so appearing, is hereby amended by striking out, in line 4, the words 'criminal history systems board,' and inserting in place thereof the following word:- department.

SECTION 32. Section 172K of said chapter 6 of the General Laws, inserted by section 1 of chapter 43 of the acts of 2009, is hereby amended by striking out, each time they appear, the words "criminal history systems board" and inserting in place thereof the following words:- department.

SECTION 33. Section 173 of said chapter 6, as so appearing, is hereby amended by striking out, in line 1, the words “The board”, and inserting in place thereof the following words:- The commissioner may approve research programs to obtain criminal offender record information; provided, however, that said research programs shall not publish any information that either identifies or tends to identify the subject of the criminal offender record information, and the commissioner.

SECTION 34. Said section 173 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 7, 9 and 10 the word “board”, and inserting in place thereof, in each instance, the following word:- commissioner.

SECTION 35. Said chapter 6, as so appearing, is hereby further amended by striking out section 175 and inserting in place thereof the following section:-

Section 175. A subject shall have the right to inspect, and if practicable, obtain a copy of all criminal offender record information from the department that refers to the subject. The commissioner shall publish and furnish, upon request, guidelines for individuals on how to correct inaccurate or incomplete information. Subject to appropriation, the department shall provide assistance to individuals that have requested assistance to correct inaccurate or incomplete criminal offender record information. Such assistance shall include but not be limited to cooperation with appropriate entities to correct, modify or appropriately supplement criminal offender record information that has been determined to be inaccurate or incomplete. If criminal offender record information is corrected by the office of the commissioner of probation or the courts, any corrections made by such commissioner or court shall be transmitted forthwith to the department and the department’s database shall reflect the corrected criminal offender record information.

Requestors shall prescribe reasonable hours and places for subjects to inspect their criminal offender record information under subsection (f) of section 172 and shall impose such additional restrictions as are reasonably necessary both to ensure the record’s security and to verify the identities of those who seek to inspect them.

SECTION 36. Said chapter 6 is hereby further amended by striking out section 178, as so appearing, and inserting in place thereof the following 2 sections:-

Section 178. An individual or entity who knowingly requests, obtains or attempts to obtain criminal offender record information or a self-audit from the department under false pretenses, knowingly communicates or attempts to communicate criminal offender record information to any other individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly falsifies criminal offender record information, or any records relating thereto, or who requests or requires a person to provide a copy of his or her criminal offender record information except as authorized pursuant to section 172, shall for each offense be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than \$5,000 or by both such fine and imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may not be more than \$50,000 for each violation.

An individual or entity who knowingly requests, obtains or attempts to obtain juvenile delinquency records from the department under false pretenses, knowingly communicates or seeks to communicate juvenile criminal records to any other individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly falsifies juvenile criminal records, shall for each offense be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than \$7,500, or by both such fine and imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may not be more than \$75,000 for each violation.

This section shall not apply to, and no prosecution shall be brought against, a law enforcement officer who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal offender record information in the furtherance of his or her official duties.

Section 178½. Whoever uses criminal offender record information to commit a crime against the subject of the criminal offender record information or to engage in harassment of the subject, shall be punished by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine and imprisonment. For purposes of this section, "harassment" shall mean willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer emotional distress.

SECTION 37. Said chapter 6 is hereby further amended by striking out section 178A, as so appearing, and inserting in place thereof the following section:-

Section 178A. A victim of crime, witness or family member of a homicide victim, all as defined by section 1 of chapter 258B, may obtain all available criminal offender record information of the person accused or convicted of said crime. Criminal justice agencies may also disclose to such persons such additional information, including, but not limited to, evaluative information, as such agencies determine is reasonably necessary for the security and well being of such persons.

SECTION 38. Section 178C of said chapter 6, as so appearing, is hereby amended by striking out, in lines 12 and 13 and in line 51, the words "criminal history systems board" and inserting in place thereof, in each instance, the following word:- department.

SECTION 39. Section 178D of said chapter 6, as so appearing, is hereby amended by striking out, in line 2, the words "criminal history systems board" and inserting in place thereof the following word:- department.

SECTION 40. Section 178F of chapter 6, as so appearing, is hereby amended by striking out, in lines 14 to 16, inclusive, the words "A sex offender who lists a homeless shelter as his residence shall verify registration data every 45 days" and inserting in place thereof the following words: - A homeless sex offender shall verify registration data every 30 days.

SECTION 41. Section 178F½ of chapter 6, as so appearing, is hereby amended by striking out, in lines 14 to 15, the words "Such sex offender who lists a homeless shelter as

his residence shall appear in person at such local police department every 45 days” and inserting in place thereof the following words:- A homeless sex offender shall appear in person at such local police department every 30 days.

SECTION 42. Said chapter 6, as so appearing, is hereby amended by inserting, after section 178F½, the following section:-

Section 178F¾. A homeless sex offender shall wear a global positioning system device, or any comparable device, administered by the commissioner of probation.

SECTION 43. Section 178K of said chapter 6, as so appearing, is hereby amended by striking out, in lines 1 to 2, the words “in the criminal history systems board, but not subject to its jurisdiction”, and inserting in place thereof the following words:- in the executive office of public safety and security.

SECTION 44. Section 183 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 27 and 32, the words ‘criminal history systems board’ and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 45. Chapter 6A of the General Laws, as so appearing, is hereby amended by striking out section 18 and inserting in place thereof the following section:-

Section 18. The following state agencies are hereby declared to be within the executive office of public safety and security: the department of public safety; the department of fire services; the office of grants and research and the highway safety division; the municipal police training committee; the Massachusetts department of criminal justice information services; the state 911 department; the department of state police; the office of the chief medical examiner; the Massachusetts emergency management agency; the military department; the department of correction, including the parole board; the sex offender registry board; and all other agencies and boards within said departments, committees and boards.

SECTION 46. Section 18 ½ of said chapter 6A, as so appearing, is hereby amended by striking out, in line 10, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 47. Section 18 ¾ of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 48. Section 4 of chapter 18C of the General Laws, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 49. Section 1 of chapter 22A of the General Laws, as so appearing, is hereby amended by striking out the definition of ‘Board’.

SECTION 50. Said section 1 of said chapter 22A, as so appearing, is hereby further amended by inserting after the definition of ‘Central register’ the following definition:-

‘Department’, the department of criminal justice information services.

SECTION 51. Section 3 of said chapter 22A, as so appearing, is hereby amended by striking out, in line 10, the word ‘board’ and inserting in place thereof the following word:- department.

SECTION 52. Section 32 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 53. Section 36 of said chapter 22C, as so appearing, is hereby amended by striking out, in line 17, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 54. Section 38 of said chapter 22C, as so appearing, is hereby amended by striking out, in line 25, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 55. Section 9 of chapter 22E of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 56. Chapter 30A of the General Laws, as so appearing, is hereby amended by inserting after section 1C the following section:-

Section 1D. The criminal record review board shall be subject to sections 1 to 8, inclusive, and shall not otherwise be subject to this chapter.

SECTION 57. Section 36A of chapter 40 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 25, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 58. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in line 50, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 59. Said section 10 of said chapter 66, as so appearing, is hereby further amended by striking out, in lines 50 and 51, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 60. Section 1 of chapter 71 of the General Laws, as appearing in the 2008 Official Edition, shall be amended by inserting after the word “development”, in line 19, the following words:- safe and healthy relationships with a focus on preventing sexual and domestic violence.

SECTION 61. Chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 2B the following section:-

Section 2C. Each school district in the commonwealth, subject to appropriation, shall implement a specific policy and discipline code to address teen dating violence in public schools. The policy shall clearly state that dating violence will not be tolerated and shall include guidelines for addressing alleged incidents of dating violence. The policy may include a teen dating violence prevention task force comprised of staff, students and parents to provide awareness training and education for the school community. Topics to be covered in the policy include, without limitation, defining the issue of teen dating violence, recognizing warning signs, identifying issues of confidentiality, safety and appropriate legal school-based interventions.

SECTION 62. Section 38R of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6 and in lines 11 and 12, the words “criminal history systems board” and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 63. Section 24 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 705, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 64. Section 24N of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 31, 44 and 83, the words “criminal history systems board” and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 65. Section 52 of chapter 93 of the General Laws, as so appearing, is hereby amended by inserting after the word “more;”, in line 21, the following word:- or.

SECTION 66. Said section 52 of said chapter 93, as so appearing, is hereby further amended by striking out, in lines 24 to 27, inclusive, the words “; or (3) the employment of any individual at annual salary which equals or which may reasonably be expected to equal twenty thousand dollars or more”.

SECTION 67. Section 32 of chapter 94C of the General Laws, as so appearing, is hereby amended by adding the following subsection:-

(c) Any person serving a mandatory minimum sentence for violating any provision of this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to the house of correction, except that such person shall not be eligible for parole upon a finding of any 1 of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C; or

(iii) the offense was committed during the commission or attempted commission of a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.

SECTION 68. Section 32A of said chapter 94C, as so appearing, is hereby amended by adding the following subsection:-

(e) Any person serving a mandatory minimum sentence for violating this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to the house of correction, provided that said person shall not be eligible for parole upon a finding of any one of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C; or

(iii) the offense was committed during the commission or attempted commission of a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.

SECTION 69. Section 32B of said chapter 94C, as so appearing, is hereby amended by adding the following subsection:-

(c) Any person serving a mandatory minimum sentence for violating this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to the house of correction, except that such person shall not be eligible for parole upon a finding of any 1 of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C; or

(iii) the offense was committed during the commission or attempted commission of a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.

SECTION 70. Section 32E of said chapter 94C, as so appearing, is hereby amended by adding the following subsection:-

(d) Any person serving a mandatory minimum sentence for violating this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to the house of correction, except that such person shall not be eligible for parole upon a finding of any 1 of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another others who committed any felony in violation of chapter 94C; or

(iii) the offense was committed during the commission or attempted commission of a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.

SECTION 71. Section 32H of said chapter 94C, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A person convicted of violating said sections shall not, until he shall have served the mandatory minimum term of imprisonment established in said sections, be eligible for probation, furlough, work release or receive any deduction from his sentence for good conduct under sections 129C and 129D of chapter 127, nor shall he be eligible for parole except as authorized pursuant to subsection (c) of Section 32, subsection (e) of section 32A, subsection (c) of section 32B, subsection (d) of section 32E, or section 32J; provided, however, that the commissioner of correction, on the recommendation of the warden, superintendent or other person in charge of the correctional institution, or a sheriff, on the recommendation of the administrator of a county correctional institution, may grant to said offender a temporary release, subject to the rules and regulations of the institution and under the direction, control and supervision of the officers thereof, for the following purposes: (1) to attend the funeral of a relative, to visit a critically ill relative, to obtain emergency medical or psychiatric services unavailable at said institution; (2) to participate in education, training, or employment programs established under section 48 of chapter 127; or (3) to participate in a program to provide services under section 49B or 49C of chapter 127. Section 87 of chapter 276 shall not apply to any person, 17 years of age or older, charged with a violation of said sections, or to any child between age 14 and 17, so charged by indictment under section 54 of chapter 119.

SECTION 72. Section 32J of said chapter 94C, as so appearing, is hereby amended by adding the following paragraph:-

Any person serving a mandatory minimum sentence for violating this section shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to a house of correction, except that such person shall not be eligible for parole upon a finding of any 1 of the following aggravating circumstances:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed any felony in violation of chapter 94C.

(iii) the offense was committed during the commission or attempted commission of the a violation of section 32F or section 32K of chapter 94C.

A condition of such parole may be enhanced supervision; provided, however, that such enhanced supervision may, at the discretion of the parole board, include, but shall not be limited to, the wearing of a global positioning satellite tracking device or any comparable device, which shall be administered by the board at all times for the length of the parole.

SECTION 73. Section 34 of chapter 101 of the General Laws, as so appearing, is hereby amended by striking out, in line 91 and in lines 96 and 97, the words ‘criminal history systems board’ and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 74. Section 71 of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in lines 43 and 44, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 75. Section 12A½ of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 76. Section 9 of chapter 123A of the General Laws, as so appearing, is hereby amended by striking out, in line 51, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 77. Section 14 of chapter 123A 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:- The district attorney, or the attorney general at the request of the district attorney, may petition the court for a trial. In any trial held pursuant to this section, either the person named in the petition or the petitioning party may demand, in writing, that the case be tried to a jury and, upon such demand, the case shall be tried to a jury.

SECTION 78. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 79. Said chapter 127 is hereby further amended by inserting after section 20A the following section:-

Section 20B. The sheriff of any county and, in the case of women who are committed as pretrial detainees to the Massachusetts Correctional Institution at Framingham, the commissioner of correction, subject to rules and regulations established in accordance with this section, may permit a detainee who is committed to a jail awaiting disposition of any criminal matter, except those being held for offenses listed in this section, to be classified to a pretrial diversion program operated by the sheriff's office in the county where the court that committed the detainee is sitting.

The sheriff may extend the limits of the place of confinement of a detainee for the purpose of participation in this program and shall establish a classification system to determine the suitability of detainees who may be potential participants in this program. A person permitted to be away from the jail due to participation in this program may be accompanied by an employee of the sheriff's office in the discretion of the sheriff or his designee.

For the duration of his participation in the program, the detainee shall be deemed to be in custody as a pretrial detainee for the purpose of receiving credit pursuant to section 129B of chapter 127 and section 33A of chapter 279 toward any sentence he may receive, and may be charged with escape pursuant to section 16 of chapter 268 should he leave the place to which he is classified pursuant to his participation in the program without authorization or should he escape from custody while he is being transported pursuant to his participation in the program. Additionally for the duration of his participation in this program only, the detainee may receive additional deductions from any sentence that may be imposed for the offense for which he was detained, for participation in work, education or treatment programs designated by the sheriff pursuant to section 129D of chapter 127.

A detainee shall not be eligible to participate in this program if he is charged with: murder; any offense that carries the possibility of a life sentence; a violation of: paragraph (b) of 32 of chapter 94C; paragraphs (b), (c) and (d) of section 32A of said chapter 94C; paragraph (b) of 32B of said chapter 94C; sections 32B, 32E, 32F, 32J, 32K or 37 of said chapter 94C; a violation of section 13, 14, 15, 15A, 15B, 16, 17, 18, 18A, 19, 20, 21, 24B, 25, 26 or 26A of chapter 265; section 17, 34 or 35 of chapter 272; or an attempt to commit any offense referred to in these sections; or if he is detained under subsection (3) of section 58A of chapter 276. No sex offender, or sexually dangerous person as defined in section 1 of chapter 123A or any person who is charged with committing a sexual offense as defined in said section 1 of said chapter 123A shall be eligible to participate in this program. Placement of an individual in such program shall require victim notification as required under clause (t) of section 3 of chapter 258B.

SECTION 80. Section 2 of chapter 127 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "criminal history systems board" and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 81. Section 28 of said chapter 127, as so appearing, is hereby amended

by striking out, in line 9, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 82. Section 29 of said chapter 127, as so appearing, is hereby amended by striking out, in line 13, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 83. Section 133E of said chapter 127, as so appearing, is hereby amended by striking out, in line 3, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 84. Section 122 of chapter 140 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 85. Section 122A of said chapter 140, as so appearing, is hereby amended by striking out, in line 5, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 86. Said section 122A of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 5 and 6 and in lines 9 and 10, the words “executive director of the criminal history systems board” and inserting in place thereof, in each instance, the following words:- commissioner of the department of criminal justice information services.

SECTION 87. Section 122B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 14 and 15 and in lines 24 and 25, the words “executive director of the criminal history systems board” and inserting in place thereof, in each instance, the following words:- commissioner of the department of criminal justice information services.

SECTION 88. Section 123 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 7 and 8 line 27, and in lines 106 and 107, the words “executive director of the criminal history systems board” and inserting in place thereof, in each instance, the following words:- commissioner of the department of criminal justice information services.

SECTION 89. Section 125 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 90. Section 127 of said chapter 140, as so appearing, is hereby amended by striking out, in line 6, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 91. Section 128A of said chapter 140, as so appearing, is hereby amended by striking out, in lines 27 and 28, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of

the department of criminal justice information services.

SECTION 92. Section 128B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 93. Section 129B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 112, 148 and 159, the words “executive director of the criminal history systems board” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 94. Section 129C of said chapter 140, as so appearing, is hereby amended by striking out, in lines 12 and 13 and in lines 16 and 17, the words “executive director of the criminal history systems board” and inserting in place thereof, in each instance, the following words:- commissioner of the department of criminal justice information services.

SECTION 95. Section 130B of said chapter 140, as so appearing, is hereby amended by striking out, in line 2, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 96. Said section 130B of said chapter 140, as so appearing, is hereby further amended by striking out, in line 4, the words “criminal history systems board appointed by the executive director” and inserting in place thereof the following words:- department of criminal justice information services appointed by the commissioner.

SECTION 97. Section 131 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 55 and 56, line 163, and in lines 193 and 194, the words “executive director of the criminal history systems board,” and inserting in place thereof, in each instance, the following words:- commissioner of the department of criminal justice information services.

SECTION 98. Section 131½ of said chapter 140, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “criminal history systems board,” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 99. Section 131A of said chapter 140, as so appearing, is hereby amended by striking out, in line 12 and 13, the words “executive director of the criminal history systems board,” and inserting in place thereof the following words:- commissioner of the department of criminal justice information services.

SECTION 100. Section 25 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in lines 251 and 252 and in line 254, the words “criminal history systems board,” and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 101. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby amended by inserting, after subsection 9, the following subsection:-

9½. For an employer to request on its initial written application form criminal offender record information; provided, however, that except as otherwise prohibited by subsection 9, an employer may inquire about any criminal convictions on an applicant's application form if: (i) the applicant is applying for a position for which any federal or state law or regulation creates mandatory or presumptive disqualification based on a conviction for 1 or more types of criminal offenses; or (ii) the employer or an affiliate of such employer is subject to an obligation imposed by any federal or state law or regulation not to employ persons, in either 1 or more positions, who have been convicted of 1 or more types of criminal offenses.

SECTION 102. Section 7 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 42 and in lines 44 and 45, the words "criminal history systems board," and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 103. Section 6 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out, in line 97, the words "criminal history systems board" and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 104. Section 34A of chapter 215 of the General Laws, as so appearing, is hereby amended by striking out, in lines 47 and 48, the words "criminal history systems board," and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 105. Section 21 of chapter 233 of the General Laws, as so appearing, is hereby amended by inserting, at the end, the following paragraph:-

Upon order of the court, a party may obtain a witness's criminal offender record information from the department of criminal justice information services.

SECTION 106. Section 3 of chapter 255E of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words 'criminal history systems board,' and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 107. Section 1 of chapter 258C of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Crime" the following definition:-

"Crime scene cleanup", the removal of, or the attempted removal of, blood or other stains that are the direct result of the commission of a crime or other dirt and debris caused by the processing of the crime scene; provided, however, that crime scene cleanup shall not include the replacement or repair of property damaged during the commission of the crime, in accordance with section 4.

SECTION 108. Section 1 of chapter 258C of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Out-of-pocket loss" the following definition:-

“Security measures”, the replacement, repair or installation of locks, windows or other security devices deemed to be reasonably necessary for the promotion of the victim’s safety by the program director after taking into consideration the nature of the crime in accordance with section 4.

SECTION 109. Subsection (f) of section 2 of said chapter 258C of the General Laws is hereby repealed.

SECTION 110. Subsection (b) of section 3 of said chapter 258C, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following 2 paragraphs:-

(1)(A) The maximum award or compensation for funeral and burial expenses shall be \$6,500. A legal guardian, dependent or other family member of the victim or a person who actually incurs funeral and burial expenses directly related to the death of a victim shall be eligible for compensation for such funeral and burial expenses.

(B) The maximum award or compensation for expenses other than funeral and burial expenses associated with the interment of a victim whose death is the direct result of a crime shall be \$800. For purposes of this subsection compensable expenses shall include, but not be limited to, transportation of the victim to the location of interment, travel of a legal guardian or family member to accompany the victim to the location of interment, memorial markers at the location of interment or other associated expenses as determined by the program director in accordance with section 4.

SECTION 111. Said section 3 of said chapter 258C, as so appearing, is hereby further amended, in lines 22 and 25, by striking out the words “one hundred and eighteen F,” and inserting in place thereof the following word:- 118G.

SECTION 112. Said section 3 of said chapter 258C, as so appearing, is hereby further amended by inserting after the word “victim” , in line 40, the following words:- , parent or legal guardian of a victim who is a minor in accordance with section 4.

SECTION 113. Subsection (b) of said section 3 of said chapter 258C, as so appearing, is hereby further amended by adding the following 3 subparagraphs:-

(G) Expenses incurred for professional crime scene cleanup services necessary as the direct result of the commission of a crime at a private residence or in a motor vehicle that is owned or leased by a victim, family member or other dependent shall be compensable in accordance with this chapter; provided, however, that the maximum amount of compensation shall not exceed \$1,500.

(H) A victim shall be eligible for compensation for the reasonable replacement costs of clothing and bedding seized as evidence or rendered unusable as the result of a criminal investigation that is the direct result of a crime; provided, however, that the maximum compensable amount shall not exceed \$250.

(I) A victim or a family member residing with the victim at the time a crime is committed, shall be eligible for compensation for the costs associated with the implementation of security measures; provided, however, that the maximum compensable amount shall not exceed \$500.

SECTION 114. Section 8 of said chapter 258C, as so appearing, is hereby amended by striking out, in line 1, the word “fifteen” and inserting in place thereof the following figure:- 20

SECTION 115. Said section 8 of said chapter 258C, as so appearing, is hereby further amended by striking out, in line 12, the word “twenty”, and inserting in place thereof the following figure:- 30.

SECTION 116. Section 9 of said chapter 258C, as so appearing, is hereby amended by striking out, in line 7, the word “twenty” and inserting in place thereof the following figure:- 30.

SECTION 117. Section 10 of said chapter 258C, as so appearing, is hereby amended by inserting after the word “insurance,” in line 6, the following words:- , including, but not limited to, homeowner’s insurance, renter’s insurance, automobile insurance.

SECTION 118. Section 7 of chapter 258D of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 119. Chapter 265 of the General Laws is hereby amended by adding the following section:-

Section 48. A sex offender, as defined by section 178C of chapter 6, who engages in ice cream truck vending, as defined in section 25 of chapter 270, shall be punished by imprisonment in the house of correction for not more than 2½ years or by a fine of \$1,000, or by both such fine and imprisonment. A police officer or officer authorized to serve criminal process may arrest, without a warrant, any person whom he has probable cause to believe has violated this section.

SECTION 120. Section 13B of chapter 268 of the General Laws, as so appearing, is hereby amended by striking out clauses (iv) and (v) and inserting in place thereof the following 2 clauses:-

(iv) a person who is furthering a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk’s hearing, court ordered mediation, any other civil proceeding of any type; or

(v) a person who is or was attending or had made known his intention to attend a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding, clerk’s hearing, court-ordered mediation, any other civil proceeding of any type with the intent to impede, obstruct, delay, harm, punish or otherwise interfere thereby, or do so with reckless disregard, with such a proceeding shall be punished by imprisonment in a jail or house of correction for not more than 2 and one-half years or by imprisonment in a state prison for not more than 10 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both such fine and imprisonment.

SECTION 121. Section 16 of chapter 268 of the General Laws, as so appearing, is hereby amended by inserting after the word “branch,” in line 10, the following words:- or who knowingly disables or attempts to disable or defeat electronic monitoring of the prisoner,.

SECTION 122 Chapter 270 of the General Laws is hereby amended by adding the following section:-

Section 25. (a) For the purposes of this section, the following words shall have the following meanings:-

“Ice cream”, any frozen dairy or frozen water-based food product.

“Ice cream truck”, any motor vehicle used for selling, displaying or offering to sell ice cream.

“Ice cream truck vending”, the selling, displaying or offering to sell ice cream or any other prepackaged food product from an ice cream truck.

“Permitting authority”, the chief of police or the board or officer having control of the police in a city or town, or person authorized by them.

(b) No person shall engage in ice cream truck vending unless he shall have been issued a valid permit to do so by the permitting authority within the municipality wherein the permit applicant lives or intends to operate an ice cream truck. Such permit shall be conspicuously displayed and clearly visible on the windshield of any ice cream truck operated or from which ice cream or any other prepackaged food product is sold. Whoever violates this section shall be assessed a fine of \$500. Each day that such person is in operation in violation of this section may be considered a separate violation.

(c) The department of public safety shall adopt regulations relative to the annual permitting of ice cream truck vendors. Such regulations shall include, but not be limited to:

(i) a requirement that all applications for an ice cream truck vending permit or applications for renewal thereof shall include the applicant’s fingerprints and a current photo of the applicant;

(ii) adoption of a uniform permit application and permit form, to be used by all municipalities;

(iii) a requirement that a permitting authority conduct an investigation into the criminal history of a permit applicant to determine eligibility therefore; and

(iv) a provision restricting a permitting authority from issuing an ice cream truck vending permit to any sex offender, as defined by section 178C of chapter 6 of the General Laws.

SECTION 123. Section 23A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out, in line 8 and in lines 21 and 22, the words ‘criminal history systems board,’ and inserting in place thereof, in each instance, the following words:- department of criminal justice information services.

SECTION 124. Section 23B of said chapter 276, as so appearing, is hereby amended by striking out, in line 9 and lines 10 and 11, and in lines 12 and 13, the words ‘criminal history systems board,’ and inserting in place thereof, in each instance, the following words:-

department of criminal justice information services.

SECTION 125. Section 58A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out subsection (1) and inserting in place thereof the following subsection:-

(1) The commonwealth may move, based on dangerousness, for an order of pretrial detention or release on conditions for a felony offense that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another or any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result, including the crimes of burglary and arson whether or not a person has been placed at risk thereof, or a violation of an order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined in section 1 of said chapter 209A or while an order of protection issued under said chapter 209A was in effect against such person, an offense for which a mandatory minimum term of 3 years or more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90, or arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269; provided, however, that the commonwealth may not move for an order of detention under this section based on possession of a large capacity feeding device without simultaneous possession of a large capacity weapon; or arrested and charged with a violation of section 10G of said chapter 269.

SECTION 126. Section 100 of said chapter 276, as so appearing, is hereby amended by striking out, in line 30, the words “criminal history systems board” and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 127. Said section 100 of said chapter 276, as so appearing, is hereby further amended by striking out, in line 33, the word “board” and inserting in place thereof the following word:- department.

SECTION 128. Section 100A of chapter 276 of the General Laws, as so appearing, is hereby amended by striking the first paragraph and inserting in place thereof the following paragraph:-

Any person having a record of criminal court appearances and dispositions in the commonwealth on file with the office of the commissioner of probation may, on a form furnished by the commissioner and signed under the penalties of perjury, request that the commissioner seal the file. The commissioner shall comply with the request provided that: (1) the person’s court appearance and court disposition records, including any period of incarceration or custody for any misdemeanor record to be sealed occurred not less than 5 years before the request; (2) the person’s court appearance and court disposition records, including any period of incarceration or custody for any felony record to be sealed occurred not less than 10 years before the request; (3) the person had not been found guilty of any criminal offense within the commonwealth in the case of a misdemeanor, 5 years before the

request, and in the case of a felony, 10 years before request, except motor vehicle offenses in which the penalty does not exceed a fine of \$50; (4) the form includes a statement by the petitioner that he has not been convicted of any criminal offense in any other state, United States possession or in a court of federal jurisdiction, except such motor vehicle offenses, as aforesaid, and has not been imprisoned in any state or county in the case of a misdemeanor, within the preceding 5 years, and in the case of a felony, within the preceding 10 years; and (5) the person's record does not include convictions of offenses other than those to which this section applies. This section shall apply to court appearances and dispositions of all offenses; provided, however, that this section shall not apply in case of convictions for violations of sections 121 to 131H, inclusive, of chapter 140 or for violations of chapter 268 or chapter 268A.

SECTION 129. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting, after line 40, the following clauses:-

5. Any violation of section 7 of chapter 209A or section 9 of chapter 258E shall be treated as a felony.

6. Sex offenses, as defined in section 178C of chapter 6, shall not be eligible for sealing for 15 years following their disposition, including termination of supervision, probation or any period of incarceration, or for so long as the offender is under a duty to register in the commonwealth or in any other state where the offender resides or would be under such a duty if residing in the commonwealth, whichever is longer; provided, however, that any sex offender who has at any time been classified as a level 2 or level 3 sex offender, pursuant to section 178K of chapter 6, shall not be eligible for sealing of sex offenses.

SECTION 130. Said section 100A of said chapter 276, as so appearing, is hereby further amended by inserting after the word "proceedings", in line 52, the following words:-
", and except that in any proceedings under sections 1 to 39I, inclusive, of chapter 119, sections 2 to 5, inclusive, of chapter 201, chapters 208, 209, 209A, 209B, 209C, or sections 1 to 11A, inclusive, of chapter 210, a party having reasonable cause to believe that information in a sealed criminal record of another party may be relevant to (1) an issue of custody or visitation of a child, (2) abuse, as defined in section 1 of chapter 209A or (3) the safety of any person may upon motion seek to introduce the sealed record into evidence. The judge shall first review such records in camera and determine those records that are potentially relevant and admissible. The judge shall then conduct a closed hearing on the admissibility of those records determined to be potentially admissible; provided, however, that such records shall not be discussed in open court and, if admitted, shall be impounded and made available only to the parties, their attorneys and court personnel who have a demonstrated need to receive them.

SECTION 131. Section 100C of said chapter 276, as so appearing, is hereby amended by striking out, in lines 11 to 12, inclusive, the words "except in cases in which an order of probation has been terminated,".

SECTION 132. Said section 100C of said chapter 276, as so appearing, is hereby

further amended by inserting after the word “commissioner”, in line 29, the following words:- or the clerk of courts in any district or superior court or the Boston municipal court.

SECTION 133. Said chapter 276 is hereby amended by inserting after section 100C the following section:-

Section 100D. Notwithstanding any provision of section 100A, 100B, or 100C of this chapter, criminal justice agencies as defined in section 167 of chapter 6 shall have immediate access to, and be permitted to use as necessary for the performance of their criminal justice duties, any sealed criminal offender record information as defined in section 167 of chapter 6 and any sealed information concerning criminal offenses or acts of delinquency committed by any person before he attained the age of 17.

SECTION 134. Section 1 of chapter 279 of the General Laws, as so appearing, is hereby amended by striking out, in line 42, the words ‘criminal history systems board’ and inserting in place thereof the following words:- department of criminal justice information services.

SECTION 135. 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 criminal history systems board, as the transferor agency, to the department of criminal justice information services, as the transferee agency, as follows:

(a) Subject to appropriation, the employees of the criminal history systems board, 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 department of criminal justice information services, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws.

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

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

(b) All petitions, requests, investigations and other proceedings appropriately and duly brought before or referred to the executive director of the criminal history systems board by the transferor agency and pending before the executive director before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the department of criminal justice information services.

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

(d) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the criminal history systems board shall be transferred to the department of criminal justice information services.

(e) All duly existing contracts, leases and obligations of the criminal history systems board shall continue in effect but shall be assumed by the department of criminal justice information services. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 136. The Massachusetts department of criminal justice information systems, in consultation with the information technology division, shall regularly report on its progress in building the information technology system necessary to fulfill the requirements established in subsection (a) of section 172 of chapter 6 of the General Laws, as amended by section 21 of this act. The department shall file such reports with the joint committee on the judiciary, the joint committee on public safety and homeland security, the house and senate committees on bonding, capital expenditures and state assets and the house and senate committees on ways and means and shall post such reports on the department's publicly-accessible website. The department shall file such reports 6, 12, 15 and 18 months after the effective date of this act, and at 3-month intervals thereafter, if necessary, until the project is complete. Each report shall include a description of the progress made in the planning, design and construction of the system since the preceding report, and shall include a comparison of actual expenditures to budgeted expenditures and of budgeted timelines to actual timelines. Each report shall also include a certification as to whether the department expects the complete information technology system to be fully operational 18 months after the effective date of this act.

SECTION 137. Notwithstanding the provisions of sections 32, 32A, 32B, 32E, and 32J of chapter 94C of the General Laws, or any other general or special law to the contrary,

a person serving a mandatory minimum sentence for violating any provision of the above-referenced sections as of the effective date of this act, shall be eligible for parole after serving one-half of the maximum term of the sentence if the sentence is to a house of correction; provided, however, that said person shall not be eligible for parole if the parole board finds that any one of the following aggravating circumstances apply:

(i) the defendant used violence or threats of violence or possessed a firearm, rifle, shotgun, machine gun or a weapon described in paragraph (b) of section 10 of chapter 269, or induced another participant to do so, during the commission of the offense;

(ii) the defendant engaged in a course of conduct whereby he directed the activities of another who committed a felony in violation of Chapter 94C; or

(iii) the offense was committed during the commission or attempted commission of the offenses set forth in section 32F or section 32K of chapter 94C.

SECTION 138. The executive office of public safety, in conjunction with the department of public health, the trial court, the department of probation and the office of community correction, shall promulgate regulations establishing a resource guide for law enforcement personnel, sheriffs and judges on substance abuse treatment programs and options, including but not limited to, providing information on civil commitment programs, jail diversion and public and private treatment options, including the Massachusetts Alcohol and Substance Abuse Center, the Men's Addiction Treatment Center and the Women's Addiction Treatment Center. The Bureau of Substance Abuse Services shall provide technical assistance related to producing said resource guide.

SECTION 139. The executive office of public safety and security and the department of correction, in conjunction with the department of public health, shall adopt regulations to create a substance abuse education program in state prisons and houses of corrections. Such program shall focus on, but not be limited to, screening inmates for substance use disorders, preparing inmates with substance use disorders for reentry into the community, providing training relative to obtaining housing, employment and the necessary substance abuse treatment once an inmate is released.

SECTION 140. The department of probation, in conjunction with the criminal history systems board shall conduct a study on rehabilitation. That study shall include an examination of:

(a) enabling a person convicted of or adjudicated delinquent by reason of any felony or misdemeanor charges in the commonwealth or a person who has been charged with a crime in the commonwealth but which charges did not result in a conviction to petition the superior court of the trial court department in the county in which he then resides for a certificate of rehabilitation, or a certificate of recovery and rehabilitation if the charges were a consequence of substance abuse, for ascertainment and declaration of the fact of his rehabilitation or recovery and rehabilitation if certain conditions are met, for example if the person: (1) has not been sentenced to incarceration since being discharged from a felony or misdemeanor or since the termination of any ancillary proceedings related to such felony or misdemeanor including, but not limited to, any period of probation, parole or continuation;

(2) is not the subject of a probationary or parole term for the commission of any other felony or misdemeanor; (3) presents satisfactory evidence of 2 years residence in the commonwealth prior to the filing of the petition; (4) has demonstrated a period of rehabilitation, as provided in section 176C of the General Laws, and (5) in the case of a person seeking a certificate of recovery and rehabilitation, has completed a substance abuse treatment program approved by the bureau of substance abuse treatment services;

(b) the standard the petitioner must demonstrate his rehabilitation or recovery;

(c) the duration of rehabilitation required to be eligible for a certificate of rehabilitation or recovery;

(d) any recommended provision of notice of the filing of a petition to the district attorney of the county in which a petition is filed, to the district attorney of the county in which the petitioner was convicted of an offense, to the attorney general and to the governor;

(e) whether a petitioner for a certification of rehabilitation or recovery may be represented by counsel and whether the court shall appoint counsel for certain petitioners;

(f) whether the court in which the petition is filed may require such testimony as it deems necessary, and who should be required to produce and pay for the cost of production of all records and reports relating to the petitioner and the offense for which he was charged;

(g) which information the court may request upon the filing of the application for a certificate, from the district attorney in which the petition was filed including, but not limited to: the place of residence of the petitioner; the criminal record of the petitioner as shown by the records of the Department of Justice; any representation made to the court by the petitioner; the conduct of the petitioner during his period of rehabilitation; and any other information the court may deem necessary in making its determination;

(h) under what conditions a court should deny a petition for a certificate of rehabilitation or recovery;

(i) under what conditions a court should issue a certificate of rehabilitation or recovery and whether such a certificate should become a part of the petitioner's criminal offender record information;

(j) to whom the court should forward such a certificate and whether any recommendations should be included;

(k) whether such a certificate should be provided to any person lawfully seeking information relative to the offense for which a petitioner has received a certificate;

(l) whether any forms would be required to effectuate such a process and who should develop them;

(m) any notice requirements that are recommended for defendants or individuals being released from custody, discharged from probation or parole, or concluding substance abuse treatment;

(n) any other factors that may or may not be included within the determination of whether to issue a benefit granted by the awarding of such a certificate;

(o) any rights that an individual who has been denied the benefits of attaining a cer-

tificate of rehabilitation or recovery should have, including the right to appeal such a decision;

(p) what the appropriate forum should be for such an appeal; and

(q) any punishments that should be levied against an individual who fraudulently uses such a certificate.

The department shall report its findings to the clerks of the house and senate by December 31, 2010, who shall forward that report to the chairmen of the house committee on ways and means, the senate committee on ways and means and the joint committee on mental health and substance abuse.

SECTION 141. The parole board shall conduct a study to determine the benefit and cost of establishing a substance abuse treatment program to be included as a requirement for individuals during a period of post-release supervision.

The board shall file the findings of its study by December 31, 2010, with the clerks of the house and the senate, who shall forward the report to the chairmen of the house committee on ways and means, the senate committee on ways and means, the joint committee on mental health and substance abuse and the joint committee on the judiciary.

SECTION 142. The department of corrections, in consultation with the department of public health shall conduct a study on the establishment of jail diversion programs for nonviolent low-level offenders with substance use disorders. The study shall include, but not be limited to, the establishment of jail diversion programs, innovative ways for the courts to divert substance abusers from the criminal justice system into specified substance abuse treatment options and the cost estimates for implementing such a program.

The department shall file the findings of its study by December 31, 2010, with the clerks of the house and the senate, who shall forward the report to the chairmen of the house committee on ways and means, the senate committee on ways and means and the joint committee on mental health and substance abuse.

SECTION 143. The administrative office of the trial court shall conduct a study to examine the bail review process including, but not limited to, personal recognizance, challenges to the amount of bail for an accused and the provision of notice to a petitioner relative to future court appearances. The administrative office shall report to the joint committee on the judiciary not later than December 31, 2010.

SECTION 144. The department of public safety shall adopt the regulations required under section 25 of chapter 270 of the General Laws, not later than 90 days from the effective date of this act.

SECTION 145. Sections 2 to 8, inclusive, 12, 16 to 26, inclusive, 28, 30, 31, 33 to 37, inclusive, 56, 62, 65 to 67, inclusive, 105, 119, 122, 128 to 133, inclusive, and 135 shall take effect 18 months from the effective date of this act.

SECTION 146. Section 144 shall take effect 180 days from the effective date of this act.

Approved August 6, 2010.

Chapter 257. AN ACT AUTHORIZING THE DUKES COUNTY CONTRIBUTORY RETIREMENT SY STEM TO GRANT CERTAIN RETIREMENT BENEFITS.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the Dukes County contributory retirement system shall recalculate the retirement benefits of Joann DeBettencourt, crediting her with 34 years of creditable service at the age of 57.

The foregoing was laid before the Governor on the twenty-seventh day of July, 2010 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 258. AN ACT RELATIVE TO MORTGAGE FORECLOSURES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith the citizens and neighborhoods 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. The second paragraph of subsection (e) of Clause Third of section 5 of chapter 59 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- In any city or town that accepts this paragraph, any real estate owned by, or held in trust for, a charitable organization for the purpose of creating community housing, as defined in section 2 of chapter 44B, that was purchased from an entity that acquired the property pursuant to section 14 of chapter 244 shall be exempt until such real estate is leased, rented or otherwise disposed of, but not for more than 7 years after such purchase.

SECTION 2. Chapter 167E of the General Laws is hereby amended by inserting after section 7 the following section:-

Section 7A. (a) As used in this section the following word shall, unless the context clearly requires otherwise, have the following meaning:-

“Mortgagor”, an applicant for a reverse mortgage who: (1) has a gross income of less than 50 percent of the area median income, as periodically determined by the United States Department of Housing and Urban Development; and (2) possesses assets, excluding a primary residence, valued at less than \$120,000.

(b) No mortgagee shall make a reverse mortgage loan pursuant to section 7 to a mortgagor unless: (i) the mortgagor affirmatively opts in writing for the reverse mortgage;

and (ii) at or before the closing of any reverse mortgage loan the mortgagee has received written certification from a counselor with a third-party organization that the mortgagor has received counseling in person relative to the appropriateness of the loan transaction from the third party organization and has completed an approved counseling program offered by the third party organization; provided, however, that the third party organization shall have been approved by the executive office of elder affairs for purposes of such counseling.

(c) A reverse mortgage executed with a borrower that has not received counseling by a third party approved by the executive office of elder affairs shall render the terms of the reverse mortgage unenforceable. The commissioner shall adopt regulations to administer and implement this section.

SECTION 3. Chapter 171 of the General Laws is hereby amended by inserting after section 65C the following section:-

Section 65C½. (a) As used in this section the following word shall, unless the context clearly requires otherwise, have the following meaning:

“Mortgagor”, an applicant for a reverse mortgage who: (1) has a gross income of less than 50 per cent of the area median income, as periodically determined by the United States Department of Housing and Urban Development; and (2) possesses assets, excluding a primary residence, valued at less than \$120,000.

(b) No mortgagee shall make a reverse mortgage loan pursuant to section 65C to a mortgagor unless: (i) the mortgagor affirmatively opts in writing for the reverse mortgage; and (ii) at or before the closing of any reverse mortgage loan the mortgagee has received written certification from a counselor with a third-party organization that the mortgagor has received counseling in person relative to the appropriateness of the loan transaction from the third party organization and has completed an approved counseling program offered by the third party organization; provided, however, that the third party organization shall have been approved by the executive office of elder affairs for purposes of such counseling.

(c) A reverse mortgage executed with a borrower that has not received counseling by a third party approved by the executive office of elder affairs shall render the terms of the reverse mortgage unenforceable. The commissioner shall adopt regulations to administer and implement this section.

SECTION 4. Chapter 183 of the General Laws is hereby amended by striking out section 67, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 67. No mortgagee shall make a reverse mortgage loan on residential property except in accordance with sections 7 and 7A of chapter 167E. For the purposes of this section, the term “residential property” shall mean a 1 to 4 family dwelling owned and occupied in whole or in part by the mortgagor and located in the commonwealth.

SECTION 5. Section 13A of chapter 186 of the General Laws, as so appearing, is hereby amended by inserting after the word “law”, in line 6, the following words:- and the foreclosing entity shall assume the lease and rental subsidy contract with the rental subsidy administrator.

SECTION 6. The General Laws are hereby amended by inserting after chapter 186 the following chapter:-

CHAPTER 186A.
TENANT PROTECTIONS IN FORECLOSED PROPERTIES.

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

“Bona fide lease or bona fide tenancy”, a lease or tenancy shall not be considered bona fide unless: (1) the mortgagor, or the child, spouse or parent of the mortgagor under the contract, is not the tenant; and (2) the lease or tenancy was the result of an arms-length transaction.

“Entity”, a business organization, or any other kind of organization including, without limitation, a corporation, partnership, trust, limited liability corporation, limited liability partnership, joint venture, sole proprietorship or any other category of organization and any employee, agent, servant or other representative of such entity.

“Eviction”, an action, without limitation, by a foreclosing owner of a housing accommodation which is intended to actually or constructively evict a tenant or otherwise compel a tenant to vacate such housing accommodation.

“Foreclosing owner”, an entity that holds title in any capacity, directly or indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a housing accommodation that has been foreclosed upon and either: (1) held or owned a mortgage or other security interest in the housing accommodation at any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent, trustee, or agent thereof; or (2) is an institutional mortgagee that acquires or holds title to the housing accommodation within 3 years of the filing of a foreclosure deed on the housing accommodation; or (3) is the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Foreclosure”, a legal proceeding to terminate a mortgagor's interest in property, instituted by the mortgagee, and regulated under chapter 244.

“Housing accommodation”, a building or structure, or part thereof or land appurtenant thereto, and any other real or personal property used, rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property.

“Institutional mortgagee”, an entity or an entity which is the subsidiary, parent, trustee or agent thereof or otherwise related to such entity, that holds or owns mortgages or other security interests in 3 or more housing accommodations or that acts as a mortgage servicer of 3 or more mortgages of housing accommodations.

“Just cause”, 1 of the following: (1) the tenant has failed to pay the rent in effect prior to the foreclosure or failed to pay use and occupancy charges, as long as the foreclosing owner notified the tenant in writing of the amount of rent or the amount of use and occupancy that was to be paid and to whom it was to be paid; (2) the tenant has materially

violated an obligation or covenant of the tenancy or occupancy, other than the obligation to surrender possession upon proper notice, and has failed to cure such violation within 30 days after having received written notice thereof from the foreclosing owner; (3) the tenant is committing a nuisance in the unit, is permitting a nuisance to exist in the unit, is causing substantial damage to the unit or is creating a substantial interference with the quiet enjoyment of other occupants; (4) the tenant is using or permitting the unit to be used for any illegal purpose; (5) the tenant who had a written bona fide lease or other rental agreement which terminated, on or after August 10, 2010, has refused, after written request or demand by the foreclosing owner, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not inconsistent with this chapter; (6) the tenant has refused the foreclosing owner reasonable access to the unit for the purpose of making necessary repairs or improvement required by the laws of the United States, the commonwealth or any subdivision thereof, or for the purpose of inspection as permitted or required by agreement or by law or for the purpose of showing the unit to a prospective purchaser or mortgagee provided. Nothing in the section shall limit the rights of a third-party owner to evict a tenant at the expiration of an existing lease.

“Mortgagee”, an entity to whom property is mortgaged, the mortgage creditor or lender including, but not limited to, mortgage servicers, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee or any successor in interest or assignee of the mortgagee’s rights, interests or obligations under the mortgage agreement.

“Mortgage servicer”, an entity which administers or at any point administered the mortgage; provided, however that such administration shall include, but not be limited to, calculating principal and interest, collecting payments from the mortgagor, acting as escrow agent or foreclosing in the event of a default.

“Tenant”, a person or group of persons who at the time of foreclosure is entitled to occupy a housing accommodation pursuant to a bona fide lease or tenancy or a tenancy at will. A person who moves into the housing accommodation owned by the foreclosing owner, subsequent to the foreclosure sale, without the express written permission of the foreclosing owner shall not be considered a tenant under this chapter.

“Unit” or “residential unit”, the room or group of rooms within a housing accommodation which is used or intended for use as a residence by 1 household.

Section 2. Notwithstanding any general or special law to the contrary, a foreclosing owner shall not evict a tenant except for just cause or unless a binding purchase and sale agreement has been executed for a bona fide third party to purchase the housing accommodation from a foreclosing owner.

Section 3. Within 30 days of the foreclosure, the foreclosing owner shall post in a prominent location in the building in which the rental housing unit is located a written notice stating the names, addresses, telephone numbers and telephone contact information of the foreclosing owner, the building manager or other representative of the foreclosing owner responsible for the management of such building and stating the address to which rent and

use and occupancy charges shall be sent. This requirement shall be satisfied if the foreclosing owner or someone acting on his behalf has: (i) posted in a prominent location in the building; (ii) mailed by first class mail to each unit; (iii) and slid under the door of each unit in the building a document stating the names, addresses, and telephone contact information of the foreclosing owner, the building manager or other representative of the foreclosing owner responsible for the management of such building and stating the address to which rent and use and occupancy charges shall be sent.

A foreclosing owner shall not evict a tenant for actions that constitute just cause unless the foreclosing owner has delivered to each tenant at the time of delivery of written notice pursuant to this section, a written disclosure of the tenant's right to a court hearing prior to eviction.

Section 4. (a) A foreclosing owner shall not evict a tenant for the following actions that constitute just cause until 30 days after the notice required by section 3 is posted and delivered: (i) the tenant has failed to pay the rent in effect prior to the foreclosure or failed to pay use and occupancy charges, as long as the foreclosing owner notified the tenant in writing of the amount of rent or the amount of use and occupancy that was to be paid and to whom it was to be paid; (ii) the tenant has materially violated an obligation or covenant of the tenancy or occupancy, other than the obligation to surrender possession upon proper notice, and has failed to cure such violation within 30 days after having received written notice thereof from the foreclosing owner; and (iii) the tenant who had a written bona fide lease or other rental agreement which terminated, on or after August 10, 2010, has refused, after written request or demand by the foreclosing owner, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not inconsistent with this chapter.

(b) A foreclosing owner shall not evict a tenant for the following actions that constitute just cause until the notice required by section 3 is posted and delivered: (i) the tenant is committing a nuisance in the unit, is permitting a nuisance to exist in the unit, is causing substantial damage to the unit or is creating a substantial interference with the quiet enjoyment of other occupants; (ii) the tenant is using or permitting the unit to be used for any illegal purpose; and (iii) the tenant has refused the foreclosing owner reasonable access to the unit for the purpose of making necessary repairs or improvement required by the laws of the United States, the commonwealth or any subdivision thereof, or for the purpose of inspection as permitted or required by agreement or by law or for the purpose of showing the unit to a prospective purchaser or mortgagee provided.

Section 5. If a foreclosing owner disagrees with the amount of rent or use and occupancy rates that a tenant-at-will or lessee pays to the foreclosing owner, the foreclosing owner may bring a claim in district or superior court or the housing court to claim that the rent is unreasonable and set a new use and occupancy rate. A bona fide lease between the foreclosed-upon owner and the lessee or proof of rental payment to the foreclosed-upon owner shall be presumed reasonable.

Section 6. A foreclosing owner that evicts a tenant in violation of this chapter or any ordinance or by-law adopted pursuant to this chapter, shall be punished by a fine of not less than \$5,000. Each such illegal eviction shall constitute a separate offense.

The district and superior courts and the housing court shall have jurisdiction over an action arising from a violation of this chapter or of any ordinance or by-law adopted pursuant to this chapter, and shall have jurisdiction in equity to restrain any such violation. It shall be a defense to an eviction proceeding that the foreclosing owner attempted to evict a tenant in violation of this chapter or any ordinance or by-law adopted pursuant to this chapter.

SECTION 7. Chapter 244 of the General Laws is hereby amended by striking out section 35A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 35A. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Borrower”, a mortgagor of a mortgage loan.

“Borrower’s representative”, an employee or contractor of a non-profit organization certified by Housing and Urban Development, an employee or contractor of a foreclosure education center pursuant to section 16 of chapter 206 of the acts of 2007 or an employee or contractor of a counseling agency receiving a Collaborative Seal of Approval from the Massachusetts Homeownership Collaborative administered by the Citizens’ Housing and Planning Association.

“Creditor”, a person or entity that holds or controls, partially, wholly, indirectly, directly, or in a nominee capacity, a mortgage loan securing a residential property, including, without limitation, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. “Creditor” shall also include any servant, employee or agent of a creditor.

“Creditor’s representative”, a person who has the authority to negotiate the terms of and modify a mortgage loan.

“Modified mortgage loan”, a mortgage modified from its original terms including, but not limited to, a loan modified pursuant to 1 of the following: (i) the Home Affordable Modification Program; (ii) the Federal Deposit Insurance Corporation’s Loan Modification Program; (iii) any modification program that a lender uses which is based on accepted principles and the safety and soundness of the institution and recognized by the National Credit Union Administration, the Division of Banks or any other instrumentality of the commonwealth; (iv) the Federal Housing Agency; or (v) a similar federal refinance plan.

“Mortgage loan”, a loan to a natural person made primarily for personal, family or household purposes secured wholly or partially by a mortgage on residential property.

“Net present value”, the present net value of a residential property based on a calculation using 1 of the following: (i) the federal Home Affordable Modification Program Base Net Present Value Model, (ii) the Federal Deposit Insurance Corporation’s Loan Modi-

fication Program; or (iii) for the Massachusetts Housing Finance Agency's loan program used solely by the agency to compare the expected economic outcome of a loan with or without a loan modification.

"Residential property", real property located in the commonwealth having thereon a dwelling house with accommodations for 4 or less separate households and occupied, or to be occupied, in whole or in part by the obligor on the mortgage debt; provided, however, that residential property shall be limited to the principal residence of a person; provided further, that residential property shall not include an investment property or residence other than a primary residence; and provided further, that residential property shall not include residential property taken in whole or in part as collateral for a commercial loan.

(b) A mortgagor of residential property shall have a 150-day right to cure a default of a required payment as provided in the residential mortgage or note secured by the residential property by full payment of all amounts that are due without acceleration of the maturity of the unpaid balance of the mortgage; provided, however, that if a creditor certifies that: (i) it has engaged in a good faith effort to negotiate a commercially reasonable alternative to foreclosure as described in subsection (c); (ii) its good faith effort has involved at least 1 meeting, either in person or by telephone, between a creditor's representative and the borrower, the borrower's attorney or the borrower's representative; and (iii) after such meeting the borrower and the creditor were not successful in resolving their dispute, then the creditor may begin foreclosure proceedings after a right to cure period lasting 90 days. A borrower who fails to respond within 30 days to any mailed communications offering to negotiate a commercially reasonable alternative to foreclosure sent via certified and first class mail or similar service by a private carrier from the lender shall be deemed to have forfeited the right to a 150-day right to cure period and shall be subject to a right to cure period lasting 90 days. The right to cure a default of a required payment shall be granted once during any 3 year period, regardless of mortgage holder.

(c) For purposes of this section, a determination that a creditor has made a good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure shall mean that the creditor has considered: (i) an assessment of the borrower's current circumstances including, without limitation, the borrower's current income, debts and obligations; (ii) the net present value of receiving payments pursuant to a modified mortgage loan as compared to the anticipated net recovery following foreclosure; and (iii) the interests of the creditor; provided, however, that nothing in this subsection shall be construed as prohibiting a creditor from considering other factors; provided, further, that the creditor shall provide by first class and certified mail or similar service by a private carrier to a borrower documentation of good faith effort 10 days prior to meeting, telephone conversation or a meeting pursuant to subsection (b).

(d) A borrower who receives a loan modification offer from the creditor resulting from the lender's good faith effort to negotiate and agree upon a commercially reasonable alternative to foreclosure shall respond within 30 days of receipt of first class or certified mail. A borrower shall be presumed to have responded if the borrower provides: (i) confirm-

ation of a facsimile transmission to the creditor; (ii) proof of delivery through the United States Postal Service or similar carrier; or (iii) record of telephone call to the creditor captured on a telephone bill or pin register. A borrower who fails to respond to the creditor's offer within 30 days of receipt of a loan modification offer shall be deemed to have forfeited the 150-day right to cure period and shall be subject to a right to cure period lasting 90 days.

(e) Nothing in this section shall prevent a creditor from offering or accepting alternatives to foreclosure, such as a short sale or deed-in-lieu of foreclosure, if the borrower requests such alternatives, rejects a loan modification offered pursuant to this subsection or does not qualify for a loan modification pursuant to this subsection.

(f) A creditor that chooses to begin foreclosure proceedings after a right to cure period lasting less than 150 days that engaged in a good faith effort to negotiate and agree upon a commercially reasonable alternative but was not successful in resolving the dispute shall certify compliance with this section in an affidavit. The affidavit shall include the time and place of the meeting, parties participating, relief offered to the borrower, a summary of the creditor's net present value analysis and applicable inputs of the analysis and certification that any modification or option offered complies with current federal law or policy. A creditor shall provide a copy of the affidavit to the homeowner and file a copy of the affidavit with the land court in advance of the foreclosure.

(g) The mortgagee, or anyone holding thereunder, shall not accelerate maturity of the unpaid balance of such mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any such payment in subsection (b) by any method authorized by this chapter or any other law until at least 150 days after the date a written notice is given by the mortgagee to the mortgagor; provided, however, that a creditor meeting the requirements of subsection (b) that chooses to begin foreclosure proceedings after a right to cure period lasting less than 150 days may accelerate maturity of the unpaid balance of such mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any such payment in subsection (b) by any method authorized by this chapter or any other law not less than 91 days after the date a written notice is given by the creditor to the mortgagor.

Said notice shall be deemed to be delivered to the mortgagor: (i) when delivered by hand to the mortgagor; or (ii) when sent by first class mail and certified mail or similar service by a private carrier to the mortgagor at the mortgagor's address last known to the mortgagee or anyone holding thereunder.

(h) The notice required in subsection (g) shall inform the mortgagor of the following:-

(1) the nature of the default claimed on such mortgage of residential real property and of the mortgagor's right to cure the default by paying the sum of money required to cure the default;

(2) the date by which the mortgagor shall cure the default to avoid acceleration, a foreclosure or other action to seize the home, which date shall not be less than 150 days after service of the notice and the name, address and local or toll free telephone number of a per-

son to whom the payment or tender shall be made unless a creditor chooses to begin foreclosure proceedings after a right to cure period lasting less than 150 days that engaged in a good faith effort to negotiate and agree upon a commercially reasonable alternative but was not successful in resolving the dispute, in which case a foreclosure or other action to seize the home may take place on an earlier date to be specified;

(3) that, if the mortgagor does not cure the default by the date specified, the mortgagee, or anyone holding thereunder, may take steps to terminate the mortgagor's ownership in the property by a foreclosure proceeding or other action to seize the home;

(4) the name and address of the mortgagee, or anyone holding thereunder, and the telephone number of a representative of the mortgagee whom the mortgagor may contact if the mortgagor disagrees with the mortgagee's assertion that a default has occurred or the correctness of the mortgagee's calculation of the amount required to cure the default;

(5) the name of any current and former mortgage broker or mortgage loan originator for such mortgage or note securing the residential property;

(6) that the mortgagor may be eligible for assistance from the Homeownership Preservation Foundation or other foreclosure counseling agency, and the local or toll free telephone numbers the mortgagor may call to request this assistance;

(7) that the mortgagor may sell the property prior to the foreclosure sale and use the proceeds to pay off the mortgage;

(8) that the mortgagor may redeem the property by paying the total amount due, prior to the foreclosure sale;

(9) that the mortgagor may be evicted from the home after a foreclosure sale; and

(10) the mortgagor may have the following additional rights, depending on the terms of the residential mortgage: (i) to refinance the obligation by obtaining a loan which would fully repay the residential mortgage debtor; and (ii) to voluntarily grant a deed to the residential mortgage lender in lieu of foreclosure.

The notice shall also include a declaration, in the language the creditor has regularly used in its communication with the borrower, appearing on the first page of the notice stating: "This is an important notice concerning your right to live in your home. Have it translated at once."

The division of banks shall adopt regulations in accordance with this subsection.

(i) To cure a default prior to acceleration under this section, a mortgagor shall not be required to pay any charge, fee or penalty attributable to the exercise of the right to cure a default. The mortgagor shall pay late fees as allowed pursuant to section 59 of chapter 183 and per-diem interest to cure such default. The mortgagor shall not be liable for any attorneys' fees relating to the mortgagor's default that are incurred by the mortgagee or anyone holding thereunder prior to or during the period set forth in the notice required by this section. The mortgagee, or anyone holding thereunder, may also provide for reinstatement of the note after the 150-day notice to cure has ended.

(j) A copy of the notice required by this section and an affidavit demonstrating compliance with this section shall be filed by the mortgagee, or anyone holding thereunder,

in any action or proceeding to foreclose on such residential real property.

(k) A copy of the notice required by this section shall also be filed by the mortgagee, or anyone holding thereunder, with the commissioner of the division of banks. Additionally, if the residential property securing the mortgage loan is sold at a foreclosure sale, the mortgagee, or anyone holding thereunder, shall notify the commissioner of the division of banks, in writing, of the date of the foreclosure sale and the purchase price obtained at the sale.

SECTION 8. Said chapter 244 is hereby further amended by striking out section 35A, as appearing in section 7, and inserting in place thereof the following section:-

Section 35A. (a) Any mortgagor of residential real property located in the commonwealth, shall have a 90-day right to cure a default of a required payment as provided in such residential mortgage or note secured by such residential real property by full payment of all amounts that are due without acceleration of the maturity of the unpaid balance of such mortgage. The right to cure a default of a required payment shall be granted once during any 5-year period, regardless of the mortgage holder. For the purposes of this section, "residential property", shall mean real property located in the commonwealth having thereon a dwelling house with accommodations for 4 or less separate households and occupied, or to be occupied, in whole or in part by the mortgagor; provided, however, that residential property shall be limited to the principal residence of a person; provided further, that residential property shall not include an investment property or residence other than a primary residence; and provided further, that residential property shall not include residential property taken in whole or in part as collateral for a commercial loan.

(b) The mortgagee, or anyone holding thereunder, shall not accelerate maturity of the unpaid balance of such mortgage obligation or otherwise enforce the mortgage because of a default consisting of the mortgagor's failure to make any such payment in subsection (a) by any method authorized by this chapter or any other law until at least 90 days after the date a written notice is given by the mortgagee to the mortgagor.

Said notice shall be deemed to be delivered to the mortgagor: (i) when delivered by hand to the mortgagor; or (ii) when sent by first class mail and certified mail or similar service by a private carrier to the mortgagor at the mortgagor's address last known to the mortgagee or anyone holding thereunder.

(c) The notice required in subsection (b) shall inform the mortgagor of the following:-

(1) the nature of the default claimed on such mortgage of residential real property and of the mortgagor's right to cure the default by paying the sum of money required to cure the default;

(2) the date by which the mortgagor shall cure the default to avoid acceleration, a foreclosure or other action to seize the home, which date shall not be less than 90 days after service of the notice and the name, address and local or toll free telephone number of a person to whom the payment or tender shall be made;

(3) that, if the mortgagor does not cure the default by the date specified, the mortgagee, or anyone holding thereunder, may take steps to terminate the mortgagor's ownership in the property by a foreclosure proceeding or other action to seize the home;

(4) the name and address of the mortgagee, or anyone holding thereunder, and the telephone number of a representative of the mortgagee whom the mortgagor may contact if the mortgagor disagrees with the mortgagee's assertion that a default has occurred or the correctness of the mortgagee's calculation of the amount required to cure the default;

(5) the name of any current and former mortgage broker or mortgage loan originator for such mortgage or note securing the residential property;

(6) that the mortgagor may be eligible for assistance from the Massachusetts Housing Finance Agency and the division of banks and the local or toll free telephone numbers the mortgagor may call to request this assistance;

(7) that the mortgagor may sell the property prior to the foreclosure sale and use the proceeds to pay off the mortgage;

(8) that the mortgagor may redeem the property by paying the total amount due, prior to the foreclosure sale;

(9) that the mortgagor may be evicted from the home after a foreclosure sale; and

(10) the mortgagor may have the following additional rights, depending on the terms of the residential mortgage: (i) to refinance the obligation by obtaining a loan which would fully repay the residential mortgage debtor; and (ii) to voluntarily grant a deed to the residential mortgage lender in lieu of foreclosure.

The notice shall also include a declaration, appearing on the first page of the notice stating: "This is an important notice concerning your right to live in your home. Have it translated at once."

The division of banks shall adopt regulations in accordance with this subsection.

(d) To cure a default prior to acceleration under this section, a mortgagor shall not be required to pay any charge, fee, or penalty attributable to the exercise of the right to cure a default. The mortgagor shall pay late fees as allowed pursuant to section 59 of chapter 183 and per-diem interest to cure such default. The mortgagor shall not be liable for any attorneys' fees relating to the mortgagor's default that are incurred by the mortgagee or anyone holding thereunder prior to or during the period set forth in the notice required by this section. The mortgagee, or anyone holding thereunder, may also provide for reinstatement of the note after the 90 day notice to cure has ended.

(e) A copy of the notice required by this section and an affidavit demonstrating compliance with this section shall be filed by the mortgagee, or anyone holding thereunder, in any action or proceeding to foreclose on such residential real property.

(f) A copy of the notice required by this section shall also be filed by the mortgagee, or anyone holding thereunder, with the commissioner of the division of banks. Additionally, if the residential property securing the mortgage loan is sold at a foreclosure sale, the mortgagee, or anyone holding thereunder, shall notify the commissioner of the division of banks, in writing, of the date of the foreclosure sale and the purchase price obtained at the sale.

SECTION 9. Section 33 of chapter 266 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out clause (2) and inserting in place thereof the following clause: - (2) whoever, with intent to defraud, by a false statement in

writing respecting the financial condition, or means or ability to pay, of himself or of any other person, obtains for himself or for any other person credit from any bank or trust company or any banking institution or any mortgage lender, as defined in section 1 of chapter 255E, or any retail seller of goods or services accustomed to give credit in any form whatsoever shall be guilty of larceny.

SECTION 10. Said chapter 266 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. Whoever, with intent to defraud and by a false pretence, induces another to part with property of any kind or with any of the benefits described in sections 33 and 33A shall be guilty of larceny.

SECTION 11. Said chapter 266 is hereby further amended by inserting after section 35 the following section:-

Section 35A. (a) As used in this section, the following words shall have the following meanings, unless the context clearly otherwise requires:-

“Funds”, shall include, but not be limited to, a commission, fee, yield spread premium or compensation in any form.

“Material omission”, the omission or concealment of a material fact necessary to prevent a statement from being misleading, in the light of the circumstances under which the statement is made.

“Mortgage lending process”, the process through which a person seeks or obtains a residential mortgage loan including, but not limited to, solicitation, application, origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan; provided, however, that documents involved in the mortgage lending process shall include, but not be limited to, uniform residential loan applications or other loan applications, appraisal reports, HUD-1 settlement statements, supporting personal documentation for loan applications such as W-2 forms, verification of income and employment, bank statements, tax returns and payroll stubs and any required disclosures.

“Pattern of residential mortgage fraud”, violation of subsection (b) in connection with 3 or more residential properties.

“Person”, a natural person, corporation, company, limited liability company, partnership, real estate trust, association or any other entity.

“Residential mortgage loan”, a loan or agreement to extend credit made to a person, which loan is secured by a mortgage, security interest, deed to secure debt, deed of trust, or other document representing a security interest or lien upon any interest in a 1 to 4 family residential property located in the commonwealth, including the renewal or refinancing of any such loan.

(b) Whoever intentionally: (1) makes or causes to be made any material statement that is false or any statement that contains a material omission, knowing the same to be false or to contain a material omission, during or in connection with the mortgage lending process, with the intent that such statement be relied upon by a mortgage lender, borrower or any other party to the mortgage lending process; (2) uses, or facilitates the use of, any material

statement that is false or any statement that contains a material omission, knowing the same to be false or to contain a material omission, during or in connection with the mortgage lending process, with the intent that such statement be relied upon by a mortgage lender, borrower or any other party to the mortgage lending process; (3) receives any proceeds or any other funds in connection with a residential mortgage closing, knowing such proceeds or funds were obtained in violation of clause (1) or (2); or (4) files or causes to be filed with a registrar of deeds any document that contains a material statement that is false or a material omission, knowing such document to contain a material statement that is false or a material omission, shall be punished by imprisonment in the state prison for not more than 5 years or by imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not more than \$10,000 in the case of a natural person or not more than \$100,000 in the case of any other person, or by both such fine and imprisonment.

Any person who engages in a pattern of residential mortgage fraud shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than \$50,000, in the case of a natural person, or not more than \$500,000 in the case of any other person, or by both such fine and imprisonment.

(c) If a defendant is convicted of a violation of this section as a result of conduct or an omission by an employee or agent of the defendant the court may consider the following mitigating factors with respect to sentencing:

(1) that the defendant had instituted and maintained at the time of the violation, and continues to have, a written policy including:

(i) a prohibition against conduct that violates this section by employees and agents of the defendant;

(ii) penalties or discipline for violation of the policy;

(iii) a process for educating employees and agents concerning the policy and consequences of a violation thereof; and

(iv) with respect to a defendant authorized to conduct criminal history checks for the employee's or agent's position, a requirement for a criminal history check before employing an employee or engaging an agent and a requirement that the defendant will not employ or engage an individual who has been convicted of a crime involving fraud;

(2) a demonstration that the defendant enforces the policy described in clause (1); and

(3) prior to the violation of this section the defendant provided a copy of the policy described in clause (1), including a description of the consequences for violating the policy, to the employee or agent who committed the violation.

SECTION 12. Chapter 277 of the General Laws is hereby amended by inserting after section 62B the following section:-

Section 62C. A violation of section 35A of chapter 266 may be prosecuted and punished in:

(1) the county in which the residential property for which a mortgage loan is being sought is located;

(2) the county in which any act was performed in furtherance of the violation;

- (3) the county in which any person alleged to have violated this section had control or possession of any proceeds of, or other funds received as a result of the violation;
- (4) the county in which a closing on the mortgage loan occurred; or
- (5) the county in which a document containing a deliberate misstatement, misrepresentation or omission is filed with a registrar of deeds.

SECTION 13. Section 4 shall take effect on November 1, 2010. Sections 2 and 3 shall take effect on November 1, 2010; provided, however, that the in-person counseling requirement in subsection (b) of section 7A of chapter 167E of the General Laws and in subsection (b) of section 65C½ of chapter 171 of the General Laws, as appearing in section 3, shall take effect on August 1, 2012.

SECTION 14. Section 8 shall take effect on January 1, 2016.

Approved, August 7, 2010.

Chapter 259. AN ACT REQUIRING ADEQUATE EDUCATION RELATIVE TO THE PROPER SAFETY AND OPERATION OF A MOTORCYCLE FOR MINORS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate forthwith the safety of minors operating motorcycles, therefore 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 8 of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the third paragraph the following paragraph:-

A minor under 18 years of age may be issued a motorcycle license or motorcycle endorsement if the minor: (i) meets the requirements for a junior operator’s license set forth in clauses (a) to (e), inclusive; and (ii) successfully completes a motorcycle basic rider course approved by the registrar and presents proof of such completion in such form as the registrar may require.

Approved, August 7, 2010.

Chapter 260. AN ACT AUTHORIZING THE TOWN OF SHERBORN TO USE CERTAIN TOWN FOREST LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of Sherborn may change the use of a parcel of land containing approximately 1.57 acres, as shown on a plan prepared by Traffic Solutions, dated November 20, 2008 and entitled "Pine Hill Elementary School Proposed Access Road," a copy of which is on file with the office of the town clerk, which land is currently part of the Sherborn Town Forest, so that it may be used for general municipal purposes. As a condition of the approval of this change in use, the town shall transfer a parcel of town-owned land shown on town of Sherborn assessor's map 13 as plot 41, located on Sparhawk Road and containing approximately 3.0 acres, more or less, as described in a tax taking recorded in the south Middlesex registry of deeds at book 20953, page 511, from the care and custody of the Sherborn board of selectmen for general municipal purposes, to the care and custody of the Sherborn Town Forest committee for the purpose of adding this parcel to the town forest.

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

Approved, August 7, 2010.

Chapter 261. AN ACT RELATIVE TO THE QUALIFICATIONS, SERVICE AND SALARY OF COUNTY MANAGERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith qualifications for county managers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Subsection (B) of section 18 of chapter 34A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraphs (i) and (ii) and inserting in place thereof the following 2 paragraphs:-

(i) The county manager shall be qualified by administrative and executive experience and ability to serve as the chief executive of the county. The county manager shall be appointed by a majority vote of the commissioners and shall serve at the pleasure of the commissioners. The county manager may be removed by majority vote of the commissioners subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints. The public hearing on these charges shall be held no less than 15 nor more than 30 days after personal service of notice and charges.

At the time of the county manager's appointment the manager need not be a resident of the county but must reside within the county after the manager's initial probationary period.

(ii) The position of a county manager may be a full or part-time position. The salary of the county manager shall be fixed by the commissioners, shall be reasonable and shall reflect whether the position is full or part-time.

Approved, August 7, 2010.

Chapter 262. AN ACT RELATIVE TO THE POLICE DEPARTMENT OF THE UNIVERSITY OF MASSACHUSETTS.

Be it enacted, etc., as follows:

SECTION 1. Section 116 of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 42 and 43, the words “and candidates for appointment as municipal police officers” and inserting in place thereof the following words:- , candidates for appointment as municipal police officers, environmental law enforcement officers and the University of Massachusetts police officers.

SECTION 2. Section 116A of said chapter 6, as so appearing, is hereby amended by inserting after the word “department”, in line 15, the following words:- , the office of environmental law enforcement, the University of Massachusetts.

SECTION 3. Section 116C of said chapter 6, as so appearing, is hereby amended by inserting after the word “department”, in line 9, the first time it appears, the following words:- , the office of environmental law enforcement, the University of Massachusetts.

Approved, August 7, 2010.

Chapter 263. AN ACT AUTHORIZING THE LEASE OF A CERTAIN PARCEL OF STATE-OWNED LAND TO PLIMOTH PLANTATION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, may lease for nominal consideration certain parcels of land in the town of Plymouth, subject to such terms and conditions as may be determined by the commissioner, in consultation with the department, to the Plimoth Plantation for a term of up to 20 years. The parcels are shown on a plan of land entitled “Plan of Land Plymouth, MA. Showing Proposed License Areas For Plimouth Plantation Buildings on Land of Commonwealth of Massachusetts Drawn by Stenbeck & Taylor, Inc. Dated December 22, 2008”. Plimoth Plantation shall provide educational services to the public as additional consideration for the lease.

SECTION 2. The lessee shall use the property solely for Plimoth Plantation operational purposes and the lease or other agreement pertaining to the lease of the property shall include a provision restricting the use of the property to those purposes and providing for a reversion of the property to the commonwealth if the property ceases to be used for such purposes or is used for any other purpose.

SECTION 3. If the lessee ceases to use and maintain the property for the purposes specified in section 2 or uses the property for any other purpose, the lease shall terminate and the property shall revert to the commonwealth.

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SECTION 4. During the term of the lease, the lessee shall be responsible for operating and maintaining the leased property and for all costs associated with such operation and maintenance.

SECTION 5. The lessee shall be responsible for any costs associated with the lease of the property under this act, including costs of surveys and legal or recording fees.

Approved, August 7, 2010.

Chapter 264. AN ACT AUTHORIZING CERTAIN MASSPORT EMPLOYEES TO RECEIVE BENEFITS FROM THE BAYSWATER ENVIRONMENTAL PROGRAM.

Be it enacted, etc., as follows:

SECTION 1. Section 7 of chapter 268A of the General Laws is hereby amended by striking out, in lines 78 and 79, as appearing in the 2008 Official Edition, the words “administered by said Authority, provided that any such officer has no financial responsibility for the administration of said program” and inserting in place thereof the following words:- or the bayswater environmental program provided that the officer or employee has no responsibility for the administration for that program from which he is to receive the benefit.

SECTION 2. The first paragraph of section 23 of chapter 465 of the acts of 1956 is hereby amended by inserting after the word “program”, inserted by section 2 of chapter 301 of the acts of 1993, the following words:- or from eligibility for any benefit from the Bayswater environmental program if the officer or employee has no responsibility for the administration of the program.

Approved, August 7, 2010.

Chapter 265 AN ACT RELATIVE TO CERTAIN TEMPORARY REGISTRATIONS AND VOLUNTEER DENTISTRY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 112 of the General Laws is hereby amended by inserting after section 45A the following 2 sections:-

Section 45B. An applicant for temporary registration under this section who is 18 years of age or over and of good moral character who shall furnish the board with satisfactory proof that he has received a diploma from the faculty of a reputable dental college as defined in section 46 and who shall furnish the board with satisfactory proof that he is receiving or providing continuing education or training in a private or commercial dental facility or dental

convention that is approved for those purposes by the American Dental Association, the Academy of General Dentistry, a similar organization or an institution of higher education, may, upon payment of a fee to be determined annually by the commissioner of administration under section 3B of chapter 7 be registered by the board as a temporary registrant for 2 years. The temporary registration shall entitle the applicant to practice dentistry only in the facility designated on his registration and under the direction of a registered dentist employed therein. Temporary registration under this section may be revoked at any time by the board and a holder of a temporary registration shall not practice dentistry in a private or commercial dental facility or dental convention other than in connection with the aforementioned continuing education training.

Section 45C. (a) The board may grant to or renew a certificate of registration of a dentist qualified for registration or renewal of the same under this chapter without payment of a fee; provided, that the dentist has agreed to restrict his practice to that of a volunteer practitioner in a specified free care program operated by a nonprofit organization. The scope of practice of a dentist whose certificate of registration is granted or renewed pursuant to this section may be restricted as the board may provide by regulation.

(b) In order to qualify for a license for volunteer practice, an applicant shall meet the requirements for a regular license under this chapter, in addition to the requirements of this section. An applicant shall submit to the board a completed application on a form prescribed by the board and any additional information that the board requests. An applicant shall agree to the conditions on practice promulgated by the board.

(c) The board's application form for a license for volunteer practice shall include a request for the following information:

(1) a written statement from the applicant outlining the scope and duration of services to be provided by the applicant;

(2) a written statement from the director of the applicant's proposed work site outlining the scope and duration of the applicant's responsibilities; and

(3) evidence satisfactory to the board that, in the proposed work site, the volunteer dentist will be serving without compensation and providing free dental care to a low-income community, or a community with limited access to dental care.

(d) If an applicant has met all of the requirements of this section to the satisfaction of the board, the applicant shall be granted a license for volunteer practice and entitled to a certificate of registration signed by the chairman and the secretary of the board. A licensee engaged in volunteer practice may practice dentistry only at a work site approved in conjunction with his license application; shall be subject to the same conditions and responsibilities as a regular licensee; and may not accept any compensation for the practice of dental medicine.

SECTION 2. The board of registration in dentistry shall promulgate regulations necessary to carry out section 1 not later than 3 months following the effective date of this act.

SECTION 3. The commissioner of public health, or his designee, shall study the impact of the Federal Volunteer Protection Act of 1997 and the Free Clinics Federal Tort Claims Act Medical Malpractice Program on health care volunteers in the commonwealth. The commissioner shall also review ways in which the commonwealth may act to provide legal counsel and defense to volunteers who may be eligible for the protections afforded in the Volunteer Protection Act of 1997 or the Free Clinics Federal Tort Claims Act Medical Malpractice Program.

The commissioner shall report to the general court the results of the investigation and study and his recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the senate and the joint committee on health care no later than December 31, 2010.

Approved, August 7, 2010.

Chapter 266. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN LAND IN THE TOWN OF SPENCER TO THE WORCESTER COUNTY 4H CENTER.

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 division of capital asset management and maintenance, in consultation with the department of conservation and recreation, may execute and deliver on behalf of the commonwealth, subject to such terms and conditions as may be determined by the division in consultation with the department, 1 or more instruments to lease certain land together with the buildings thereon, now part of a state forest under the care and control of the department and consisting of approximately 20 acres on the shore of Thompson's pond located in the town of Spencer, the leased area to be shown on a plan of land suitable for recording at the Worcester county registry of deeds, to the Worcester County 4H Center Committee for terms not to exceed 25 years for use as a meeting place for the committee, for the development of interest in agriculture by young people and to run a summer day camp program. The lease authorized by this act shall commence upon the expiration of the lease for the land and buildings authorized by chapter 256 of the acts of 1971. The lease shall also contain such terms and conditions as necessary to comply with all laws for the protection of fish, birds and quadrupeds and the preservation and development of the forest. The control and supervision of the land and buildings shall remain under the department, except as provided under the terms of the lease, and all provisions relating to state forests not inconsistent with this act shall remain in full force and effect. The lease price to be paid by the Worcester County 4H Center Committee for the land

and buildings shall be the full and fair market value of the land and buildings for use as described in this act, such fair market value to be determined by 1 or more professional appraisals commissioned by the division; provided however, that the lease price may be reduced or waived by the division, in consultation with the department, in the event that such payment imposes a hardship on the lessee or significantly interferes with the operations of the Worcester County 4H Center Committee at the property as demonstrated in an annual financial statement to be submitted by the Worcester County 4H Center Committee to the division and the department. The amount of any reduction in the lease payment shall in no event exceed the dollar amount of capital improvements made to the buildings and grounds by the Worcester County 4H Center Committee as documented in the annual financial statement. Thirty days before the execution of a lease authorized by this act or any subsequent amendment to the lease, the commissioner shall submit the lease or amendment and a report thereon to the inspector general. The inspector general shall review and approve the appraisal or appraisals and the review and appraisal shall include an examination of the methodology utilized for the appraisal or appraisals. The inspector general shall prepare a report of his review and approval of the appraisal and file a report with the commissioner and copies of the same shall be filed with the house and senate committees on ways and means and with the chairmen of the joint committee on state administration at least 15 days before execution of the lease or amendment. The price paid by the Worcester County 4H Center Committee for any such lease or amendment authorized by this act shall be deposited in the General Fund of the commonwealth.

SECTION 2. The Worcester County 4H Center Committee shall be responsible for all costs associated with any appraisal, survey or other expense incurred by the commonwealth relating to any lease authorized by section 1 and for any costs, liabilities or expenses of any kind for the development, improvement, maintenance or operation of the parcel as may be determined by the division in consultation with the department.

SECTION 3. The Worcester County 4H Center Committee shall carry such comprehensive liability insurance in an amount deemed adequate by the commissioner to protect the commonwealth and the committee against personal injury or property damage occurring on the leased land, within the buildings or within any other structures built or used by the committee on the land during the term of any lease authorized by this act.

SECTION 4. If during the term of the lease the Worcester County 4H Center Committee does not use the land and buildings for the purposes described herein for a period of 2 years, the lease authorization may be terminated upon notice to the committee and the land and buildings, together with any improvements thereon, shall revert to the commonwealth under the care and control of the department. Any further disposition of the parcel shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and shall have the prior approval of the general court.

SECTION 5. Except as provided herein, nothing in this act shall be construed to prevent the use of the forest by the public to the same extent as if this act had not been in effect.

SECTION 6. The commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, may extend or renew the lease authorized in this act for an additional period for not more than 20 years upon such terms that are consistent with this act.

Approved, August 7, 2010.

Chapter 267. AN ACT RELATIVE TO THE PROTECTION OF CHILDREN.

Be it enacted, etc., as follows:

SECTION 1. Section 178C of chapter 6 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words “13B of chapter 265”, in lines 56, 87 and 106, the following words, in each instance:- ; aggravated indecent assault and battery on a child under the age of 14 under section 13B½ of said chapter 265; a repeat offense under section 13B¾ of said chapter 265.

SECTION 2. Said section 178C of said chapter 6, as so appearing, is hereby further amended by inserting after the figure “265”, in lines 60, 88 and 109, the following words, in each instance:- ; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265.

SECTION 3. Said section 178C of said chapter 6, as so appearing, is hereby further amended by inserting after the figure “265”, in lines 61 and 89, the following words, in each instance:- ; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265.

SECTION 4. Section 178H of said chapter 6, as so appearing, is hereby amended by inserting after the figure “13B”, in line 12, the following figures:- , 13B½, 13B¾.

SECTION 5. Said section 178H of said chapter 6, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 12, the following figures:- , 22B, 22C.

SECTION 6. Said section 178H of said chapter 6, as so appearing, is hereby further amended by inserting after the figure “23”, in line 12, the following figures:- , 23A, 23B.

SECTION 7. Section 1 of chapter 9A of the General Laws, as so appearing, is hereby amended by inserting after the figure “22A”, in line 16, the following figures:- , 22B, 22C.

SECTION 8. Said section 1 of said chapter 9A, as so appearing, is hereby further amended by inserting after the figure “23”, in line 16, the following figures:- , 23A, 23B.

SECTION 9. Said section 1 of said chapter 9A, as so appearing, is hereby further amended by inserting after the figure “13B”, in line 18, the following figures:- , 13B½, 13B¾.

SECTION 10. Section 37 of chapter 22C of the General Laws, as so appearing, is

hereby amended by inserting after the word “thirteen B”, in line 6, the following figures:- , 13B½, 13B¾.

SECTION 11. Section 72K of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the figure “13B”, in line 13, the following figures:- , 13B½, 13B¾.

SECTION 12. Said section 72K of said chapter 111, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 13, the following figures:- , 22B, 22C, 23, 23A, 23B.

SECTION 13. Subsection (k) of section 51B of chapter 119 of the General Laws is hereby amended by striking out clause (2) and inserting in place thereof the following clause:- (2) a child has been sexually assaulted, which shall include a violation of section 13B, 13B½, 13B¾, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B of chapter 265.

SECTION 14. Section 55B of said chapter 119, as so appearing, is hereby amended by inserting after the figure “13B”, in line 16, the following figures:- , 13B½, 13B¾.

SECTION 15. Said section 55B of said chapter 119, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 16, the following figures:- , 22B, 22C.

SECTION 16. Said section 55B of said chapter 119, as so appearing, is hereby further amended by inserting after the figure “23”, in line 16, the following figures:- , 23A, 23B.

SECTION 17. Section 58 of said chapter 119, as so appearing, is hereby amended by inserting after the figure “13B”, in line 12, the following figures:- , 13B½, 13B¾.

SECTION 18. Said section 58 of said chapter 119, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 12, the following figures:- , 22B, 22C.

SECTION 19. Said section 58 of said chapter 119, as so appearing, is hereby further amended by striking out the words “or section 23”, in lines 12 and 13, and inserting in place thereof the following figures:- 23, 23A or 23B.

SECTION 20. Section 12 of chapter 120 of the General Laws, as so appearing, is hereby amended by inserting after the word “two hundred and sixty-five”, in line 9, the following words:- ; or aggravated rape of a child under 16 with force, under section 22B of said chapter 265; or a repeat offense, under section 22C of said chapter 265.

SECTION 21. Said section 12 of said chapter 120, as so appearing, is hereby further amended by inserting after the word “two hundred and sixty-five”, in line 10, the following words:- ; or aggravated rape and abuse of a child, under section 23A of said chapter 265; or a repeat offense, under section 23B of said chapter 265.

SECTION 22. Said section 12 of said chapter 120, as so appearing, is hereby further amended by inserting after the word “two hundred and sixty-five”, in line 12, the following words:- ; or aggravated indecent assault and battery on a child under the age of 14, under section 13B½ of said chapter 265; or a repeat offense, under section 13B¾ of said chapter 265.

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SECTION 23. Section 1 of chapter 123A of the General Laws, as so appearing, is hereby amended by inserting after the word “two hundred and sixty-five”, in line 39, the following words:- ; aggravated indecent assault and battery on a child under the age of 14 under section 13B½ of chapter 265; a repeat offense under section 13B¾ of chapter 265.

SECTION 24. Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the word “two hundred and sixty-five”, in line 46, the following words:- ; aggravated rape of a child under 16 with force under section 22B of chapter 265; a repeat offense under section 22C of chapter 265.

SECTION 25. Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the word “two hundred and sixty-five”, in line 48, the following words:- ; aggravated rape and abuse of a child under section 23A of chapter 265; a repeat offense under section 23B of chapter 265.

SECTION 26. Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the figure “13B”, in line 52, the following figures:- , 13B½, 13B¾.

SECTION 27. Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 53, the following figures:- , 22B, 22C.

SECTION 28. Said section 1 of said chapter 123A, as so appearing, is hereby further amended by inserting after the figure “23”, in line 53, the following figures:- , 23A, 23B.

SECTION 29. Section 49B of chapter 127 of the General Laws, as so appearing, is hereby amended by inserting after the word “thirteen B”, in lines 42 and 43, the following figures:- , 13B½, 13B¾.

SECTION 30. Said section 49B of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 43, the following figures:- , 22B, 22C.

SECTION 31. Said section 49B of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 43, the following figures:- , 23A, 23B.

SECTION 32. Section 49C of said chapter 127, as so appearing, is hereby amended by inserting after the word “thirteen B”, in lines 21 and 22, the following figures:- , 13B½, 13B¾.

SECTION 33. Said section 49C of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 22, the following figures:- , 22B, 22C.

SECTION 34. Said section 49C of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 22, the following figures:- , 23A, 23B.

SECTION 35. Section 83B of said chapter 127, as so appearing, is hereby amended by inserting after the word “twenty-two”, in line 7, the following figures:- , 22A, 22B, 22C.

SECTION 36. Said section 83B of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 7, the following figures:- , 23A, 23B.

SECTION 37. Section 90A of said chapter 127, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 9, the following figures:- , 13B½, 13B¾.

SECTION 38. Said section 90A of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in lines 10 and 11, the following figures:- , 22B, 22C.

SECTION 39. Said section 90A of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 11, the following figures:- , 23A, 23B.

SECTION 40. Section 133E of said chapter 127, as so appearing, is hereby amended by inserting after the figure “265”, in line 11, the following words:- ; aggravated indecent assault and battery on a child under 14 under section 13B½ of said chapter 265; a repeat offense under section 13B¾ of said chapter 265.

SECTION 41. Said section 133E of said chapter 127, as so appearing, is hereby further amended by inserting after the figure “265”, in line 15, the following words:- ; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265.

SECTION 42. Said section 133E of said chapter 127, as so appearing, is hereby further amended by inserting after the figure “265”, in line 16, the following words:- ; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265.

SECTION 43. Section 152 of said chapter 127, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 39, the following figures:- , 13B½, 13B¾.

SECTION 44. Said section 152 of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in lines 41 and 42, the following figures:- , 22B, 22C.

SECTION 45. Said section 152 of said chapter 127, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 42, the following figures:- , 23A, 23B.

SECTION 46. Section 21B of chapter 233 of the General Laws, as so appearing, is hereby amended by inserting after the word “thirteen B”, in lines 3 and 4, the following figures:- , 13B½, 13B¾.

SECTION 47. Said section 21B of said chapter 233, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 4, the following figures:- , 22B, 22C.

SECTION 48. Said section 21B of said chapter 233, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 4, the following figures:- , 23A, 23B.

SECTION 49. Section 4C of chapter 260 of the General Laws, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 10, the following figures:- , 13B½, 13B¾.

SECTION 50. Said section 4C of said chapter 260, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 11, the following figures:- , 22B, 22C.

SECTION 51. Said section 4C of said chapter 260, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 11, the following figures:- , 23A, 23B.

SECTION 52. Section 13L of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after the figure “265”, in line 8, the following words:- ; aggravated indecent assault and battery on a child under 14 under section 13B½ of said chapter 265; a repeat offense under section 13B¾ of said chapter 265.

SECTION 53. Said section 13L of said chapter 265, as so appearing, is hereby further amended by inserting after the figure “265”, in line 11, the following words:- ; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265.

SECTION 54. Said section 13L of said chapter 265, as so appearing, is hereby further amended by inserting after the figure “265”, in line 12, the following words:- ; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265.

SECTION 55. Section 24A of said chapter 265, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 2, the following figures:- , 13B½, 13B¾.

SECTION 56. Said section 24A of said chapter 265, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 3, the following figures:- , 22B, 22C.

SECTION 57. Said section 24A of said chapter 265, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 3, the following figures:- , 23A, 23B.

SECTION 58. Section 24C of said chapter 265, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 4, the following figures:- , 13B½, 13B¾.

SECTION 59. Said section 24C of said chapter 265, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in line 5, the following figures:- , 22B, 22C.

SECTION 60. Said section 24C of said chapter 265, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 5, the following figures:- , 23A, 23B.

SECTION 61. Section 26 of said chapter 265, as so appearing, is hereby amended by striking out, in lines 33 and 34, the figures “13B, 13F, 13H, 22, 22A, 23, 24 or 24B” and inserting in place thereof the following figures:- 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24 or 24B.

SECTION 62. Section 26C of said chapter 265, as so appearing, is hereby amended by inserting after the figure “13B”, in line 6, the following figures:- , 13B½, 13B¾.

SECTION 63. Said section 26C of said chapter 265, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 6, the following figures:- , 22B, 22C.

SECTION 64. Said section 26C of said chapter 265, as so appearing, is hereby further amended by inserting after the figure “23”, in line 6, the following figures:- , 23A, 23B.

SECTION 65. Section 45 of said chapter 265, as so appearing, is hereby amended by striking out, in line 21, the figures “13B, 13F, 13H, 22, 22A, 23, 24, 24B or 26” and inserting in place thereof the following figures:- 13B, 13B½, 13B¾, 13F, 13H, 22, 22A, 22B, 22C, 23, 23A, 23B, 24, 24B or 26.

SECTION 66. Section 87 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word “twenty-two A”, in line 10, the following figures:- , 22B, 22C.

SECTION 67. Section 63 of chapter 277 of the General Laws, as so appearing, is hereby amended by inserting after the figure “13B”, in line 3, the following figures:- , 13B½, 13B¾.

SECTION 68. Said section 63 of said chapter 277, as so appearing, is hereby further amended by inserting after the figure “22A”, in line 3, the following figures:- , 22B, 22C.

SECTION 69. Said section 63 of said chapter 277, as so appearing, is hereby further amended by inserting after the figure “23”, in line 3, the following figures:- , 23A, 23B.

SECTION 70. Section 70C of said chapter 277, as so appearing, is hereby amended by inserting after the figure “13B”, in line 9, the following figures:- , 13B½, 13B¾.

SECTION 71. Said section 70C of said chapter 277, as so appearing, is hereby further amended by striking out the figure “23”, in line 10, and inserting in place thereof the following figures:- , 22A, 22B, 22C, 23, 23A, 23B.

SECTION 72. Section 16D of chapter 278 of the General Laws, as so appearing, is hereby amended by inserting after the word “thirteen B”, in line 5, the following figures:- , 13B½, 13B¾.

SECTION 73. Said section 16D of said chapter 278, as so appearing, is hereby further amended by inserting after the word “twenty-two A”, in lines 5 and 6, the following figures:- , 22B, 22C.

SECTION 74. Said section 16D of said chapter 278, as so appearing, is hereby further amended by inserting after the word “twenty-three”, in line 6, the following figures:- , 23A, 23B.

Approved, August 7, 2010.

Chapter 268. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO TRANSFER THE CONTROL OF CERTAIN LAND IN THE CITY OF BOSTON TO THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the transfer of control of certain land to the Massachusetts Bay Transportation 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. The division of capital asset management and maintenance, in consultation with the department of conservation and recreation, may transfer the care, custody, management and control of certain parcels of land in the city of Boston, currently under the care, custody and control of the department of conservation and recreation, to the Massachusetts Bay Transportation Authority to be used for mass transit purposes and which shall be limited to improvements to the Science Park station.

SECTION 2. The parcels to be transferred consist of one thousand four hundred thirty-three (1,433 SF +/-) square feet, more or less, and shown as Parcels PE-1 and PE-2 on a plan entitled "Land Acquisition Plan, Boston, Massachusetts, dated 03/31/2010, Scale: 1"=20', prepared by AECOM, 66 Long Wharf, Boston, Massachusetts 02110."

SECTION 3. If either parcel ceases to be used for the purposes described in section 1, that parcel shall revert to the care, custody, management and control of the department of conservation and recreation.

Approved, August 9, 2010.

Chapter 269. AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO GRANT A PERMANENT EASEMENT TO THE COMMONWEALTH AND OVER CERTAIN STRIPS OF LAND OWNED BY THE CITY OF CAMBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the contrary, the city of Cambridge may grant a permanent easement on and over certain strips of land owned by the city of Cambridge in the town of Watertown and acquired by the city of Cambridge in order to pipe water into the city of Cambridge for water treatment and distribution, to the commonwealth, acting by and through the department of conservation and recreation. The easement shall be for constructing, installing, maintaining, managing, operating, repairing, replacing, reconstructing, or removing a bicycle-pedestrian path as part

of a department of conservation and recreation and Massachusetts Department of Transportation project to develop a bicycle-pedestrian corridor between the Charles River Reservation in the city known as the town of Watertown and Fresh Pond Parkway in the city of Cambridge for recreational use by members of the public. The easement area is shown as PARCEL BPE-1 on a plan entitled "Plan of Land in the Town of Watertown, Middlesex County, Showing Location Of Easement To Be Granted to the Commonwealth of Massachusetts (Department of Conservation and Recreation)," dated September 11, 2009, prepared by Vanasse Hangen Brustlin, Inc., and contains an area of about 16,293 square feet. The plan is on file with the department of conservation and recreation and shall be recorded with the south Middlesex county registry of deeds.

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

Approved, August 9, 2010.

**Chapter 270. AN ACT AUTHORIZING THE GRANTING OF EASEMENTS UPON
LAND OF THE COMMONWEALTH LOCATED IN THE CITY OF
CAMBRIDGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for easements necessary for the construction of a stormwater wetland and related improvements as part of a sewer separation and stormwater management project, therefore 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 of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of conservation and recreation and the Massachusetts Water Resources Authority, may grant permanent non-exclusive easements to the city of Cambridge under the care and control of its department of public works, on parkland under the care and control of the department of conservation and recreation and other lands owned by the commonwealth and used for sewer or stormwater management purposes in accordance with chapter 372 of the acts of 1984 and as the easement areas are more particularly defined in subsections (a), (b) and (c) of section 2. Prior to the execution of an easement instrument to the city of Cambridge pursuant to this section, the city of Cambridge, by its city manager and the department of conservation and recreation shall execute a memorandum of agreement detailing the mitigation and maintenance responsibilities upon the easement areas and land under the control of the department.

SECTION 2. (a) The easement areas authorized in section 1 shall be as follows:

(1) an area containing 187,547 square feet±, or 4.305 acres, and shown as “Access and Maintenance Easement Area ‘R’” on a plan entitled, “Easement Plan, Access and Maintenance Easement Area R, Utility Easement Areas R1 & R2 and Easement Areas R3 & R4, ‘Alewife Reservation’ Cambridge, Mass.”, dated March 19, 2010, revised on July 1, 2010, by Harry R. Feldman, Incorporated, Land Surveyors;

(2) an area containing 8,226± square feet and shown as “Utility Easement Area ‘R1’,” an area containing 2,972± square feet and shown as “Utility Easement Area ‘R2’,” an area containing 1,278± square feet and shown as “Easement ‘R3’,” and an area containing 1,291± square feet and shown as “Easement ‘R4’” on a plan entitled, “Easement Plan, Access and Maintenance Easement Area R, Utility Easement Areas R1 & R2 and Easement Areas R3 & R4, ‘Alewife Reservation’ Cambridge, Mass.”, dated March 19, 2010, revised on July 1, 2010, by Harry R. Feldman, Incorporated, Land Surveyors; and

(3) an area of 8,401± square feet and shown as “Easement Area A-1,” and an area of 307± square feet and shown as “Easement Area A-2” on a plan entitled “Easement Plan, Easement Areas A1 & A2, 55 Wheeler Street & 70 Fawcett Street, Cambridge, Mass.” prepared by Harry R. Feldman, Inc., dated March 19, 2010.

(b) The commissioner of capital asset management and maintenance may approve necessary minor modifications to these areas, with the approval of the department of conservation and recreation and the city of Cambridge.

SECTION 3. No easement instrument executed pursuant to section 1 shall be valid unless it provides that the easements conveyed shall be used solely for, as the case may be, access and maintenance of a stormwater wetland or for stormwater management, sewer, water or utility purposes.

The easement instruments upon property under the control of the department of conservation and recreation shall not unreasonably interfere with the department’s use of its land, including use by the public, and shall include a reversionary clause that stipulates that the easement shall revert to the commonwealth and be extinguished, upon such terms and conditions as the commissioner of capital asset management and maintenance may determine, if an easement ceases to be used for the purposes for which it was granted.

Notwithstanding any other general or special law to the contrary, if the property ceases to be used at any time for such purposes or is used for any purpose other than the public purposes stated in this act, the commissioner of capital asset management and maintenance shall give written notice to the city of the unauthorized use. The city shall, upon receipt of the notice, have 90 days to respond and a reasonable time to establish an authorized use of the easement area.

SECTION 4. The consideration for the easements authorized under this act, and as a condition precedent to the granting of the easements by the commonwealth, shall be the conveyance by the city of Cambridge, upon enactment of legislation authorizing the granting of the same of a permanent easement to the commonwealth at no cost, which shall be under the care and control of the department of conservation and recreation for public recreation purposes, upon a 16,293± square foot area of land located in the town of Watertown and held by the city of Cambridge for water supply purposes.

The easement instrument upon property under the control of the city of Cambridge shall not unreasonably interfere with the use by the city of Cambridge of its land and shall include a reversionary clause that stipulates that the easement shall revert to the city of Cambridge and be extinguished, upon such terms and conditions as the city of Cambridge may determine if the easement ceases to be used for the purposes for which it was conveyed.

Notwithstanding any other general or special law to the contrary, if the property ceases to be used at any time for the purposes pursuant to this section or is used for any purpose other than the public purposes stated in this section, the city of Cambridge shall give written notice to the department of conservation and recreation of the unauthorized use. The department of conservation and recreation shall, upon receipt of the notice, have 90 days to respond and a reasonable time to establish an authorized use of the easement area.

SECTION 5. The city of Cambridge shall be responsible for all costs and expenses incurred or required to be incurred by it including, but not limited to, costs associated with any engineering or surveys or other necessary due diligence in connection with the city's use of the easements granted under this act.

Approved, August 9, 2010.

**Chapter 271. AN ACT DIRECTING THE STATE SECRETARY TO PLACE THE
OFFICE OF SELECTMEN ON THE STATE ELECTION BALLOT IN
THE TOWN OF MENDON.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the state secretary shall print on the official state election ballot for the November 2, 2010 state election for the town of Mendon the office of selectmen to fill a vacancy.

SECTION 2. Notwithstanding section 7 of chapter 53 of the General Laws or any other general or special law to the contrary, nomination papers for said office of selectmen to fill the vacancy shall be filed with the board of registrars of the town of Mendon for certification of signatures on or before 5:00 P.M. on August 10, 2010.

SECTION 2A. Notwithstanding any general or special law to the contrary, the board of registrars shall complete certification of signatures on such nomination on or before 5:00 P.M. on August 17, 2010.

SECTION 3. Notwithstanding section 10 of chapter 53 of the General Laws or any general or special law to the contrary, certified nomination papers shall be filed with the town clerk on or before 5:00 P.M. on August 24, 2010.

SECTION 4. Notwithstanding section 13 of chapter 53 of the General Laws or any general or special law to the contrary, candidates who have filed nomination papers to fill the vacancy in the office of selectmen may withdraw their nomination by filing a notarized withdrawal letter on or before 5:00 P.M. on August 26, 2010.

SECTION 5. The town clerk shall certify to the state secretary a list of candidates, with addresses, to fill the vacancy in the office of selectmen, in the order in which they are to appear on the ballot, on or before 5:00 P.M. on September 3, 2010.

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

Approved, August 9, 2010.

Chapter 272. AN ACT RELATIVE TO NATIONAL HERITAGE AREAS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to recognize certain National Heritage Areas as entities in the service of the public good, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the commonwealth shall recognize the Essex National Heritage Area, the John H. Chafee Blackstone river valley national heritage corridor, the Quinebaug and Shetucket rivers valley national heritage corridor, the Upper Housatonic National Heritage Area, and the Freedoms Way National Heritage Area and the administrative entity of each area hereinafter the Areas, proper and consistent with the areas' designation by the United States Congress recognition as a public service entity by the United States Department of the Interior and the National Park Service. Recognition of the areas shall not diminish, enlarge or modify any right of the commonwealth, or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out state laws, rules and regulations within the area.

SECTION 2. The areas, in their capacity as not-for-profit charitable organizations under section 501(c)3 of the Federal tax code, and by providing essential services to the people, businesses, organizations and communities of the commonwealth and in particular the areas' counties of origin; through the preservation, promotion and interpretation of the unique historical, cultural and national resources of the areas and their collaborative efforts to build regional partnerships with local organizations, institutions, businesses, sites, municipalities, agencies, individuals and groups that further advance those services, are hereby acknowledged to be entities in the service of the public good of the commonwealth. The areas may receive such appropriations as the court shall from time to time allow.

SECTION 3. Nothing in this act or in the eligibility to receive appropriations as recognized by this act shall interfere with or modify the rights or responsibilities of the areas, their officers, employees or agents or of the commonwealth or any subdivision thereof.

SECTION 4. Each state agency, department, board and commission: (1) shall consider Massachusetts' Heritage Areas when developing planning documents and processes;

and (2) may partner with the managing entities of such areas on projects concerning, but not limited to, environmental protection, heritage resource preservation, recreation, tourism and trail development.

Approved, August 9, 2010.

Chapter 273. AN ACT RELATIVE TO DEPOSITS IN TRUST FOR OTHER PERSONS.

Be it enacted, etc., as follows:

Chapter 167D of the General Laws is hereby amended by striking out section 6, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 6. Any bank or federally-chartered bank may receive deposits made by 1 or 2 persons in trust for other persons. The name, residence and date of birth of the person or persons for whom such deposit is being made shall be disclosed and the deposit shall be credited to the depositors as trustees for such persons. Payments may be made to the trustee, or if there are 2 trustees, to both or to either or the survivor. If no other notice of the existence and terms of a trust has been received in writing by the bank or federally-chartered bank upon the death of the trustee or, if there are 2 trustees, upon the death of both of them, the amount then on deposit together with the interest thereon shall be paid to the persons who survive the death of the last surviving trustee in an equal portion of the funds for whom such deposit was made or to their legal representatives. Each person or his representative claiming to be a beneficiary under this section shall provide such identification and other information as requested by the bank or federally-chartered bank. Withdrawals and payments made in accordance with this section shall fully discharge the liability of the bank or federally-chartered bank to all persons.

Approved, August 9, 2010.

Chapter 274. AN ACT RELATIVE TO THE BOARD OF DIRECTORS OF THE MASSACHUSETTS WATER RESOURCES AUTHORITY.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (b) of section 3 of chapter 372 of the acts of 1984 is hereby amended by striking out, in lines 13 to 16, inclusive, the words “governor upon the recommendation of the mayor of Quincy in accordance with the procedure set forth in paragraph (c) and shall serve a term of four years” and inserting in place thereof the following words:- mayor of the city of Quincy and shall serve coterminous with the mayor.

SECTION 2. Said paragraph (b) of said section 3 of said chapter 372 is hereby further amended by striking out, in lines 17 to 19, inclusive, the words “governor upon the

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recommendation of the board of selectmen of the town of Winthrop by majority vote, in accordance with the procedure set forth in paragraph (c)” and inserting in place thereof the following words:- council president of the town of Winthrop by majority vote and.

SECTION 3. Said section 3 of said chapter 372 is hereby further amended by striking out paragraph (c).

Approved, August 9, 2010.

Chapter 275. AN ACT RELATIVE TO THE MAXIMUM STORAGE CHARGES ON MOTOR VEHICLES INVOLUNTARILY TOWED.

Be it enacted, etc., as follows:

Section 6B of chapter 159B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 11, the words “twenty dollars” and inserting in place thereof the following figure:- \$35.

Approved, August 9, 2010.

Chapter 276. AN ACT PROHIBITING THE USE OF NOVELTY LIGHTERS.

Be it enacted, etc., as follows:

Chapter 148 of the General Laws is hereby amended by adding the following section:-

Section 60. (a) For the purposes of this section, “novelty lighter” shall mean a mechanical or electrical device manufactured for the purpose of producing a flame to light cigarettes, cigars or pipes and which, due to the physical or audio features of the device, excluding its capability of producing a flame, would reasonably be expected to cause the lighter to be appealing or attractive to a child under the age of 10 including, but not limited to, lighters that resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, beverage, sporting equipment or that is capable of playing musical notes or displaying flashing lights.

(b) Whoever manufactures, offers for sale, sells, exchanges, gives away, stores or transports any novelty lighter shall be punished by a fine of not less than \$500 and not more than \$1,000 or by imprisonment for not more than 1 year, or both.

(c) This section shall not apply: (i) to a novelty lighter manufactured before January 1, 1980 and which is considered a collectible item within the collectible trade; (ii) to a disposable or refillable lighter with a logo, label, decal or artwork printed thereon or on heat shrinkable sleeves attached thereto but which does not otherwise resemble a novelty lighter; or (iii) if not intended for sale or use in the commonwealth, to the interstate transpor-

tation of a novelty lighter or to the temporary storage of a novelty lighter while in interstate commerce.

Approved, August 9, 2010.

Chapter 277. AN ACT ESTABLISHING THE MASSACHUSETTS FOOD POLICY COUNCIL.

Be it enacted, etc., as follows:

SECTION 1. Chapter 20 of the General Laws is hereby amended by inserting after section 6B the following section:-

Section 6C. (a) There shall be established a Massachusetts food policy council, hereinafter referred to as the council. The council shall consist of 17 members, 1 of whom shall be a member of the house of representatives; 1 of whom shall be a member of the senate; 1 of whom shall be a member of the house of representatives who shall be appointed by the minority leader of the house of representatives; 1 of whom shall be a member of the senate who shall be appointed by the minority leader of the senate; 1 of whom shall be the commissioner of agricultural resources, or the commissioner's designee; 1 of whom shall be the commissioner of public health, or the commissioner's designee; 1 of whom shall be the commissioner of elementary and secondary education, or the commissioner's designee; 1 of whom shall be the commissioner of environmental protection, or the commissioner's designee; 1 of whom shall be the commissioner of transitional assistance or the commissioner's designee; 1 of whom shall be the secretary of housing and economic development, or the secretary's designee; and 7 of whom shall be appointed by the governor, 1 of whom shall be a farmer or representative of a farm organization, 1 of whom shall represent food distribution, processing and marketing interests, 1 of whom shall represent direct-to-consumer marketing efforts, 1 of whom shall represent a local health department addressing food safety and nutrition, 1 of whom shall be an expert in food safety, 1 of whom shall be an expert in food processing and handling and 1 of whom shall represent community-based efforts addressing nutrition and public health.

(b) Members of the council shall be appointed for terms of 3 years or until a successor is appointed. Members shall be eligible for reappointment. The chair of the council shall be elected by the members of the council for a term not to exceed 2 years. In the event of a vacancy, the original appointing authority shall, within 60 days of the occurrence of a vacancy, appoint a new member in accordance with subsection (a) to fulfill the remainder of the unexpired term. Members of the council shall serve without compensation. The council may request administrative support from the department.

(c) The council shall have an advisory committee. The council shall appoint members to the advisory committee and the committee shall include, but not be limited to,

the following members: 2 of whom shall be active farmers or who shall represent farmer associations; 1 of whom shall represent an organization engaged in farmland protection and conservation; 1 of whom shall represent an organization engaged in developing new farm businesses, urban and community supported agriculture, community gardening, immigrant and refugee farming or youth education through agriculture; 1 of whom shall represent the cooperative extension service at the University of Massachusetts at Amherst; 1 of whom shall represent food distribution, processing and marketing interests; 1 of whom shall represent a school of nutrition or public health; 1 of whom shall represent a community-based coalition or health care provider addressing obesity and chronic disease; 1 of whom shall represent citizens in need of transitional assistance; and 1 of whom shall represent an anti-hunger organization. The council may create other committees as it deems necessary to carry out the purpose of this section. The advisory committee and any other committees shall serve at the direction of the council.

(d)(1) The purpose of the council shall be to develop recommendations to advance the following food system goals for the commonwealth: (A) increased production, sales and consumption of Massachusetts-grown foods; (B) the development and promotion of programs that deliver healthy Massachusetts-grown foods to Massachusetts residents, through programs such as: (i) targeted state subsidies; (ii) increased state purchasing of local products for school and summer meals and other child and adult care programs; (iii) double coupon initiatives; (iv) direct market subsidies to communities with identified needs; (v) increased institutional purchases of Massachusetts-grown foods and other programs to make access to healthy Massachusetts products affordable, and (vi) increased access to healthy Massachusetts-grown foods in communities with disproportionate burdens of obesity and chronic diseases; (C) the protection of the land and water resources required for sustained local food production; and (D) the training, retention and recruitment of farmers and providing for the continued economic viability of local food production, processing and distribution in the commonwealth.

(2) Recommendations the council shall consider shall include, but shall not be limited to, methods by which the following may contribute to achieving the food system goals: (i) increased collaboration and communication between state agencies; (ii) increased collaboration and communication between state and federal agencies; (iii) innovative public-private partnerships; (iv) institutional purchasing agreements; (v) changes to state or federal laws or regulations; (vi) changes in the manner in which state and federal programs are implemented; and (7) additional federal, state, local or private investments.

(3) Recommendations of the council shall include benchmarks and criteria for measuring progress towards achieving each goal. In developing its recommendations, the council shall solicit public input through public hearings or informational sessions. The council may conduct research and analysis as needed and invite additional stakeholder participation through its advisory committee or other committees to address issues identified by the council as requiring further study or particular expertise. The council shall review progress made on each of its recommendations based upon the benchmarks and criteria developed.

(e) The council shall submit an annual report of its findings, conclusions, proposals, recommendations and progress towards reaching benchmarks provided in subsection (d) not later than December 31. The report shall be submitted to the governor, the president of the senate, the speaker of the house, the chairs of the joint committee on public health, the chairs of the joint committee on environment, natural resources and agriculture, the clerk of the house of representatives and the clerk of the senate.

(f) The council shall meet periodically at the call of the chair, but not less than 4 times annually. All meetings shall be public.

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

SECTION 2. Notwithstanding subsection (e) of section 6C of chapter 20 of the General Laws to the contrary, the Massachusetts food policy council shall submit its initial recommendations within 1 year of the date of the first meeting of the council.

Approved, August 9, 2010.

Chapter 278. AN ACT AUTHORIZING LICENSED INDEPENDENT CLINICAL SOCIAL WORKERS TO APPLY FOR THE EMERGENCY HOSPITALIZATION OF PERSONS WHO POSE A RISK OF HARM TO THEMSELVES OR OTHERS DUE TO MENTAL ILLNESS.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 12 of chapter 123 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first 3 sentences and inserting in place thereof the following 3 sentences:- Any physician who is licensed pursuant to section 2 of chapter 112 or qualified psychiatric nurse mental health clinical specialist authorized to practice as such under regulations promulgated pursuant to the provisions of section 80B of said chapter 112 or a qualified psychologist licensed pursuant to sections 118 to 129, inclusive, of said chapter 112, or a licensed independent clinical social worker licensed pursuant to sections 130 to 137, inclusive, of chapter 112 who, after examining a person, has reason to believe that failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a 3-day period at a public facility or at a private facility authorized for such purposes by the department. If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such examination, the physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist or licensed independent clinical social worker on the basis of the facts and circumstances may determine that hospitalization is necessary and may apply therefore. In an emergency situation, if a physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist or licensed independent clinical social worker is not available, a police officer, who believes that failure

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to hospitalize a person would create a likelihood of serious harm by reason of mental illness may restrain such person and apply for the hospitalization of such person for a 3-day period at a public facility or a private facility authorized for such purpose by the department.

SECTION 2. Said chapter 123 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:-

Section 22. Physicians, qualified psychologists, qualified psychiatric nurse mental health clinical specialists, police officers and licensed independent clinical social workers shall be immune from civil suits for damages for restraining, transporting, applying for the admission of or admitting any person to a facility or the Bridgewater state hospital if the physician, qualified psychologist, qualified psychiatric nurse mental health clinical specialist, police officer or licensed independent clinical social workers acts pursuant to this chapter.

Approved, August 9, 2010.

Chapter 279. AN ACT CONVEYING CERTAIN PROPERTY TO THE TOWN OF SHERBORN.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of mental health, shall grant, convey and deed over without consideration to the town of Sherborn all rights, title or other real property interests that the commonwealth may hold pursuant to chapter 251 of the acts of 1897 and chapter 466 of the acts of 1908, to the waters of Farm Pond in the town of Sherborn, the tributaries of Farm Pond and to a certain easement together with a pipeline from the pond running underground within the town of Sherborn to the boundary between the town of Sherborn and the town of Medfield, heretofore used to convey such waters to the former Medfield state hospital. The town of Sherborn may use such rights and interests for public recreation, water supply and fire protection purposes.

Approved, August 9, 2010.

Chapter 280. AN ACT AUTHORIZING THE LEASING OF A CERTAIN PARCEL OF LAND OWNED BY THE DEPARTMENT OF CONSERVATION AND RECREATION IN THE TOWN OF HINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary but subject to section 40J of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the department of conservation and rec-

reation, may lease to the Massachusetts Bay Transportation Authority within the mass transit division of the Massachusetts Department of Transportation for a term, including extensions, not to exceed 99 years, a portion of a certain parcel of land owned by the former department of environmental management, now the department of conservation and recreation, and used for conservation and recreation purposes in the town of Hingham, commonly known as the Hingham Shipyard, said parcel being shown on a plan on file at the Massachusetts Land Court, at Certificate No. 66482, Book 332-82, Document No. 213561. The exact boundaries of the parcel shall be determined by the commissioner of capital asset management and maintenance, in consultation with the department of conservation and recreation, based upon a survey prepared in accordance with section 5.

SECTION 2. A lease agreement entered into by the commissioner of capital asset management and maintenance pursuant to this act shall provide that the parcel shall be used solely for the construction and operation of a ferry terminal intermodal transportation center at the Hingham Shipyard, which center shall be used for transportation services and ferry services, for administrative and office uses with respect to the Massachusetts Bay Transportation Authority, for administrative and office uses relating to public ferry access to the Harbor Islands state park, visitors center and marine transportation maintenance and support with respect to the department of conservation and recreation and the environmental police, office space for the harbormaster of the town of Hingham and such other accessory uses directly related to the purposes identified in a memorandum of agreement entered into by and between the division of capital asset management and maintenance, the department of conservation and recreation and the Massachusetts Bay Transportation Authority dated May 18, 2009. The lease agreement shall also comply in all respects with the terms and conditions of the memorandum of agreement and shall also provide that if the parcel ceases to be used for the purposes described in this act, the commonwealth may terminate the lease under such terms and conditions as the lease may prescribe. The lease agreement shall also provide by reservation or otherwise, that the department of conservation and recreation shall retain the right to use space within the ferry terminal intermodal center for administrative purposes. The specifications for said office space shall be determined by the department of conservation and recreation, the Massachusetts Bay Transportation Authority and the division of capital asset management and maintenance.

SECTION 3. In consideration for the lease authorized in section 1, the Massachusetts Bay Transportation Authority's shall construct the ferry terminal intermodal transportation center and the Authority shall be responsible for all costs and expenses associated with the planning, design, permitting and construction of the center. The authority shall be the sole owner of its leasehold interest in the ferry terminal intermodal center and shall be allowed to occupy the land and maintain ferry service at the Hingham Shipyard for the leased term, as provided in the memorandum of agreement. The lease agreement shall also include coterminous rights to the ferry docking system for the Massachusetts Bay Transportation Authority, the department of conservation and recreation, the environmental police and the harbormaster of the town of Hingham.

SECTION 4. The lease authorized in this act shall be on such other terms and conditions as the commissioner of capital asset management and maintenance, in consultation with the Massachusetts Bay Transportation Authority and the department of conservation and recreation, deems appropriate.

SECTION 5. The Massachusetts Bay Transportation Authority shall be responsible for procuring all work including, without limitation, legal services, surveys, title and the preparation of plans and specifications as deemed necessary or appropriate and as memorialized in the memorandum of agreement described in section 2 and shall pay all costs and expenses therefor. The Authority shall also be responsible for all costs, liabilities and expenses of any kind for the development, construction, improvement, repair, maintenance, management and operation of the ferry terminal intermodal center and the costs for the ordinary maintenance of the leased premises shall be apportioned as set forth in the memorandum of agreement.

Approved, August 9, 2010.

Chapter 281. AN ACT PROVIDING AN EASEMENT FOR AFFORDABLE SENIOR APARTMENTS IN THE TOWN OF HARVARD.

Be it enacted, etc., as follows:

The town of Harvard conservation commission may grant a nitrogen loading restriction and easement on a portion of the land owned by the town of Harvard on Ayer road, described in a deed recorded with the Worcester south registry of deeds in book 6223, page 624, the easement area being shown on a plan dated May 29, 2009, entitled "Exhibit Plan – Public Water Supply Zone 1 and Nonfacility Credit Land" prepared by Goldsmith, Prest & Ringwall, Inc., a copy of which plan is on file in the office of the town clerk, said easements to be granted to Wheeler Realty Trust, or its successor, Bowers Brook LLC, Ayer Road Realty LLC, and Harvard Office Park LLC, being the owners of the land located at 196, 198 and 200 Ayer road or to the Harvard Conservation Trust or to both the owners of the land and the Harvard Conservation Trust in order to permit the construction of 42 affordable senior apartments at 196 Ayer road in said town.

Approved, August 9, 2010.

Chapter 282. AN ACT RELATIVE TO DISCHARGE OF CERTAIN MORTGAGES.

Be it enacted, etc., as follows:

SECTION 1. Section 54 of chapter 183 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of "Mortgagee" and inserting in place thereof the following definition:-

“Mortgagee”, the holder of record of a mortgage, or any successor in interest to the record holder, including as identified pursuant to subsection (i) of section 55 or by reference to other documents of record or to a database maintained by a governmental or quasi-governmental agency or entity; but, if the mortgage was properly assigned of record, mortgagee shall mean the last person to whom the mortgage was so assigned, or any such successor in interest thereto as so identified.

SECTION 2. Said chapter 183 is hereby further amended by striking out section 54B, as so appearing, and inserting in place thereof the following section:-

Section 54B. Notwithstanding any law to the contrary, (1) a discharge of mortgage; (2) a release, partial release or assignment of mortgage; (3) an instrument of subordination, non-disturbance, recognition, or attornment by the holder of a mortgage; (4) any instrument for the purpose of foreclosing a mortgage and conveying the title resulting therefrom, including but not limited to notices, deeds, affidavits, certificates, votes, assignments of bids, confirmatory instruments and agreements of sale; or (5) a power of attorney given for that purpose or for the purpose of servicing a mortgage, and in either case, any instrument executed by the attorney-in-fact pursuant to such power, if executed before a notary public, justice of the peace or other officer entitled by law to acknowledge instruments, whether executed within or without the commonwealth, by a person purporting to hold the position of president, vice president, treasurer, clerk, secretary, cashier, loan representative, principal, investment, mortgage or other officer, agent, asset manager, or other similar office or position, including assistant to any such office or position, of the entity holding such mortgage, or otherwise purporting to be an authorized signatory for such entity, or acting under such power of attorney on behalf of such entity, acting in its own capacity or as a general partner or co-venturer of the entity holding such mortgage, shall be binding upon such entity and shall be entitled to be recorded, and no vote of the entity affirming such authority shall be required to permit recording.

SECTION 3. Section 54C of said chapter 183, as so appearing, is hereby amended by striking out, in line 59, the words “and cannot be located”.

SECTION 4. Section 55 of said chapter 183, as so appearing, is hereby amended by striking out, in line 28, the word “MORTGAGEE” and inserting in place thereof the word “MORTGAGE”.

SECTION 5. Subsection (g) of said section 55, as so appearing, is hereby amended by striking out paragraph (7) and inserting in place thereof the following paragraph:-

(7) The affidavit shall also include the names and last known addresses of the mortgagor and the record mortgagee, mortgage servicer or note holder, the date of the mortgage and the mortgage recording reference, as well as that of any recorded assignment of the mortgage. Further, if the mortgagee to whom notice is required to be sent pursuant to paragraphs (1) to (3), inclusive, of this subsection is a successor as defined in section 54, the affidavit shall also name the original mortgagee, if no longer the record mortgagee, as well as such successor mortgagee, and include the last known address for such successor mortgagee and a brief description of how the successor mortgagee’s identity and last known address were

determined, such as by reference to other documents of record, including a recorded document containing the recitals set forth in subsection (i) or by reference to a database maintained by a governmental or quasi-governmental agency or entity. Failure of the affiant to include such information in an affidavit, or to certify a copy of any notice required to be attached thereto as a true copy, shall not affect the validity of the affidavit or its effect as a discharge.

SECTION 6. Section 15 of chapter 240 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) If the record title of land or of easements or rights in land is encumbered by an undischarged mortgage or a mortgage not properly or legally discharged of record, and the mortgagor or the mortgagor's heirs, successors or assigns do not have actual or direct evidence of full payment or satisfaction of the mortgage but the mortgagor, or the mortgagor's heirs, successors or assigns have been in uninterrupted possession of the land or exercising the rights in easements or other rights in the land, either: (1) in the case of a successor or assign who is a bona fide purchaser for value or who is an heir, successor or assign of the bona fide purchaser for value, for any period of 1 year after the expiration of the time limited in the mortgage for the full performance of the condition thereof, or for any period of 20 years after the recording of a deed from the mortgagor or his heirs or devisees to the bona fide purchaser, which deed did not evidence that title was taken subject to the mortgage or that the purchaser assumed or agreed to pay the mortgage; or (2) in the case of the mortgagor, or the mortgagor's heirs, devisees or successors by operation of law, for any period of 1 year after the expiration of the time limited in the mortgage for the full performance of the condition thereof, or for any period of 20 years after the date of a mortgage not given to secure the payment of money or a debt but to secure the mortgagee against a contingent liability which has so ceased to exist that no person will be prejudiced by the discharge thereof, the mortgagor, or the mortgagor's heirs, successors or assigns, or any person exercising the rights in easements or any person named in section 11, may file a petition in the land court or, except in the case of registered land, in the superior court for the county in which the land is located; and if, after such notice by publication or otherwise as the court orders, no evidence is offered of a payment on account of the debt secured by the mortgage within the relevant period of uninterrupted possession or of any other act within the time in recognition of its existence as a valid mortgage, or if the court finds that the contingent liability has ceased to exist and that the mortgage ought to be discharged, it may enter a decree discharging the mortgage, which decree, when duly recorded in the registry of deeds for the county or district where the land lies or, in the case of registered land, when duly noted on the memorandum of encumbrances of the relevant certificate of title, shall operate as a discharge of said mortgage and no action to enforce a title under the mortgage shall thereafter be maintained. Two or more persons owning in severalty different portions or different interests, such as are described in section 11, in the land subject to the mortgage may join in 1 petition, and 2 or more defects arising under different mortgages affecting 1

parcel of land may be set forth in the same petition. If the petition is contested, the court shall make an appropriate order for separate issues.

SECTION 7. This act shall apply to mortgages and other documents or instruments referred to herein, whether recorded before, on or after the effective date of this act.

Approved, August 9, 2010.

Chapter 283. AN ACT ADDING SAFEGUARDS TO THE PRESCRIPTION MONITORING PROGRAM AND FURTHERING SUBSTANCE ABUSE EDUCATION AND PREVENTION.

Be it enacted, etc., as follows:

SECTION 1. Chapter 17 of the General Laws is hereby amended by adding the following 2 sections:-

Section 18. (a) There shall be a bureau of substance abuse services within the department.

(b) The bureau shall establish and advertise a free, anonymous and confidential toll-free telephone helpline that provides comprehensive, accurate and current information and referrals related to addiction treatment and prevention services. The administration of the helpline shall be coordinated with other departments and agencies to prevent the duplication of similar services. The operation of the helpline may be contracted to third parties; provided, however, that any such contracts shall be performance-based and subject to approval by the commissioner.

Section 19. The department shall promulgate regulations relative to discharge plans for substance abuse treatment programs subject to licensure or approval under sections 24 and 24D of chapter 90, sections 6 and 6A of chapter 111B and section 7 of chapter 111E. A discharge plan shall be issued for each client leaving a licensed substance abuse treatment program and shall include recommended follow-up treatment, contact information for shelters in the area, additional resources for substance abuse treatment and workforce options.

SECTION 2. Section 18 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:-

(e) Practitioners who prescribe controlled substances, except veterinarians, shall be required, as a prerequisite to obtaining or renewing their professional license, to complete appropriate training relative to: (i) effective pain management; (ii) identification of patients at high risk for substance abuse; and (iii) counseling patients about the side effects, addictive nature and proper storage and disposal of prescription medications. The boards of registration for each professional license that requires such training shall develop the standards for appropriate training programs.

SECTION 3. Said chapter 94C is hereby further amended by inserting after section 24 the following section:-

Section 24A. (a)(1) The department shall establish and maintain an electronic system

to monitor the prescribing and dispensing of all schedule II to V, inclusive, controlled substances and certain additional drugs by all professionals licensed to prescribe or dispense such substances. For the purposes of this section, "additional drugs" shall mean substances determined by the department to carry a bona fide potential for abuse.

(2) The department shall enter into reciprocal agreements with other states that have compatible prescription drug monitoring programs to share prescription drug monitoring information among the states.

(b) The requirements of this section shall not apply to the dispensing of controlled substances to inpatients in a hospital.

(c) For the purposes of monitoring the prescribing and dispensing of all schedule II to V, inclusive, controlled substances and additional drugs, as authorized in subsection (a), the department shall promulgate regulations including, but not limited to, (1) a requirement that each pharmacy that delivers a schedule II to V, inclusive, controlled substance or a substance classified as an additional drug by the department to the ultimate user shall submit to the department, by electronic means, information regarding each prescription dispensed for a drug included under subsection (a); and (2) a requirement that each pharmacy collects and reports, for each prescription dispensed for a drug under subsection (a), a customer identification number and other information associated with the customer identification number, as specified by the department. Each pharmacy shall submit the information in accordance with transmission methods and frequency requirements promulgated by the department; provided, however, that the information shall be submitted at least once every 7 days. The department may issue a waiver to a pharmacy that is unable to submit prescription information by electronic means. The waiver shall permit the pharmacy to submit prescription information by other means promulgated by the department; provided, however, that all information required in this section is submitted in this alternative format.

(d) Prescription information submitted to the department under this section shall be confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66. The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided for in this chapter.

(e) The department shall review the prescription and dispensing monitoring information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity and provide prescription information required for an investigation.

(f) The department shall, upon request, provide data from the prescription monitoring program to the following:-

(1) persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) individuals who request their own prescription monitoring information in accordance with procedures established under chapter 66A;

(3) persons authorized to act on behalf of state boards and regulatory agencies that

supervise or regulate a profession that may prescribe controlled substances; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation;

(4) local, state and federal law enforcement or prosecutorial officials working with the executive office of public safety engaged in the administration, investigation or enforcement of the laws governing prescription drugs; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation;

(5) personnel of the executive office of health and human services regarding Medicaid program recipients; provided, however that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation; or

(6) personnel of the United States attorney, office of the attorney general or a district attorney; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug related investigation.

(g) The department may, at its initiative, provide data from the prescription monitoring program to practitioners in accordance with section 24.

(h) The department may provide de-identified, aggregate information to a public or private entity for statistical research or educational purposes.

(i) The department may contract with another agency or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. A contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in this section.

(j) The department shall promulgate rules and regulations setting forth the procedures and methods for implementing this section.

(k) The department shall submit an annual report on the effectiveness of the prescription monitoring program with the clerks of the house and senate, the chairs of the joint committee on public health, the chairs of the joint committee on health care financing and the chairs of the joint committee on public safety and homeland security.

NO SECTION 4.

SECTION 5. Said chapter 94C is hereby further amended by adding the following section:-

Section 49. The department of public health shall enforce section 24A in accordance with rules and regulations promulgated by the department.

SECTION 6. Section 12A of chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

In cases of examination or treatment of a person with injuries resulting from opiate, illegal or illicit drug overdose, a hospital, community health center or clinic shall report de-identified, aggregate information in a manner to be determined in conjunction with the department of public health.

SECTION 7. Notwithstanding any general or special law to the contrary, the department of public health shall promulgate rules and regulations relative to the prescription monitoring program established by section 24A of chapter 94C of the General Laws not later

than October 1, 2012.

SECTION 8. The department of public health shall submit a report on the status of sections 3 and 5 with the clerks of the senate and house of representatives, the chairs of the joint committee on public health, the chairs of the joint committee on health care financing and the chairs of the joint committee on public safety and homeland security within 90 days of the effective date of this act.

SECTION 9. (a) There is hereby established a special commission to investigate and determine a best practices model for the implementation of an official Massachusetts tamper proof prescription form. The form shall be serialized and tamper resistant. For the purposes of this section, tamper-resistant is defined as having 1 or more of the following industry-recognized features designed to prevent: (i) unauthorized copying of a completed or blank prescription form; (ii) the erasure or modification of information written on the prescription by the prescriber; and (iii) the use of counterfeit prescription forms.

(b) The commission shall consist of 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives; 3 members of the senate, 1 of whom shall be appointed by the minority leader of the Senate; 1 representative from the executive office for administration and finance; the commissioner of mental health or the commissioner's designee; the commissioner of public health drug control program or the commissioner's designee; the director of the prescription monitoring program or the director's designee; and 3 members appointed by the governor that represent the medical and substance abuse treatment community with specialty experience in drug regulation, prescription, treatment and abuse.

(c) The commission's investigation, shall include, but not be limited to, the following information: where to purchase the serialized and tamper resistant forms; the cost of the forms; the cost of integrating the forms to the commonwealth's prescription monitoring program; physician and pharmacist training; and the implementation of a state-wide e-prescribing system. The commission shall submit a report of its findings, including legislative recommendations, if any, to the joint committee on health care financing and the house and senate committees on ways and means by April 15, 2011.

SECTION 10. Notwithstanding any general or special law to the contrary, the bureau of substance abuse services, in consultation with the department of public health, shall conduct a study of alcohol and substance free housing, known as "sober homes", to examine how best to provide oversight by exploring the feasibility of licensing, regulating, registering or certifying sober homes or operators. The study shall also document the number of sober homes operating in the state, the standards and requirements necessary to protect the health and safety of the home's residents and any problems created by the operation of sober homes, including impacts on neighborhoods and surrounding areas.

The bureau shall report to the general court the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations by filing the same with the clerks of the senate and house of representatives, the joint committee on mental health and substance abuse and the senate and house committees on ways and means not later than December 31, 2011.

SECTION 11. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Board”, the board of registration in pharmacy in section 22 of chapter 13 of the General Laws.

“Lock box”, a box with a locking mechanism that cannot be tampered with or opened without extreme force.

“Pharmacy”, a facility under the direction or supervision of a registered pharmacist which is authorized to dispense controlled substances; provided, however, pharmacy shall not include an institutional pharmacy or a pharmacy department except as otherwise provided in 247 CMR.

“Prescription drug”, all drugs which, under federal law, are required, prior to being dispensed or delivered, to be labeled with the statement “Caution, Federal law prohibits dispensing without prescription” or a drug which is required by applicable federal or state law or regulation to be dispensed pursuant only to a prescription drug order.

(b) A pharmacy registered in the commonwealth to dispense schedule II, III, IV or V prescription drugs shall make available prescription lock boxes for sale at each store location. The lock boxes shall be available within 50 feet of the pharmacy counter and shall be displayed in such a manner that they are readily viewable by the public upon receiving their prescription drugs. Pharmacies shall maintain a stock of lockboxes and encourage consumers buying over-the-counter or prescription medications to purchase one.

SECTION 12. The executive office of labor and workforce development, in consultation with the department of public health, shall conduct an investigation and study on the feasibility of a post-treatment job skills training program or re-entry program for individuals recovering from substance use disorders. The study shall include information on best practices for similar job training programs, guidelines by which the commonwealth can use to establish an effective job skills training program, projected costs of such a program and types of job skills that may be utilized by such a program. Results of the study shall be filed with the clerk of the house of representatives and the clerk of the senate, the joint committee on mental health and substance abuse and the joint committee on labor and workforce development not later than July 15, 2011.

SECTION 13. There shall be a special commission for the purpose of making an investigation and study relative to the feasibility of creating a jail diversion program specifically for veterans convicted of non-violent substance abuse offenses.

The commission shall consist of: 3 members of the senate, 1 of whom shall be appointed by the minority leader; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 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 department of veterans’ services and 1 of whom shall be a judge in the trial court department.

The investigation and study shall include, but shall not be limited to, the prospects of developing a jail diversion program specifically for veterans convicted of non-violent substance abuse offenses. The commission, as part of its review, analysis and study, in mak-

ing the recommendations regarding the implementation of a drug court for veterans, shall focus on and consider the following issues, proposals and impacts: (i) determining the cost to the state for establishing and maintaining this new program within the state court system; (ii) whether state taxes need to be raised for the implementation of this program; (iii) what the potential savings could be realized through the diversion of veterans into treatment programs as opposed to detention; (iv) what the impact would be on an overcrowded court docket; (v) whether the program would help or hinder the current court in processing cases based on substance abuse charges; (vi) what the potential benefits, consequences or adverse impacts on creating this new court program might be; (vii) the feasibility of a system of treatment, accountability and mentoring to be made available for veterans who are diverted from prison or jail time; (viii) what models would be used for creating this system; (ix) a determination of the providers, service organizations, state departments and municipal departments that would need to be involved in the creation or maintenance of this program; (x) research analyzing statistics tracking veteran involvement in the court system and (xi) researching the prevalence of alcohol and substance abuse disorders among Massachusetts veterans.

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 out its recommendations, by filing the same with the clerk of the house of representatives and clerk of the senate not later than December 31, 2011. Any department, division, commission, public body, authority, board, bureau or agency of the commonwealth shall cooperate with the commission for the purpose of providing information or professional expertise and skill relevant to the mission of the commission.

SECTION 14. Notwithstanding any general or special law to the contrary, the executive office of education, in conjunction with the bureau of substance abuse services in the department of public health and the joint committees on education and mental health and substance abuse, shall conduct a study of the cost, to the state or to the individual schools or school districts, of implementing an education program for all middle and high school children whereby the children receive a minimum of 5 hours of substance abuse and addiction awareness education during each middle and high school year. The study shall include, but not be limited to, information on prescription drug abuse education, with particular emphasis upon opioid drug abuse, healthy lifestyles, peer pressure and intervention opportunities, the feasibility of training employees in the schools as substance abuse counselors, including, but not limited to, teachers, nurses, guidance counselors and custodians and other activities a school might take to prevent drug abuse.

The report shall be submitted not later than December 31, 2011 to the house and senate committees on ways and means, the executive office of administration and finance and the joint committee on mental health and substance abuse.

SECTION 15. Section 3 shall take effect on January 1, 2011.

Approved, August 9, 2010.

Chapter 284. AN ACT RELATIVE TO CREDIT UNION SHARES AND DEPOSITS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 171 of the General Laws is hereby amended by striking out section 30, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 30. Every member of a credit union shall hold 1 share and may hold shares or make deposits, or both, therein, in his own name and he may jointly, with one or more persons, hold shares or make deposits, or both. An organizational member may purchase shares or make deposits; provided, however, that the total of the payments by all organizational members shall not exceed, at any time, 25 per cent of the assets of the credit union.

This section shall apply to members of credit unions which are insured by the National Credit Union Administration; provided, however, that no such credit union shall accept deposits or payments for shares for the account of a shareholder or depositor in excess of the amount which is insured by the National Credit Union Administration unless the excess is insured by the Massachusetts Credit Union Share Insurance Corporation pursuant to section 6D of chapter 294 of the acts of 1961.

SECTION 2. Section 32 of said chapter 171, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A share or deposit authorized by section 30 may, if the directors of the credit union so determine, be received as a term share or deposit, subject to this section.

SECTION 3. Said chapter 171 is hereby further amended by striking out section 33, as so appearing, and inserting in place thereof the following section:-

Section 33. A credit union may also contract, on terms to be agreed upon, with a person eligible for membership in the credit union or a member of such person's family, for the deposit at intervals within a period of 12 months, of sums of money, to be known as club deposits, and may pay interest or dividends thereon in the amount decided by its board of directors, but at no higher rate than that paid on its regular deposits or as regular dividends on shares.

SECTION 4. Section 34 of said chapter 171, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

A share or deposit authorized by section 30 except club deposits, if the directors so determine, and if the share and deposit liabilities are insured in full under federal or state law, or both, may be received as a special notice account subject to this section.

Approved, August 9, 2010.

Chapter 285. AN ACT FURTHER REGULATING WORKERS' COMPENSATION INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 25C of chapter 152 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:-

(11) Whenever facts exist showing that an employer has failed to comply with this chapter, then any 3 persons may bring a civil action and that civil action shall be deemed a private attorney's general action. Before bringing a civil action under this subsection, the 3 persons shall provide notice, by certified mail, return receipt requested, of what might become the substance of a complaint to the employer and any insurer that was or is entitled to collect amounts not paid. The notice shall include a statement of intent to file suit under this subsection. After the expiration of 90 days after delivery of the notice to the employer and the insurer, the 3 persons may file a civil action under this subsection, but they shall not be bound by the notice provided to the employer and the insurer.

Plaintiffs shall prove a violation of this chapter by a preponderance of the evidence. An employer shall be liable for all amounts which should have been paid by the employer. Upon establishing that a violation occurred, plaintiffs shall be collectively entitled to recover 25 per cent of the amount not paid or \$25,000, whichever is less, plus costs and reasonable attorneys' fees, and an additional amount from the employer as compensatory and liquidated damages which shall be equal to 25 per cent of the amount that should have been paid or \$25,000, whichever is less.

After a civil action is commenced under this subsection, any insurer that has failed to file a complaint or seek arbitration to recover or collect all of the amounts which would have been due to the insurer from an employer in the action shall be barred from recovering, attempting to recover or collect any amounts sought in the action unless the insurer obtains the voluntary, written consent of the plaintiffs. When such written consent is provided, a court may substitute the insurer as the plaintiff and, upon substitution, the case shall proceed without further regard to this subsection or to the Workers' Compensation Trust Fund.

No settlement between an insured and an insurer shall prohibit or limit an action under this subsection to recover other amounts that should have been paid under this chapter. The insurer shall, upon demand, provide a copy of any settlement to the 3 persons who sent notice under this subsection. Except as provided herein and unless the insurer has been substituted in the action, any amounts recovered by the plaintiffs under this subsection shall be deposited into the Workers' Compensation Trust Fund established in section 65, except those amounts payable to those plaintiffs in accordance with this subsection. An insurer who has been served with notice under this subsection and who pays a claim may recover from the amounts that are deposited into the trust fund any premium that should have been paid to that insurer which would have provided coverage for that specific claimant and claim.

Nothing in this subsection shall limit or prohibit a political subdivision, public entity or office, division, commission, commissioner, director, attorney general or a law enforcement agency or office entitled to bring a civil or criminal action against a defendant to an action under this subsection from proceeding against such defendant in an appropriate forum. The judge or other hearing officer in that forum may consider and offset the amounts

recovered, or likely recoverable, by an action pursuant to this subsection in imposing a verdict or judgment or against imposing a fine or other penalty.

Any action filed under this subsection shall be filed only after 90 days following the expiration of a workers' compensation policy affected by the action, if such policy existed.

Actions under this subsection shall be commenced within 6 years after the cause of action accrues.

SECTION 2. Subsection (11) of section 25C of chapter 152 of the General Laws shall not affect, or apply to insurance contracts in effect on the effective date of this act.

Approved, August 9, 2010.

Chapter 286. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY CERTAIN LAND TO THE TOWN OF SALISBURY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the conveyance of certain land to the town of Salisbury, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, for nominal consideration, shall waive and release the reversionary interest reserved by the commonwealth pursuant to chapter 510 of the acts of 1959 on a certain parcel of land that was conveyed to the town of Salisbury by deed recorded with the southern district of Essex county registry of deeds in book 4725, page 566. The parcel may be used for such purposes or disposed of as the town deems appropriate.

SECTION 2. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commonwealth may, by and through the commissioner of capital asset management and maintenance and the secretary of the Massachusetts Department of Transportation, convey to the town of Salisbury, for nominal consideration, a certain portion of land in the town of Salisbury containing 44,447 square feet and shown as "Parcel A" on a plan entitled "PLAN OF LAND in SALISBURY, MASSACHUSETTS SHOWING LAND TO BE CONVEYED BY THE COMMONWEALTH OF MASSACHUSETTS TO THE TOWN OF SALISBURY" dated May 19, 2009, and prepared by Northstar Land Survey Services. The parcel may be used for such purposes or disposed of as the town deems appropriate.

SECTION 3. The town of Salisbury shall pay for all costs of the survey and the deed or other instruments to effect the waiver, release and conveyance authorized in this act, as deemed necessary by the commissioner of capital asset management and maintenance.

Approved, August 9, 2010.

Chapter 287. AN ACT RELATIVE TO RETIREMENT BENEFITS FOR STANLEY DAOUST.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 32 of the General Laws or any other general or special law, rule or regulation to the contrary, the retirement board of the town of Lee may award retirement benefits to Stanley Daoust, an employee of the department of public works and may deem Stanley Daoust to have attained the age or years of service necessary to qualify for such retirement benefits, regardless of actual age or years of service.

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

The foregoing was laid before the Governor on the thirtieth day of July, 2010 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 288. AN ACT TO PROMOTE COST CONTAINMENT, TRANSPARENCY AND EFFICIENCY IN THE PROVISION OF QUALITY HEALTH INSURANCE FOR INDIVIDUALS AND SMALL BUSINESSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the containment, transparency and efficiency in the provision of quality health insurance for individuals and small businesses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

Be it enacted, etc., as follows:

SECTION 1. Section 38C of chapter 3 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:-

(e) The division of health care finance and policy shall issue a comprehensive report at least once every 4 years on the cost and public health impact of all existing mandated benefits. In conjunction with this review, the division shall consult with the department of public health and the University of Massachusetts Medical School in a clinical review of all

mandated benefits to ensure that all mandated benefits continue to conform to existing standards of care in terms of clinical appropriateness or evidence-based medicine. The division may file legislation that would amend or repeal existing mandated benefits that no longer meet these standards.

SECTION 2. Section 16K of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out subsections (a) to (c), inclusive, and inserting in place thereof the following 3 subsections:-

(a) There shall be established a health care quality and cost council, which shall be an independent public entity not subject to the supervision and control of any other executive office, department, commission, board, bureau, agency or political subdivision of the commonwealth. The council shall promote public transparency of the quality and cost of health care in the commonwealth, and shall seek to support the long-term sustainability of health care reform in the commonwealth by developing recommendations for containing health care costs, while facilitating access to information on health care quality improvement efforts. The council shall disseminate health care quality and cost data to consumers, health care providers and insurers through a consumer health information website under subsections (e) and (g); establish cost containment goals under subsection (h); and coordinate ongoing quality improvement initiatives under subsection (i).

(b) The council shall consist of 19 members and shall be comprised of: (1) 9 ex-officio members, including the secretary of health and human services, the secretary of administration and finance, the state auditor, the inspector general, the attorney general, the commissioner of insurance, the commissioner of health care finance and policy, the commissioner of public health and the executive director of the group insurance commission, or their designees; and (2) 10 representatives of nongovernmental organizations to be appointed by the governor, 1 of whom shall be a representative of a health care quality improvement organization recognized by the federal Centers for Medicare and Medicaid Services, 1 of whom shall be a representative of the Institute for Healthcare Improvement recommended by the organization's board of directors, 1 of whom shall be a representative of the Massachusetts chapter of the National Association of Insurance and Financial Advisors, 1 of whom shall be a representative of the Massachusetts Association of Health Underwriters, Inc., 1 of whom shall be a representative of the Massachusetts Medicaid Policy Institute, Inc., 1 of whom shall be an expert in health care policy from a foundation or academic institution, 1 of whom shall be a representative of a non-governmental purchaser of health insurance, 1 of whom shall be an organization representing the interests of small businesses with fewer than 50 employees, 1 of whom shall be an organization representing the interests of large businesses with 50 or more employees and 1 of whom shall be a clinician licensed to practice in the commonwealth. At least 2 members of the council shall be clinicians licensed to practice in the commonwealth. Members of the council shall vote annually to elect a chair and an executive committee, which shall consist of 4 council members and the chair. The executive committee shall meet as required to fulfill the mission

of the council. Members of the council shall be appointed for terms of 3 years and shall serve until the term is completed or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation, but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties which may include reimbursement for reasonable travel and living expenses while engaged in council business. All council members shall be subject to chapter 268A; provided, however, that the council may purchase from, sell to, borrow from, contract with or otherwise deal with any organization in which any council member is in anyway interested or involved; provided further that such interest or involvement shall be disclosed in advance to the council and recorded in the minutes of the proceedings of the council; and provided further, that no council member having such interest or involvement may participate in any decision relating to such organization.

(c) All meetings of the council shall comply with chapter 30A. The council may, subject to chapter 30B and subject to appropriation, procure equipment, office space, goods and services.

The executive office of health and human services may provide staff and administrative support as requested by the council; provided, however, that all work completed by the executive office of health and human services shall be subject to approval by the council. The council shall appoint an executive director to oversee the operation and maintenance of the website, ensure compliance with the requirements of this section, and coordinate work completed by the executive office of health and human services and may, subject to appropriation, employ such additional staff or consultants as it deems necessary.

The council shall promulgate rules and regulations and may adopt by-laws necessary for the administration and enforcement of this section.

SECTION 3. Said section 16K of said chapter 6A, as so appearing, is hereby further amended by striking out subsections (h) and (i), as so appearing, and inserting in place thereof the following 2 subsections:-

(h) The council, in consultation with its advisory committee, shall develop annual health care cost containment goals. The goals shall be designed to promote affordable, high-quality, safe, effective, timely, efficient, equitable and patient centered health care. The council shall also establish goals that are intended to reduce health care disparities in racial, ethnic and disabled communities. In establishing cost containment goals, the council shall utilize claims data collected from carriers under this section, and information gathered as part of the division of health care finance and policy's public hearings on health care costs under section 6 ½ of chapter 118G. For each goal, the council shall identify: (i) the parties that will be impacted;(ii) the agencies, departments, boards or councils of the commonwealth responsible for overseeing and implementing the goals; (iii) the steps needed to achieve the goals;(iv) the projected costs associated with implementing the goals; (v) and the potential cost savings, both short and long-term, attributable to the goals. The council may recommend legislation or regulatory changes to achieve these goals. The council shall publish a report on the progress towards achieving the costs containment goals.

(i) The council, in consultation with its advisory committee, shall coordinate and compile data on quality improvement programs conducted by state agencies and public and private health care organizations. The council shall consider programs designed to: (i) improve patient safety in all settings of care; (ii) reduce preventable hospital readmissions; (iii) prevent the occurrence of and improve the treatment and coordination of care for chronic diseases; and (iv) reduce variations in care. The council shall make such information available on the council's consumer health information website. The council may recommend legislation or regulatory changes as needed to further implement quality improvement initiatives.

SECTION 4. Section 2 of chapter 32A of the General Laws, as amended by section 64 of chapter 25 of the acts of 2009, is hereby amended by adding the following subsection:-

(i) "Wellness program", a program designed to measure and improve individual health by identifying risk factors, principally through diagnostic testing and establishing plans to meet specific health goals which include appropriate preventive measures. Risk factors may include but shall not be limited to demographics, family history, behaviors and measured biometrics.

SECTION 5. Said chapter 32A is hereby further amended by adding the following section:-

Section 25. The commission shall, subject to appropriation, negotiate with and purchase, on such terms as it deems to be in the best interest of the commonwealth and its employees, from 1 or more entities that can manage a wellness program covering persons in the service of the commonwealth and their dependents, and shall execute all agreements or contracts pertaining to the program. The commission may negotiate a contract for such term not exceeding 5 years as it may, in its discretion, deem to be the most advantageous to the commonwealth; provided, however that the program shall be able to evaluate individual and aggregate data, give employees access to their individual information confidentially and allow the commission to receive collective reports summarizing baseline and ongoing data regarding the behavior and well being of enrollees. The commission may reduce premiums or co-payments or offer other incentives to encourage enrollees to comply with the wellness program goals.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall submit an annual report to the governor, the secretary of health and human services, the secretary of administration and finance, the chairs of the joint committee on health care financing, chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president. The report shall include the collective results, including, but not limited to, the level of participation among employees, incentives provided for participation, the number and type of screenings and diagnostic tests conducted, the instance of undiagnosed risks defined as out of range diagnostic tests and number of employees seeking and receiving preventative treatment. The commission shall use this information in the negotiating and purchasing, on such terms as it deems in the best interest of the commonwealth and its em-

ployees, from 1 or more insurance companies, savings banks or non-profit hospital or medical service corporations, of a policy or policies of group life and accidental death and dismemberment insurance covering persons in the service of the commonwealth and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits covering persons in the service of the commonwealth and their dependents.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall annually submit a report to the governor, secretary of administration and finance, the chairs of the joint committee on health care financing, the chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president on the savings that have been achieved in procuring such insurance policies since implementing the wellness program.

SECTION 6. Subsection (b) of section 9 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

This section shall not be construed to prohibit a physician or an optometrist from the in-office dispensing and sale of therapeutic contact lenses as long as the medication contained in such lenses is within the profession's designated scope of practice.

For the purposes of this section, "therapeutic contact lenses" shall mean contact lenses which contain 1 or more medications and which deliver such medication to the eye.

SECTION 7. Chapter 111 of the General Laws is hereby amended by inserting after section 25O the following section:-

Section 25P Every health care provider, as defined by section 1 or otherwise licensed under chapter 112, shall track and report quality information at least annually under regulations promulgated by the department.

SECTION 8. Section 217 of said chapter 111, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "plans", in line 33, the following words:- ; and

(7) administer and grant enrollment waivers under paragraph (4) of subsection (a) of section 4 of chapter 176J; provided, however, that the office of patient protection may grant a waiver to an eligible individual who certifies, under penalty of perjury, that such individual did not intentionally forego enrollment into coverage for which the individual is eligible and that is at least actuarially equivalent to minimum creditable coverage; provided further, that the office shall establish by regulation standards and procedures for enrollment waivers.

SECTION 9. Said chapter 111 is hereby further amended by adding the following section: -

Section 222. There shall be a commission on falls preventions within the department. The commission shall consist of the commissioner of public health or the commissioner's designee, who shall chair the commission; the secretary of elder affairs or the secretary's designee; the director of MassHealth or the director's designee; and 8 members to be appointed by the governor, 1 of whom shall be a member of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a member of the AARP, 1 of whom shall be a mem-

ber of the Massachusetts Senior Care Association, Inc., 1 of whom shall be a member of the Massachusetts Association of Councils on Aging, Inc., 1 of whom shall be a member of the Massachusetts Medical Society Alliance, Inc., 1 of whom shall be a member of the Massachusetts Assisted Living Facilities Association, 1 of whom shall be a member of Mass Home Care and 1 of whom shall be a member of the Massachusetts Pharmacists Association Foundation, Inc.

The commission on falls prevention shall make an investigation and comprehensive study of the effects of falls on older adults and the potential for reducing the number of falls by older adults. The commission shall monitor the effects of falls by older adults on health care costs, the potential for reducing the number of falls by older adults and the most effective strategies for reducing falls and health care costs associated with falls. The commission shall:

- (1) consider strategies to improve data collection and analysis to identify fall risk, health care cost data and protective factors;
- (2) consider strategies to improve the identification of older adults who have a high risk of falling;
- (3) consider strategies to maximize the dissemination of proven, effective fall prevention interventions and identify barriers to those interventions;
- (4) assess the risk and measure the incidence of falls occurring in various settings;
- (5) identify evidence-based strategies used by long-term care providers to reduce the rate of falls among older adults and reduce the rate of hospitalizations related to such falls;
- (6) identify evidence-based community programs designed to prevent falls among older adults;
- (7) review falls prevention initiatives for community-based settings; and
- (8) examine the components and key elements of the above falls prevention initiatives, consider their applicability in the commonwealth and develop strategies for pilot testing, implementation and evaluation.

The commission on falls prevention shall submit to the secretary of health and human services and the joint committee on health care financing, not later than September 22, annually, a report that includes findings from the commission's review along with recommendations and any suggested legislation to implement those recommendations. The report shall include recommendations for:

- (1) intervention approaches, including physical activity, medication assessment and reduction of medication when possible, vision enhancement and home-modification strategies;
- (2) strategies that promote collaboration between the medical community, including physicians, long-term care providers and pharmacists to reduce the rate of falls among their patients;
- (3) programs that are targeted to fall victims who are at a high risk for second falls and that are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations;

(4) programs that encourage partnerships to prevent falls among older adults and prevent or reduce injuries when falls occur; and

(5) programs to encourage long-term care providers to implement falls- prevention strategies which use specific interventions to help all patients avoid the risks for falling in an effort to reduce hospitalizations and prolong a high quality of life.

SECTION 10. Section 66B of chapter 112 of the General Laws is hereby amended after the third paragraph by inserting the following:-

This section shall not be construed to prohibit an optometrist from the in-office dispensing and sale of therapeutic contact lenses as long as the medication contained in such lenses is within the profession's designated scope of practice.

For the purposes of this section, "therapeutic contact lenses" shall mean contact lenses which contain 1 or more medications and which deliver such medication to the eye.

SECTION 11. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Health maintenance organization" the following definition:-

"Health status adjusted total medical expenses", the total cost of care for the patient population associated with a provider group based on allowed claims for all categories of medical expenses and all non-claims related payments to providers, adjusted by health status, and expressed on a per member per month basis, as calculated under section 6 and the regulations promulgated by the commissioner.

SECTION 12. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Purchaser" the following definition:-

"Relative prices", the contractually negotiated amounts paid to providers by each private and public carrier for health care services, including non-claims related payments and expressed in the aggregate relative to the payer's network-wide average amount paid to providers, as calculated under section 6 of chapter 118G and regulations promulgated by the commissioner.

SECTION 13. Section 6 of said chapter 118G of the General Laws is hereby amended by striking out the fourth and fifth paragraphs, as so appearing, and inserting in place thereof the following 3 paragraphs: -

The division shall require the submission of data and other information from each private health care payer offering small or large group health plans including, but not limited to: (i) average annual individual and family plan premiums for each payer's most popular plans for a representative range of group sizes, as further determined in regulations and average annual individual and family plan premiums for the lowest cost plan in each group size that meets the minimum standards and guidelines established by the division of insurance under section 8H of chapter 26; (ii) information concerning the actuarial assumptions that underlie the premiums for each plan; (iii) summaries of the plan designs for each plan; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan, using a uniform methodology, and collected under section

21 of chapter 176O; (v) information concerning the payer's current level of reserves and surpluses; (vi) information on provider payment methods and levels; (vii) health status adjusted total medical expenses by provider group and local practice group and zip code calculated according to a uniform methodology; (viii) relative prices paid to every hospital, physician group, ambulatory surgical center, freestanding imaging center, mental health facility, rehabilitation facility, skilled nursing facility and home health provider in the payer's network, by type of provider and calculated according to a uniform methodology; and (ix) hospital inpatient and outpatient costs, including direct and indirect costs, according to a uniform methodology.

The division shall require the submission of data and other information from public health care payers including, but not limited to: (i) average premium rates for health insurance plans offered by public payers and information concerning the actuarial assumptions that underlie these premiums; (ii) average annual per-member per-month payments for enrollees in MassHealth primary care clinician and fee for service programs; (iii) summaries of plan designs for each plan or program; (iv) information concerning the medical and administrative expenses, including medical loss ratios for each plan or program; (v) where appropriate, information concerning the payer's current level of reserves and surpluses; (vi) information on provider payment methods and levels, including information concerning payment levels to each hospital for the 25 most common medical procedures provided to enrollees in these programs, in a form that allows payment comparisons between Medicaid programs and managed care organizations under contract to the office of Medicaid; (vii) health status adjusted total medical expenses by provider group and local practice group and zip code calculated according to a uniform methodology; (viii) relative prices paid to every hospital, physician group, ambulatory surgical center, freestanding imaging center, mental health facility, rehabilitation facility, skilled nursing facility and home health provider in the payer's network, by type of provider and calculated according to a uniform methodology.

The division shall require the submission of data and other such information from each acute care hospital on hospital inpatient and outpatient costs, including direct and indirect costs, according to a uniform methodology.

The division shall publicly report and place on its website information on health status adjusted total medical expenses, relative prices and hospital inpatient and outpatient costs, including direct and indirect costs under this section on an annual basis; provided, however, that at least 10 days prior to the public posting or reporting of provider specific information the affected provider shall be provided the information for review. The division shall request from the federal Centers for Medicare and Medicaid Services the health status adjusted total medical expenses of provider groups that serve Medicare patients.

SECTION 14. Section 6C of said chapter 118G is hereby amended by striking out subsection (c), as amended by section 9 of chapter 65 of the acts of 2009, and inserting in place thereof the following subsection:-

(c) Information that identifies individual employees by name or health insurance status shall not be a public record, but the information shall 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 services agreement for the purposes of enforcing this section, sections 3, 6B and 18B of chapter 118H, and sections 3 to 7A, inclusive, of chapter 176Q. An employer who knowingly falsifies or fails to file with the division any information required by this section or by any regulation promulgated by the division shall be punished by a fine of not less than \$1,000 not more than \$5,000.

SECTION 15. Section 47H of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- For purposes of this section, 'infertility' shall mean the condition of an individual who is unable to conceive or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1 year or 6 month period, as applicable.

SECTION 16. Section 8K 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 2 sentences:- For purposes of this section, 'infertility' shall mean the condition of an individual who is unable to conceive or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1 year or 6 month period, as applicable.

SECTION 17. Section 4J 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 2 sentences:- For purposes of this section, 'infertility' shall mean the condition of an individual who is unable to conceive or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1 year or 6 month period, as applicable.

SECTION 18. Section 3 of chapter 176D of the General Laws, as so appearing, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) Boycott, coercion and intimidation: (a) entering into an agreement to commit, or by concerted action committing, an act of boycott, coercion or intimidation resulting in or

tending to result in unreasonable restraint of, or monopoly in, the business of insurance; (b) an refusal by a nonprofit hospital service corporation, medical service corporation, insurance or health maintenance organization to negotiate, contract or affiliate with a health care facility or provider because of such facility's or provider's contracts, type of provider licensure or affiliations with any other nonprofit hospital service corporation, medical service corporation, insurance company or health maintenance organization; or (c) an nonprofit hospital service corporation, medical service corporation, insurance company or health maintenance organization establishing the price to be paid to any health care facility or provider by reference to the price paid, or the average of prices paid, to such facility or provider under a contract or contracts with any other nonprofit hospital service corporation, medical service corporation, insurance company, health maintenance organization or preferred provider arrangement.

SECTION 19. Said chapter 176D is hereby further amended by striking out section 3A, as so appearing, and inserting in place thereof the following section:-

Section 3A. The following shall be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance by entities organized under chapters 176A, 176B, 176G and 176I or licensed under chapter 175: (i) entering into any agreement to commit or by any concerted action committing any act of, boycott, coercion, intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance; (ii) refusal to enter into a contract with a health care facility on the basis of the facility's religious affiliation; (iii) seeking to set the price to be paid to any health care facility or provider by reference to the price paid, or the average of prices paid, to that health care facility or provider under a contract or contracts with any other nonprofit hospital service corporation, medical service corporation, insurance company, health maintenance organization or preferred provider arrangement; (iv) refusal to contract or affiliate with a health care facility solely because the facility does not provide a specific service or range of services; (v) selecting or contracting with a health care facility or provider not based primarily on cost, availability and quality of covered services; (vi) refusal to enter into a contract with a health care facility solely on the basis of the facility's governmental affiliation; and (vii) arranging for an individual employee to apply for individual health insurance coverage, as defined in chapter 176J, for the purpose of separating that employee from group health insurance coverage to reduce costs for an employer sponsored health plan provided in connection with the employee's employment.

SECTION 20. Section 1 of said chapter 176J, as so appearing, is hereby amended by striking out the definition of "Eligible individual" and inserting in place thereof the following definition:-

"Eligible individual", an individual who is a resident of the commonwealth and who is not seeking individual coverage to replace an employer-sponsored health plan for which the individual is eligible and which provides coverage that is at least actuarially equivalent to minimum creditable coverage.

SECTION 21. Said section 1 of chapter 176J, as so appearing, is hereby further amended by inserting after the definition of “Prototype plan” the following definition:-

“Qualified association”, a Massachusetts nonprofit or not-for-profit corporation or other entity organized and maintained for the purposes of advancing the occupational, professional, trade or industry interests of its association members, other than that of obtaining health insurance, and that has been in active existence for at least 5 years, that comprises at least 100 association members and membership in which is generally available to potential association members of such occupation, profession, trade or industry without regard to the health condition or status of a prospective association member or the employees and dependents of a prospective association member.

SECTION 22. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by inserting after the definition of “Resident” the following definition:-

“Small business group purchasing cooperative”, or “group purchasing cooperative”, a Massachusetts nonprofit or not-for-profit corporation or association, approved as a qualified association by the commissioner under section 13, all the members of which are part of a qualified association which negotiates with 1 or more carriers for the issuance of health benefit plans that cover employees, and the employees’ dependents, of the qualified association’s members.

SECTION 23. Said section 1 of said chapter 176J, as so appearing, is hereby further amended by adding the following definition:-

“Wellness program”, or “health management program”, an organized system designed to improve the overall health of participants through activities that may include, but shall not be limited to, education, health risk assessment, lifestyle coaching, behavior modification and targeted disease management.

SECTION 24. Subsection (a) of section 3 of said chapter 176J, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) A carrier may establish an age rate adjustment that applies to both eligible individuals and eligible small groups; provided, however, that the carrier applies the rate adjustment on a year-to-year basis for both eligible individuals and eligible small groups.

SECTION 25. Said section 3 of said chapter 176J, as so appearing, is hereby further amended by adding the following subsection:-

(f) The commissioner may conduct an examination of the rating factors used in the small group health insurance market in order to identify whether any expenses or factors inappropriately increase the cost in relation to the risks of the affected small group. The commissioner may adopt changes to the small group regulation each July 1 for rates effective each subsequent January 1 to modify the derivation of group base premium rates or of any factor used to develop individual group premiums.

SECTION 26. Subsection (a) of section 4 of said chapter 176J, as so appearing, is

hereby amended by striking out paragraphs (2) to (4), inclusive, and inserting in place thereof the following 3 paragraphs:-

(2) A carrier shall enroll eligible individuals and eligible persons, as defined in section 2741 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. section 300gg-41(b), into a health plan if such individuals or persons request coverage within 63 days of termination of any prior creditable coverage. Coverage shall become effective within 30 days of the date of application, subject to reasonable verification of eligibility.

(3) A carrier shall enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the mandatory biannual open enrollment period for eligible individuals and the eligible dependents of those individuals. Each year, the first open enrollment period shall begin on January 1 and end on February 15. The second open enrollment period shall begin on July 1 and end on August 15. All coverage shall become effective on the first day of the month following enrollment. The commissioner shall promulgate regulations for the open enrollment periods. For a Trade Act/HCTC-eligible persons, a carrier may impose a pre-existing condition exclusion or waiting period of no more than 6 months following the individual's effective date of coverage if the Trade Act/HCTC- eligible person has had less than 3 months of continuous health coverage before becoming eligible for the health coverage tax credit; or a break in coverage of over 62 days immediately before the date of application for enrollment into the qualified health plan.

(4) No policy may require any waiting period if the eligible individual has not had any creditable coverage for the 18 months prior to the effective date of coverage. Notwithstanding paragraph (3), an eligible individual who does not meet the requirements of paragraph (2) may seek an enrollment waiver to permit enrollment not during a mandatory open enrollment period. Enrollment waivers shall be administered and granted by the office of patient protection established by section 217 of chapter 111.

SECTION 27. Said subsection (a) of said section 4 of said chapter 176J is hereby further amended by striking out paragraph (3), as appearing in section 26, and inserting in place thereof the following paragraph:-

(3) A carrier shall enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the mandatory annual open enrollment period for eligible individuals and their dependents. Each year, the open enrollment period shall begin on July 1 and end on August 15. A carrier shall only enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the open enrollment period. All coverage shall become effective on the first day of the month following enrollment. The commissioner shall promulgate regulations for the open enrollment period permissible under this section. With respect to Trade Act/Health Coverage Tax Credit Eligible Persons, a carrier may impose a pre-existing condition exclusion or waiting period of no more than 6 months following the individual's effective date of coverage if the Trade Act/Health Coverage Tax Credit Eligible Person has had less than 3 months of continuous health coverage before becoming eligible for the health care tax

credit; or a break in coverage of over 62 days immediately before the date of application for enrollment into the qualified health plan.

SECTION 28. Subsection (b) of said section 4 of said chapter 176J, as appearing in the 2008 Official Edition, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:

(1) Notwithstanding any other provision in this section, a carrier may deny an eligible individual or eligible small group enrollment in a health benefit plan if the carrier certifies to the commissioner that the carrier intends to discontinue selling that health benefit plan to new eligible individuals or eligible small businesses. A health benefit plan closed to new members may be cancelled and discontinued to all members upon the approval of the commissioner of insurance when such plan has been closed to enrollment for new individuals and small groups and the carrier has complied with the requirements of 42 U.S.C. Sec. 300gg-12; provided, however, that cancellation of the plan shall be effective on the individual or small group's next enrollment anniversary after such cancellation is approved by the commissioner of insurance. The commissioner may promulgate regulations prohibiting a carrier from using this paragraph to circumvent the intent of this chapter.

SECTION 29. Said chapter 176J is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. (a) Notwithstanding any general or special law to the contrary, the commissioner may approve health insurance policies submitted to the division of insurance for the purpose of being provided to eligible individuals or eligible small businesses. These health insurance policies shall be subject to this chapter and may include networks that differ from those of a health plan's overall network. The commissioner shall adopt regulations regarding eligibility criteria. These eligibility criteria shall require that health insurance policies that exclude mandated benefits shall only be offered to small businesses which did not provide health insurance to its employees as of April 1, 1992. These eligibility criteria shall also provide that small businesses shall not have any health insurance policies that exclude mandated benefits for more than a 5-year period.

(b) Notwithstanding any general or special law to the contrary, the commissioner shall require carriers offering health benefit plans to eligible small businesses and eligible individuals to submit information as required by the commissioner, which shall include the current and projected medical loss ratio for plans the components of projected administrative expenses and financial information, including, but not limited to:

(i) underwriting, auditing, actuarial, financial analysis, treasury and investment expenses;

(ii) marketing and sales expenses, including, but not limited to, advertising, member relations, member enrollment and all expenses associated with producers, brokers and benefit consultants;

(iii) claims operations expenses, including, but not limited to, adjudication, appeals, settlements and expenses associated with paying claims;

(iv) medical administration expenses, including, but not limited to, disease management, utilization review and medical management;

(v) network operations expenses, including, but not limited to, contracting, hospital and physician relations and medical policy procedures;

(vi) charitable expenses, including, but not limited to, contributions to tax-exempt foundations and community benefits;

(vii) state premium taxes;

(viii) board, bureau and association fees;

(ix) depreciation; and

(x) miscellaneous expenses described in detail by expense, including any expense not included in clauses (i) to (ix), inclusive.

(c) Notwithstanding any general or special law to the contrary, the commissioner may require carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to small group rating factors at least 90 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

(d) For base rate changes filed under this section, if a carrier files a base rate whose administrative expense loading component, not including taxes and assessments, increases by more than the most recent calendar year's percentage increase in the New England medical CPI or if a carrier's reported contribution to surplus exceeds 1.9 per cent or if the aggregate medical loss ratio for all plans offered under this chapter is less than 88 per cent, such carrier's rate, in addition to being subject to all other provisions of this chapter, shall be presumptively disapproved as excessive by the commissioner as set forth in this subsection, with the exception of any carrier whose Risk Based Capital Ratio falls below 300% for the most recent four consecutive quarters. For such carriers the reported contribution to surplus may not exceed 2.5 per cent.

If, however, a carrier's base rates are presumptively disapproved for failure to meet only the aggregate medical loss ratio threshold of 88 per cent, the carrier's base rates shall nevertheless not be presumptively disapproved as excessive by the commissioner if the carrier's aggregate medical loss ratio for all plans offered under this chapter is not less than 1 per cent greater than the carrier's equivalent medical loss ratio was 12-months prior to the carrier's present rate filing.

If the annual aggregate medical loss ratio for all plans offered under this chapter is less than 88 per cent, or less than the medical loss ratio that was not presumptively disapproved by the commissioner for being in excess of 1% of the carrier's prior year base rate, over the applicable 12-month period, the carrier shall refund the excess premium to its

eligible individuals and eligible small groups. A carrier shall communicate within 30 days to all individuals and small groups that were covered under plans during the relevant 12-month period that such individuals and small groups qualify for a refund to be issued under this paragraph, which may take the form of either a refund on the premium for the applicable 12-month period, or if the individual or groups are still covered by the carrier, a credit on the premium for the subsequent 12-month period. The total of all refunds issued shall equal the amount of a carrier's earned premium that exceeds that amount necessary to achieve a medical loss ratio of 88 per cent, calculated using data reported by the carrier as prescribed under regulations promulgated by the commissioner. The commissioner may authorize a waiver or adjustment of this requirement only if it is determined that issuing refunds would result in financial impairment for the carrier.

(e) If a proposed base rate change has been presumptively disapproved:

(1) A carrier shall communicate to all employers and individuals covered under a small group product that the proposed increase has been presumptively disapproved and is subject to a hearing at the division of insurance.

(2) The commissioner shall conduct a public hearing and shall advertise it in newspapers in the cities of Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and Lowell, or shall notify such newspapers of the hearing.

(3) The attorney general may intervene in a public hearing or other proceeding under this subsection and may require additional information as the attorney general consider necessary to ensure compliance with this subsection.

The commissioner shall adopt regulations to specify the scheduling of the hearings required pursuant to this section.

(f) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 45 days prior to the proposed effective date of the carrier's rate. The carrier may submit a request for hearing with the division of insurance within 10 days of such notice of disapproval. The division must schedule a hearing within 15 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing. The carrier may not implement the disapproved rates, or changes at any time unless the commissioner reverses the disapproval after a hearing or unless a court vacates the commissioner's decision.

SECTION 30. Said section 6 of said chapter 176J, as appearing in section 29, is hereby further amended by striking out the figure "88", each time it appears, and inserting in place thereof the following figure:- 90.

SECTION 31. Said section 6 of said chapter 176J is hereby further amended by striking out clause (d), (e), and (f), as appearing in section 29, inserting in place thereof the following 2 subsections:-

(d) If a proposed base rate change has been disapproved:

(1) A carrier shall communicate to all employers and individuals covered under a small group product that the proposed increase has been presumptively disapproved and is subject to a hearing at the division of insurance.

(2) The commissioner shall conduct a public hearing and shall advertise it in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford and Lowell, or shall notify such newspapers of the hearing.

(3) The attorney general may intervene in a public hearing or other proceeding under this subsection and may require additional information as the attorney general consider necessary to ensure compliance with this subsection.

(e) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 45 days prior to the proposed effective date of the carrier's rate. The carrier may submit a request for hearing with the division of insurance within 10 days of such notice of disapproval. The division must schedule a hearing within 15 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing. The carrier may not implement the disapproved rates, or changes at any time unless the commissioner reverses the disapproval after a hearing or unless a court vacates the commissioner's decision.

SECTION 32. Said chapter 176J is hereby amended by adding the following section:-

Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic area at least one plan with either a reduced or selective network of providers, or a plan in which providers are tiered and member cost sharing is based on the tier placement of the provider.

The base premium for the reduced or selective network, or tiered network plan shall be at least 12 per cent lower than the base premium of the carrier's most actuarially similar plan with the carrier's non-selective or non-tiered network of providers.

(b) A tiered network plan shall only include variations on member cost-sharing between provider tiers, which are reasonable in relation to the premium charged, as long as the carrier provides adequate access to covered services at lower patient cost sharing levels.

(c) The commissioner shall determine network adequacy for a tiered network plan based on the availability of sufficient network providers in the carrier's overall tiered network plan .

(d) The commissioner shall determine network adequacy for a select network plan based on the availability of sufficient network providers in the carrier's select network of providers.

(e) In determining network adequacy under this section the commissioner may consider factors including: the location of providers participating in the plan; employers or members that enroll in the plan; the range of services provided by providers in the plan; and any plan benefits that recognize and provide for extraordinary medical needs of members that

may not be adequately dealt with by the providers within the plan network.

(f) Carriers may: (i) reclassify provider tiers; or (ii) determine provider participation in selective and tiered plans no more than once per calendar year; provided, however, that carriers may reclassify providers from a higher cost tier to a lower cost tier or add new providers to its selective and tiered plans at any time. If the carrier reclassifies provider tiers or providers participating in a selective plan during the course of an account year, the carrier shall provide affected members of the account with information regarding the plan changes at least 30 days before the changes take effect. Carriers shall provide information on their websites about any tiered or selective plan, including, but not limited to, the providers participating in the plan, the selection criteria for those providers and if applicable, the tier in which each provider is classified.

(g) The division of insurance shall report annually on utilization trends of eligible employers and eligible individuals enrolled in plans offered under this section. The report shall include the number of members enrolled by plan type, de-identified aggregate demographic, and geographic information on all members and the average direct premium claims incurred for selective and tiered network plans compared to non-selective and non-tiered plans.

SECTION 33. Said chapter 176J is hereby further amended by striking out section 11, as inserted by section 23, and inserting in place thereof the following section:-

Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic area at least 1 plan with either a reduced or selective network of providers or a plan in which providers are tiered and member cost sharing is based on the tier placement of the provider.

The base premium for the reduced or selective or tiered network plan shall be at least 12 per cent lower than the base premium of the carrier's most actuarially similar plan with the carrier's non-selective or non-tiered network of providers. The savings may be achieved by means including, but not limited to: (i) the exclusion of providers with similar or lower quality based on the standard quality measure set with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G; or (ii) increased member cost-sharing for members who utilize providers for non-emergency services with similar or lower quality based on the standard quality measure set and with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G.

(b) A tiered network plan shall only include variations in member cost-sharing between provider tiers which are reasonable in relation to the premium charged and ensure

adequate access to covered services. Carriers shall tier providers based on quality performance as measured by the standard quality measure set and by cost performance as measured by health status adjusted total medical expenses and relative prices. Where applicable quality measures are not available, tiering may be based solely on health status adjusted total medical expenses or relative prices or both.

The commissioner shall promulgate regulations requiring the uniform reporting of tiering information, including, but not limited to requiring, at least 90 days before the proposed effective date of any tiered network plan or any modification in the tiering methodology for any existing tiered network plan, the reporting of a detailed description of the methodology used for tiering providers, including: the statistical basis for tiering; a list of providers to be tiered at each member cost-sharing level; a description of how the methodology and resulting tiers will be communicated to each network provider, eligible individuals and small groups; and a description of the appeals process a provider may pursue to challenge the assigned tier level.

(c) The commissioner shall determine network adequacy for a tiered network plan based on the availability of sufficient network providers in the carrier's overall network of providers.

(d) The commissioner shall determine network adequacy for a selective network plan based on the availability of sufficient network providers in the carrier's selective network.

(e) In determining network adequacy under this section the commissioner of insurance may take into consideration factors such as the location of providers participating in the plan and employers or members that enroll in the plan, the range of services provided by providers in the plan and plan benefits that recognize and provide for extraordinary medical needs of members that may not be adequately dealt with by the providers within the plan network.

(f) Carriers may: (i) reclassify provider tiers; and (ii) determine provider participation in selective and tiered plans no more than once per calendar year except that carriers may reclassify providers from a higher cost tier to a lower cost tier or add providers to a selective network at any time. If the carrier reclassifies provider tiers or providers participating in a selective plan during the course of an account year, the carrier shall provide affected members of the account with information regarding the plan changes at least 30 days before the changes take effect. Carriers shall provide information on their websites about any tiered or selective plan, including but not limited to, the providers participating in the plan, the selection criteria for those providers and where applicable, the tier in which each provider is classified.

(g) The division of insurance shall report annually on utilization trends of eligible employers and eligible individuals enrolled in plans offered under this section. The report shall include the number of members enrolled by plan type, aggregate demographic, geographic information on all members and the average direct premium claims incurred, as defined in section 6, for selective and tiered network products compared to non-selective and non-tiered products.

SECTION 34. Said chapter 176J is hereby further amended by adding the following 2 sections:-

Section 12. (a) The commissioner shall promulgate regulations governing the establishment and oversight of small business group purchasing cooperatives. The regulations shall require: (i) that all state-mandated benefits are required under plans procured by approved small business group purchasing cooperatives; (ii) that all such plans offer its enrollees access to wellness programs which, at a minimum, shall be actuarially similar to wellness programs that may be offered through the commonwealth health insurance connector authority; (iii) that the group purchasing cooperative obtain a commitment from 33 per cent of its covered employees that the employees will enroll in the health management programs that the group purchasing cooperative provides; (iv) that the group purchasing cooperative establish reasonable systems, which shall comply with any applicable sections of the Americans with Disability Act and any other federal requirements, under which enrollees can record their participation in, and group purchasing cooperatives can monitor enrollees' participation in, available health management programs; (v) that denial of coverage due to the health condition, age, race or sex of the employees and dependents of qualified association members in a group purchasing cooperative is prohibited; and (vi) that no eligible qualified association member of a small business group purchasing cooperative may be charged a premium rate higher than what the carrier would charge to a similarly-situated eligible small business that is not a participant in a small business group purchasing cooperative.

(b) The commissioner shall promulgate regulations governing the application and certification process that a proposed small business group purchasing cooperative shall undergo before the commissioner may certify the group purchasing cooperative as a small business group purchasing cooperative approved to operate in accordance with this section; provided, however, that the commissioner shall certify up to 6 group purchasing cooperatives to operate at any given time; provided further, that the commissioner shall certify any application that meets the requirements of this section up to and until the commissioner has certified 6 group purchasing cooperatives. The commissioner shall limit the number of applications that are approved for each small business group cooperative so that in a given year, the total number of covered lives, for each approved group purchasing cooperative, in the aggregate, shall not exceed 85,0000 covered lives. Notwithstanding the provisions of this section, once the limit on covered lives is reached, the commissioner shall not approve the application of a new group purchasing cooperative until a previously approved group purchasing cooperative disbands or until the commissioner disapproves a group purchasing cooperative's annual renewal for failure to comply with the terms of this section and any regulations promulgated in accordance with this section.

(c) The commissioner shall annually certify that a small business group purchasing cooperative satisfies the requirements of this section. Only a small business group purchasing cooperative that has been certified by the commissioner may procure health care coverage for the benefit of qualified association members.

(d) The commissioner shall review the books and records of a small business group purchasing cooperative and the methodology which it confirms the status of qualified associations.

(e) Health care coverage procured by a small business group purchasing cooperative shall be sold to qualified association members and may be sold through duly licensed agents, the commonwealth health insurance connector authority or brokers.

(f) Member-employers of qualified associations purchasing health coverage within a group purchasing cooperative shall not have more than 50 eligible employees.

(g) The commissioner, in consultation with the division of health care finance and policy and the commonwealth health insurance connector authority, shall report and make recommendations, as necessary, on the cost savings to the qualified association members that participate in small business group purchasing cooperatives, the impact, if any, on the establishment of small business group purchasing cooperatives to the risk pool and premium costs in the merged market, and whether the authority of the commissioner to certify small business group purchasing cooperatives should be renewed to the house and senate committees on ways and means and the joint committee on health care financing and financial services within 24 months of the first certification of a small business group purchasing cooperative as defined under this section.

Section 13. (a) As a condition of continued offer of small group health, a carrier that, as of the close of a preceding calendar year, has a combined total of at least 5,000 eligible individuals, eligible employees and eligible dependents who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals shall be annually required to file a plan with each group purchasing cooperative for its consideration if a group purchasing cooperative requests such health plan proposals for its next plan year.

(b) Health benefit plans offered by carriers to group purchasing cooperatives shall: (i) include all state-mandated benefits; (ii) apply preexisting condition limitations and waiting periods in the same manner as the carrier applies them to small group products offered outside the group purchasing cooperative; (iii) apply open enrollment periods for individuals in the same manner as the carrier applies them for individuals outside the group purchasing cooperative, provided, however that small business group purchasing cooperatives shall establish rules and open enrollment periods for qualified association members to enter or exit group purchasing cooperatives; (iv) apply continuation of coverage provisions in the same manner as the carrier applies those provisions to small group products offered outside the group purchasing cooperative; (v) apply managed care practices in the same manner as the carrier applies those practices to small group products offered outside the group purchasing cooperative; and (vi) apply rating rules, including rating bands, rating factors and the value of rating factors, in the same manner as the carrier applies those rules to small group products offered outside the group purchasing cooperative; provided, that such plans may make limited deviations from these rating factors with the prior approval of the commissioner.

(c) Carriers shall comply with a group purchasing cooperative's wellness program's data processing systems to provide information that will enable the group purchasing cooperative to effectively provide guidance to members on targeted wellness programs.

SECTION 35. Section 2 of chapter 176M of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "renewal", in lines 28 and 39, each time it appears, the following words:- , including renewal through the connector,.

SECTION 36. Section 3 of said chapter 176M, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) A carrier shall no longer offer, sell or deliver a health plan to a person to whom it does not have such an obligation under an individual policy, contract or agreement with an employer or through a trust or association; provided, however, that a closed guaranteed issue plan or a closed health plan shall be subject to all the other requirements of this chapter. A carrier shall be obligated to renew a closed guarantee issue health plan and a closed plan. A carrier may discontinue a closed guarantee issue health plan or a closed under regulations promulgated by the commissioner.

SECTION 37. Section 2 of chapter 176O of the General Laws, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) In establishing the minimum standards, the bureau shall consult and use, where appropriate, standards established by national accreditation organizations. Notwithstanding the foregoing, the bureau shall not be bound by the standards established by such organizations, provided, however, that wherever the bureau promulgates standards different from the national standards, it shall: (1) be subject to chapter 30A; (2) state the reason for such variation; and (3) take into consideration any projected compliance costs for such variation. In order to reduce health care costs and improve access to health care services, the bureau shall establish by regulation as a condition of accreditation that carriers use uniform standards and methodologies for credentialing of providers, including any health care provider type licensed under chapter 112 that provide identical services. The division shall, before adopting regulations under this section, consult with the division of health care finance and policy, the department of public health, the group insurance commission, the Centers for Medicare and Medicaid Services and each carrier. Accreditation by the bureau shall be valid for a period of 24 months.

SECTION 38. Subsection (a) of section 7 of said chapter 176O, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) a list of health care providers in the carrier's network, organized by specialty and by location and summarizing on its internet website for each such provider: (i) the method used to compensate or reimburse such provider, including details of measures and compensation percentages tied to any incentive plan or pay for performance provision; (ii)

the provider price relativity, as defined in and reported under section 6 of chapter 118G; (iii) the provider's health status adjusted total medical expenses, as defined in and reported under said section 6 of said chapter 118G; and (iv) current measures of the provider's quality based on measures from the Standard Quality Measure Set, as defined in the regulations promulgated by the department of public health under section 25P of chapter 111; provided, however, that if any specific providers or type of providers requested by an insured are not available in said network, or are not a covered benefit, such information shall be provided in an easily obtainable manner; provided, further, that the carrier shall prominently promote providers based on quality performance as measured by the standard quality measure set and cost performance as measured by health status adjusted total medical expenses and relative prices.

SECTION 39. Said chapter 176O is hereby further amended by inserting after section 9 the following section:-

Section 9A. A carrier shall not enter into an agreement or contract with a health care provider if the agreement or contract contains a provision that:

(a) (i) limits the ability of the carrier to introduce or modify a select network plan or tiered network plan by granting the health care provider a guaranteed right of participation; (ii) requires the carrier to place all members of a provider group, whether local practice groups or facilities, in the same tier of a tiered network plan; (iii) requires the carrier to include all members of a provider group, whether local practice groups or facilities, in a select network plan on an all-or-nothing basis; or (iv) requires a provider to participate in a new select network or tiered network plan that the carrier introduces without granting the provider the right to opt-out of the new plan at least 60 days before the new plan is submitted to the commissioner for approval; or

(b) requires or permits the carrier or the health care provider to alter or terminate a contract or agreement, in whole or in part, to affect parity with an agreement or contract with other carriers or health care providers or based on a decision to introduce or modify a select network plan or tiered network plan; or

(c) requires or permits the carrier to make any form of supplemental payment unless each supplemental payment is publicly disclosed to the commissioner as a condition of accreditation, including the amount and purpose of each payment and whether or not each payment is included within the provider's reported relative prices and health status adjusted total medical expenses under section 6 of chapter 118G.

SECTION 40. Said chapter 176O is hereby further amended by adding the following section: -

Section 21. (a) Each carrier shall submit an annual comprehensive financial statement to the division detailing carrier costs from the previous calendar year.

The annual comprehensive financial statement shall include all of the information in this section and shall be itemized, where applicable, by:

(i) market group size, including individual; small groups of 1 to 5, 6 to 10, 11 to 25 and 26 to 50; large groups of 50 to 100, 101 to 500, 501 to 1000 and greater than 1000; and

(ii) line of business, including individual, general, blanket or group policy of health, accident or sickness insurance issued by an insurer licensed under chapter 175; a hospital service plan issued by a nonprofit hospital service corporation under chapter 176A; a medical service plan issued by a nonprofit hospital service corporation under chapter 176B; a health maintenance contract issued by a health maintenance organization under chapter 176G; insured health benefit plan that includes a preferred provider arrangement issued under chapter 176I; and group health insurance plans issued by the commission under chapter 32A.

The statement shall include, but shall not be limited to, the following information:

(i) direct premiums earned, as defined in chapter 176J; direct claims incurred, as defined in said chapter 176J;

(ii) medical loss ratio;

(iii) number of members;

(iv) number of distinct groups covered;

(v) number of lives covered;

(vii) realized capital gains and losses;

(viii) net income;

(ix) accumulated surplus;

(x) accumulated reserves;

(xi) risk-based capital ratio, based on a formula developed by the National Association of Insurance Commissioners;

(xii) financial administration expenses, including underwriting, auditing, actuarial, financial analysis, treasury and investment expenses;

(xiii) marketing and sales expenses, including advertising, member relations, member enrollment expenses;

(xiv) distributions expenses, including commissions, producers, broker and benefit consultant expenses;

(xv) claims operations expenses, including adjudication, appeals, settlements and expenses associated with paying claims;

(xvi) medical administration expenses, including disease management, utilization review and medical management expenses;

(xvii) network operational expenses, including contracting, hospital and physician relations and medical policy procedures;

(xviii) charitable expenses, including any contributions to tax-exempt foundations and community benefits;

(xix) board, bureau or association fees;

(xx) any miscellaneous expenses described in detail by expense, including an expense not included in (i) to (xix), inclusive;

(xxi) payroll expenses and the number of employees on the carrier's payroll;

(xxii) taxes, if any, paid by the carrier to the federal government or to the commonwealth; and

(xxiii) any other information deemed necessary by the commissioner.

(b)(1) In this subsection, the following words shall have the following meanings:-

“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under chapter 175; a nonprofit hospital service corporation organized under chapter 176A; a nonprofit medical service corporation organized under chapter 176B; a health maintenance organization organized under chapter 176G; and an organization entering into a preferred provider arrangement under chapter 176I; or a third party administrator, a pharmacy benefit manager or other similar entity with claims data, eligibility data, provider files and other information relating to health care provided to residents of the commonwealth and health care provided by health care providers in the commonwealth; provided, however, that “carrier” shall include an entity that offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services.

“Self-insured customer”, a self-insured group for which a carrier provides administrative services.

“Self-insured group”, a self-insured or self-funded employer group health plan.

“Third-party administrator”, a person who, on behalf of a health insurer or purchaser of health benefits, receives or collects charges, contributions or premiums for, or adjusts or settles claims on or for residents of the commonwealth.

(2) Any carrier required to report under this section, which provides administrative services to 1 or more self-insured groups shall include, as an appendix to such report, the following information:

(i) the number of the carrier’s self-insured customers;

(ii) the aggregate number of members, as defined in section 1 of chapter 176J, in all of the carrier’s self-insured customers;

(iii) the aggregate number of lives covered in all of the carrier’s self-insured customers;

(iv) the aggregate value of direct premiums earned, as defined in said section 1 of said chapter 176J, for all of the carrier’s self-insured customers;

(v) the aggregate value of direct claims incurred, as defined in said section 1 of said chapter 176J, for all of the carrier’s self-insured customers;

(vi) the aggregate medical loss ratio, as defined in said section of said chapter 176J, for all of the carrier’s self-insured customers;

(vii) net income;

(viii) accumulated surplus;

(ix) accumulated reserves;

(x) the percentage of the carrier’s self-insured customers that include each of the benefits mandated for health benefit plans under chapters 175, 176A, 176B and 176G;

(xi) administrative service fees paid by each of the carrier’s self-insured customers; and

(xii) any other information deemed necessary by the commissioner.

(c) A carrier who fails to file this report on or before April 1 shall be assessed a late penalty not to exceed \$100 per day. The division shall make public all of the information

collected under this section. The division shall issue an annual summary report to the joint committee on financial services, the joint committee on health care financing and the house and senate committees on ways and means of the annual comprehensive financial statements by May 15. The information shall be exchanged with the division of health care finance and policy for use under section 6 of chapter 118G. The division shall, from time to time, require payers to submit the underlying data used in their calculations for audit.

The commissioner may adopt rules to carry out this subsection, including standards and procedures requiring the registration of persons or entities not otherwise licensed or registered by the commissioner, such as third-party administrators, and criteria for the standardized reporting and uniform allocation methodologies among carriers. The division shall, before adopting regulations under this subsection, consult with other agencies of the commonwealth and the federal government and affected carriers to ensure that the reporting requirements imposed under the regulations are not duplicative.

(d) If, in any year, a carrier reports a risk-based capital ratio on a combined entity basis under subsection (a) that exceeds 700 per cent, the division shall hold a public hearing within 60 days. The carrier shall submit testimony on its overall financial condition and the continued need for additional surplus. The carrier shall also submit testimony on how, and in what proportion to the total surplus accumulated, the carrier will dedicate any additional surplus to reducing the cost of health benefit plans or for health care quality improvement, patient safety or health cost containment activities not conducted in previous years. The division shall review such testimony and issue a final report on the results of the hearing.

SECTION 41. Section 1 of chapter 176Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Eligible individuals” and inserting in place thereof the following definition:-

“Eligible individual”, an individual who is a resident of the commonwealth and who is not seeking individual coverage to replace an employer sponsored health plan for which the individual is eligible and which provides coverage that is at least actuarially equivalent to minimum creditable coverage.

SECTION 42. Section 2 of said chapter 176Q, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) There shall be a board, with duties and powers established by this chapter, which shall govern the connector. The connector board shall consist of 11 members: the secretary for administration and finance, or a designee, who shall serve as chairperson; the director of Medicaid or a designee; the commissioner of insurance or a designee; the executive director of the group insurance commission; 4 members appointed by the governor, 1 of whom shall be a member in good standing of the American Academy of Actuaries, 1 of whom shall be a health economist, 1 of whom shall represent the interests of small businesses and 1 of whom shall be a member of the Massachusetts chapter of the National Association of Health Underwriters ; and 3 members appointed by the attorney general, 1 of whom shall be an employee health benefits plan specialist, 1 of whom shall be a representative of a health con-

sumer organization and 1 of whom shall be a representative of organized labor. No appointee shall be an employee of any licensed carrier authorized to do business in the commonwealth. All appointments shall serve a term of 3 years, but a person appointed to fill a vacancy shall serve only for the unexpired term. An appointed member of the board shall be eligible for reappointment. The board shall annually elect 1 of its members to serve as vice-chairperson.

SECTION 43. Section 3 of said chapter 176Q, as so appearing, is hereby amended by inserting after the figure “111M”, in line 118, the following words:- ; provided, however, that notwithstanding subsection (d) of section 2, no changes to the regulations defining minimum creditable coverage shall take effect until 90 days after the connector gives notice of the changes to the joint committee on health care finance, the joint committee on public health, the senate and house of representatives committees on ways and means and the clerks of the senate and house of representatives.

SECTION 44. Said chapter 176Q is hereby further amended by inserting after section 7 the following section:-

Section 7A. (a) There shall be a small group wellness incentive pilot program to expand the prevalence of employee wellness initiatives by small businesses. The program shall be administered by the board of the connector, in consultation with the department of public health. The program shall provide subsidies and technical assistance for eligible small groups to implement evidence-based employee health and wellness programs to improve employee health, decrease employer health costs, and increase productivity.

(b) An eligible small group shall be qualified to participate in the program if:-

(1) the eligible small group purchases group coverage through the connector;

(2) the eligible small group is eligible for federal health care tax credits under the federal Patient Protection and Affordable Care Act, Pub. L. 111-148 ;

(3) the eligible small group offers an evidence-based, employee wellness program, that meets certain minimum criteria, as determined by the connector board, in collaboration with the department of public health;

(4) the eligible small group meets certain minimum employee participation requirements in the qualified wellness program, as determined by the connector board, in collaboration with the department of public health;

(c) For eligible small groups participating in the program, the connector shall provide an annual subsidy not to exceed 5 per cent of eligible employer health care costs as calculated by the employer for credit by the federal government under the federal Patient Protection and Affordable Care Act. Aggregate expenditures made by the connector for the subsidy program shall not exceed \$15,000,000 in any fiscal year. If the director determines that funds are insufficient to meet the projected costs of enrolling new eligible employers, the director shall impose a cap on enrollment in the program.

(d) The connector shall coordinate with the department of public health to provide technical assistance, including grant-writing assistance, to participating eligible small groups

in order to maximize federal grant funding provided under the federal Patient Protection and Affordable Care Act for the establishment of wellness initiatives by small employers.

(e) The connector shall seek to ensure that all necessary applications and filings coordinate with and conform to appropriate federal guidelines in order to minimize administrative burden on participating small groups.

(f) The connector shall report annually to the joint committee on community development and small business, the joint committee on health care financing and the house and senate committees on ways and means on the enrollment in the small business wellness incentive program and evaluate the impact of the program on expanding wellness initiatives for small groups.

(g) The connector shall promulgate regulations to implement this section.

SECTION 45. Section 8 of said chapter 176Q, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence: -

The connector shall not utilize any of the data received from the department of revenue for any solicitations or advertising.

SECTION 46. Paragraph (n) of section 5 of chapter 614 of the acts of 1968, as appearing in section 18 of chapter 777 of the acts of 1981, is hereby amended by striking out, in line 2, the words "its administrative" and inserting in place thereof the following words:- fees, administrative.

SECTION 47. Said section 5 of said chapter 614 is hereby further amended by inserting after paragraph (n), as so appearing, the following paragraph:-

(n½) to fund the capital reserves authorized under paragraph (g) of section 10 and to fund and administer loans and grant programs for community hospitals and community health centers under paragraph (g) of section 10 and to fund any reimbursement of the commonwealth required by paragraph (g)(xii) of section 10;.

SECTION 48. Section 10 of said chapter 614, as most recently amended by chapter 777 of the acts of 1981, is hereby further amended by adding the following paragraph:-

(g) (i) For the benefit of nonprofit community hospitals and nonprofit community health centers licensed by the department of public health and meeting the definition of a community health center under 114.6 CMR 13.00 as either a community health center or a hospital licensed health center, the authority may create and establish special funds to be known as Community Hospital and Community Health Center Capital Reserve Funds and, to the extent so created, shall pay into each such fund any monies appropriated and made available by the commonwealth for the purposes of such fund, any proceeds from the sale of notes or bonds to the extent provided in the resolution, trust agreement or indenture of the authority authorizing issuance thereof, any other monies or funds of the authority that the authority determines to deposit in the fund and any other monies which may be available to the authority only for the purpose of such fund from any other source or sources. All monies held in the fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority which are secured by any such fund as the same mature, which herein shall include becoming payable by sinking fund installment, the purchase of

such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided however, that, monies in a Community Hospital and Community Health Center Capital Reserve Fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the fund to less than the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on outstanding bonds which are secured by the fund, except for the purpose of paying the principal of and interest on such bonds maturing and becoming due or for the retirement of such bonds in accordance with the terms of a contract between the authority and its bondholders and for the payment of which other monies pledged to secure such bonds are not available. Any income or interest earned by, or increment to, a Community Hospital and Community Health Center Capital Reserve Fund due to the investment thereof shall be used by the authority for the purposes of the fund.

(ii) The authority shall not issue bonds which are secured by a Community Hospital and Community Health Center Capital Reserve Fund at any time if the maximum amount of principal and interest maturing or becoming due in a succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the authority which are secured by a fund will exceed the amount of such Community Hospital and Community Health Center Capital Reserve Fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in the fund, will be not less than the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the authority which are secured by any such fund.

(iii) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, provision is made in subparagraph (i) for the accumulation in a Community Hospital and Community Health Center Capital Reserve Fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on all outstanding bonds which are secured by any such fund. In order to further assure the maintenance of a Community Hospital and Community Health Center Capital Reserve Fund, there shall be appropriated annually and paid to the authority for deposit in the fund such sum, if any, as shall be certified by the executive director of the authority to the governor as necessary to restore the fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the outstanding bonds which are secured by any such fund. The executive director of the authority shall annually, on or before December 1, make and deliver to the governor a certificate stating the amount, if any, required to restore a Community Hospital and Community Health Center Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the authority during the then current fiscal year of the commonwealth.

(iv) For the purposes of this paragraph, in computing the amount of a Community Hospital and Community Health Center Capital Reserve Fund, securities in which all or a

portion of the fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority unless otherwise provided in the resolution, trust agreement or indenture authorizing the issuance of bonds secured by the fund.

(v) For the purposes of this paragraph, the amount of a letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn upon and applied to obligations to which money in the Community Hospital and Community Health Center Capital Reserve Fund may be applied shall be counted as money in the fund. For the purposes of this paragraph, in calculating the maximum amount of interest due in the future on variable rate bonds or bonds with respect to which the interest rate is not at the time of calculation determinable, the interest rate shall be calculated at the maximum interest rate on such bonds or such lesser interest rate as shall be certified by the authority as an appropriate proxy for such variable or non-determinable interest rate.

(vi) Bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund shall be issued by the authority solely for the benefit of nonprofit community hospitals and nonprofit community health centers licensed by the department of public health.

(vii) Notwithstanding any provision of this act to the contrary, no loan shall be made by the authority to a nonprofit community hospital or nonprofit community health center from the proceeds of bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund established under this paragraph unless: (a) the project to be financed by the loan has been approved by the secretary of health and human services; and (b) the loan and the issuance and terms of the related bonds have been approved by the secretary of administration and finance. In connection with any loan to a nonprofit community hospital or nonprofit community health center under this paragraph, the secretary of health and human services and the secretary of administration and finance may enter into an agreement with the authority and the nonprofit community hospital or nonprofit community health center to: (1) require that the nonprofit community hospital or nonprofit community health center provide financial statements or other information relevant to the financial condition of the nonprofit community hospital or nonprofit community health center and its compliance with the terms of the loan; (2) require that the nonprofit community hospital or nonprofit community health center reimburse the commonwealth for any amounts the commonwealth transfers to the fund under subparagraph (iii) to replenish the fund as a result of a loan payment default by the nonprofit community hospital or nonprofit community health center; and (3) require compliance by the nonprofit community hospital or nonprofit community health center or the authority with any other terms and conditions that the secretary of health and human services and the secretary of administration and finance considers appropriate in connection with the loan.

(viii) When the authority notifies the secretary of administration and finance in writing that an institution eligible to use the authority under this paragraph is in default as to the payment of principal or interest on any bonds issued by the authority on behalf of that institution or that the authority has reasonable grounds to believe that the institution will not

be able to make a full payment when that payment is due, the secretary of administration and finance shall direct the comptroller to withhold any funds in the comptroller's custody that are due or payable to the institution until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or until the authority notifies the secretary of administration and finance that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subparagraph shall include, but not be limited to, federal and state grants, contracts, allocations and appropriations.

(ix) If the authority further notifies the secretary of administration and finance in writing that no other arrangements are satisfactory, the secretary shall direct the comptroller to make available to the authority without further appropriation any funds withheld from the institution under subparagraph (viii). The authority shall apply the funds to the costs incurred by the institution, including payments required to be made to the authority or trustee for any bondholders of debt service on any bonds issued by the authority for the institution or payments to replenish the Community Hospital and Community Health Center Capital Reserve Fund or required by the terms of any other law or contract to be paid to the holders or owners of bonds issued on behalf of the institution upon failure or default, or upon reasonable expectation of failure or default, of the institution to pay the principal or interest on its bonds when due.

(x) Concurrent with any notice from the authority to the secretary of administration and finance under this paragraph, the authority may notify any other agency, department or authority of state government that exercises regulatory, supervisory or statutory control over the operations of the institution. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the institution of the money due or the steps that the agencies of the commonwealth, other than the comptroller or the authority, should take to assure the continued prudent operation of the institution or provision of services to the people served by the institution.

(xi) Notwithstanding any general or special law to the contrary, in the event that a nonprofit community hospital or nonprofit community health center fails to reimburse the commonwealth for any transfers made by the commonwealth to the authority to replenish the Community Hospital and Community Health Center Capital Reserve Fund under subparagraph (iii) within 6 months after any such transfer and as otherwise provided under the terms of the agreement among the nonprofit community hospital or nonprofit community health center, the authority and the commonwealth authorized under subparagraph (vii), the secretary of administration and finance may, in the secretary's sole discretion, direct the comptroller to withhold any funds in the comptroller's custody that are due or payable to the nonprofit community hospital or nonprofit community health center to cover all or a portion of the amount the nonprofit community hospital or nonprofit community health center has failed to pay to the commonwealth to reimburse the commonwealth for any such transfers. All contracts issued by the group insurance commission, the commonwealth health insurance

connector authority and MassHealth to a third party for the purposes of providing health care insurance paid for by the commonwealth shall provide that, at the direction of the secretary of administration and finance, the third party shall withhold payments to a nonprofit community hospital or nonprofit community health center which fails to reimburse the commonwealth under the agreement authorized under subparagraph (vii) and shall transfer the withheld amount to the commonwealth. Any such withheld amounts shall be considered to have been paid to the nonprofit community hospital or nonprofit community health center for all other purposes of law and the nonprofit community hospital or nonprofit community health center shall be considered to have reimbursed the commonwealth for all or a portion of any such transfers to the Community Hospital and Community Health Center Capital Reserve Fund for purposes of the agreement authorized under said subparagraph (vii).

(xii) Notwithstanding any general or special law to the contrary, if the commonwealth has not been fully reimbursed the amount of any transfer made pursuant to this subsection (g) as of the one year anniversary of such transfer, the authority shall pay to the commonwealth an amount equal to that portion of the transfer for which the commonwealth has not yet received reimbursement as of said anniversary. The reimbursement shall be completed under a schedule determined by the secretary of administration and finance. The reimbursement shall not interfere with the obligations of a nonprofit community hospital or nonprofit community health center pursuant to subsection (g) (xi). Funds received by the commonwealth under subsection (g) (xi) which exceed the full reimbursement to the commonwealth from the authority required by this subsection (g) (xii), shall be paid to the authority.

(xiii) For the purposes of this paragraph, a community hospital or community health center shall not include a hospital where the ratio of the number of physician residents-in-training to the number of inpatient beds exceeds 0.25.

SECTION 49. Section 12 of said chapter 614 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Except as otherwise provided in paragraph (g) of section 10, the issuance of revenue bonds under this act shall not directly, indirectly or contingently obligate the commonwealth or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for payment of those bonds.

SECTION 50. Notwithstanding any special or general law to the contrary, the division of insurance, in consultation with the division of health care finance and policy, shall promulgate regulations on or before October 1, 2010 to establish a uniform methodology for calculating and reporting by carriers for the medical loss ratios of health benefit plans under section 6 of chapter 176J, section 21 of chapter 176O and section 6 of chapter 118G of the General Laws. The uniform methodology for calculating and reporting medical loss ratios shall, at a minimum, specify a uniform method for determining whether and to what extent an expenditure shall be considered a medical claims expenditure or an administrative costs expenditure, which shall include, but not be limited to, a determination

of which of these classes of expenditures the following expenses fall into: (i) financial administration expenses; (ii) marketing and sales expenses; (iii) distribution expenses; (iv) claims operations expenses; (v) medical administration expenses, such as disease management, care management, utilization review and medical management activities; (vi) network operation expenses; (vii) charitable expenses; (viii) board, bureau or association fees; (ix) state and federal tax expenses, including assessments; (x) payroll expenses; and (xi) other miscellaneous expenses not included in one of the previous categories. The methodology shall conform with applicable federal statutes and regulations to the maximum extent possible. The division shall, before adopting regulations under this section, consult with: the group insurance commission; the Centers for Medicare and Medicaid Services; the national association of insurance commissioners; the attorney general; representatives from the Massachusetts Association of Health Plans; the Massachusetts Medical Society Alliance, Inc.; the Massachusetts Hospital Association, Inc.; Health Care for All, Inc.; the Blue Cross and Blue Shield of Massachusetts; the Massachusetts Health Information Management Association; the Massachusetts Health Data Consortium; a representative from a small business association; and a representative from a health care consumer group.

SECTION 51. Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or before October 1, 2010 to establish a uniform methodology for calculating and reporting the health status adjusted total medical expenses, under section 6 of chapter 118G of the General Laws. The uniform methodology shall apply to a uniform list of provider groups and their constituent local practice groups and for each zip code in the commonwealth. The uniform methodology for calculating and reporting total medical expenses under this section shall, at a minimum:

(i) specify a uniform method for calculating total medical expenses based on allowed claims for all categories of medical expenses, including, but not limited to, acute inpatient, hospital outpatient, sub-acute such as skilled nursing and rehabilitation, professional, pharmacy, mental health and behavioral health and substance abuse, home health, durable medical equipment, laboratory, diagnostic imaging and alternative care such as chiropractic and acupuncture claims, incurred under all fully-insured and self-insured plans;

(ii) specify a uniform method for including in the calculation all non-claims related payments to providers, including supplemental payments of any type, such as pay-for-performance, care management payments, infrastructure payments, grants, surplus payments, lump sum settlements, signing bonuses and government payer shortfall payments; infrastructure, medical director and health information technology payments;

(iii) specify a uniform method for adjusting total medical expenses by health status;

(iv) designate the minimum patient membership in a local practice group for individual reporting of total medical expenses by local practice group;

(v) specify a uniform method for reporting total medical expenses in aggregate for all local practice groups that fall below the minimum patient membership; (vi) specify a uniform method for reporting total medical expenses by zip code separately for patient members

whose plans require them to select a primary care provider, and patient members whose plans do not require them to select a primary care provider;

(vii) designate and annually update the comprehensive list of provider groups and local practice groups and zip codes for which payers shall report total medical expenses; and

(viii) specify a uniform format for reporting that includes the raw and adjusted health status score and patient membership for each local practice group and zip code. '

The division shall from time to time require payers to submit the underlying data used in their calculation of total medical expenses for audit.

SECTION 52. Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or before October 1, 2010 to establish uniform methodology for calculating and reporting relative prices paid to hospitals, physician groups, other health care providers licensed under chapter 112 of the General Laws, freestanding surgical centers by each private and public health care payer under section 6 of chapter 118G of the General Laws. The uniform methodology for calculating and reporting relative prices under this section shall, at a minimum: (i) specify a method for basing the calculation on a uniform mix of products and services by payer that is case mix neutral; (ii) specify a uniform method for including in the calculation all non-claims related payments to providers, including supplemental payments of any type, such pay-for-performance, care management payments, infrastructure payments, grants, surplus payments, lump sum settlements, signing bonuses, and government payer shortfall payments; (iii) permit reporting of relative price in the aggregate for all physician groups whose price equals the payer's standard fee schedule rates; and (vi) designate and annually update the comprehensive list of physician groups for which payers shall report relative prices.

SECTION 53. Notwithstanding any special or general law to the contrary, the division of health care finance and policy, in consultation with the division of insurance, shall promulgate regulations on or before October 1, 2010 to establish uniform methodology for calculating and reporting inpatient and outpatient costs, including direct and indirect costs, for all hospitals under section 6 of chapter 118G of the General Laws. The division shall, as necessary and appropriate, promulgate regulations or amendments to its existing regulations to require hospitals to report cost and cost trend information in a uniform manner including, but not limited to, uniform methodologies for reporting the cost and cost trend for categories of direct labor, debt service, depreciation, advertising and marketing, bad debt, stop-loss insurance, malpractice insurance, health information technology, medical management, development, fundraising, research, academic costs, charitable contributions, and operating margins for all commercial business and for all state and federal government business, including but not limited to Medicaid, Medicare, insurance through the group insurance commission and federal Civilian Health and Medical Program of the Uniformed Services. The division shall, before adopting regulations under this section, consult with the group insurance commission, the Centers for Medicare and Medicaid Services, the attorney general and representatives from the Massachusetts Hospital Association, the Massachusetts

Medical Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health Information Management Association the Massachusetts Health Data Consortium.

SECTION 54. The department of public health shall promulgate regulations under section 25P of chapter 111 of the General Laws by December 31, 2010 requiring the uniform reporting of a standard set of health care quality measures for each health care provider facility, medical group, or provider group in the commonwealth hereinafter referred to as the “Standard Quality Measure Set.”

The department of public health shall convene a statewide advisory committee which shall recommend to the department by November 1, 2010 the Standard Quality Measure Set. The statewide advisory committee shall consist of the commissioner of health care finance and policy or the commissioner’s designee, who shall serve as the chair; and up to 8 members, including the executive director of the group insurance commission and the Medicaid director, or the directors designees; and up to 6 representatives of organizations to be appointed by the governor including at least 1 representative from an acute care hospital or hospital association, 1 representative from a provider group or medical association or provider association, 1 representative from a medical group, 1 representative from a private health plan or health plan association, 1 representative from an employer association and 1 representative from a health care consumer group.

In developing its recommendation of the Standard Quality Measure Set, the advisory committee shall, after consulting with state and national organizations that monitor and develop quality and safety measures, select from existing quality measures and shall not select quality measures that are still in development or develop its own quality measures. The committee shall annually recommend to the department of public health any updates to the Standard Quality Measure Set by November 1. For its recommendation beginning in 2011, the committee may solicit for consideration and recommend other nationally recognized quality measures not yet developed or in use as of November 1, 2010, including recommendations from medical or provider specialty groups as to appropriate quality measures for that group’s specialty. At a minimum, the Standard Quality Measure Set shall consist of the following quality measures: (i) the Centers for Medicare and Medicaid Services hospital process measures for acute myocardial infarction, congestive heart failure, pneumonia and surgical infection prevention; (ii) the Hospital Consumer Assessment of Healthcare Providers and Systems survey; (iii) the Healthcare Effectiveness Data and Information Set reported as individual measures and as a weighted aggregate of the individual measures by medical or provider group; and (iv) the Ambulatory Care Experiences Survey.

SECTION 55. Notwithstanding and special or general law to the contrary, eligible individuals as defined in chapter 176J with existing coverage issued under said chapter 176J that will expire after the end of open enrollment in 2010 established under section 4 of said chapter 176J may renew coverage on the date that the eligible individual’s coverage expires for a term of less than 1 year until the beginning of open enrollment period in 2011.

SECTION 56. Notwithstanding any general or special law to the contrary, the secretary of health and human services shall convene an administrative simplification working group consisting of the following members: the secretary of consumer affairs and business regulation or the secretary's designee, the commissioner of health care finance and policy or the commissioner's designee, the commissioner of public health or the commissioner's designee, the commissioner of insurance or the commissioner's designee, the commissioner of revenue or the commissioner's designee, the director of the office of Medicaid or the director's designee, the attorney general or the attorney general's designee, the inspector general or the inspector general's designee, a representative of the Massachusetts Health Data Consortium, a representative of an association of health care providers licensed under chapter 112 who is not a medical doctor, a representative of the Health Care Quality and Cost Council, a representative of the Massachusetts Hospital Association, Inc., a representative of BC/BS of Massachusetts, a representative of the Massachusetts Association of Health Plans, a representative of the Massachusetts Medical Society, and the executive director of the commonwealth health insurance connector authority or the executive director's designee. The group shall identify ways to streamline state created or mandated administrative requirements in health care, including ways to reduce health care reporting requirements through maximizing the use of a single all-payer data base, as administered by the division of health care finance and policy. The group shall hold its first meeting not later than January 1, 2011 and shall issue a report on or before April 1, 2011. The report shall include specific steps to be taken by each agency and the agencies collectively to reduce administrative and filing requirements on health carriers and health care providers, which shall include, but not be limited to, an interagency agreement to use where necessary, the all-payer claims data base, and to streamline and coordinate all requests for all other data requests from health care providers and health plans in the commonwealth.

SECTION 57. (a) Notwithstanding any special or general law to the contrary, the division of insurance, in consultation with the secretary of health and human services, shall promulgate regulations on or before December 1, 2011 to promote administrative simplification in the processing of claims for health care services under health benefit plans by carriers, as defined in section 1 of chapter 176O of the General Laws. At a minimum, the regulations shall: (1) establish uniform standards and processes for determining health benefit plan member eligibility by health care providers; (2) establish standards and processes for provider appeals of denied claims; and (3) establish a standard authorization form to be submitted by health care providers to obtain authorization to provide health care services to a member. The division shall, before adopting regulations under this section, consult with a statewide advisory commission charged with investigating and studying the relative value of a uniform claims administration system for all payers in the commonwealth.

(b) The commission shall be comprised of: the director of the office of Medicaid or a designee; the commissioner of insurance or a designee; the commissioner of health care finance and policy or a designee; 1 person appointed by the speaker of the house of represen-

tatives; 1 person appointed by the senate president; 1 person appointed by the minority leader of the house of representatives; 1 person appointed by the minority leader of the senate; 1 person designated by the Massachusetts Association of Health Plans, Inc.; 1 person designated by Blue Cross Blue Shield of Massachusetts, Inc.; 2 persons designated by the Massachusetts Hospital Association, Inc., 1 of whom shall represent teaching hospitals and 1 of whom shall represent community hospitals; 1 person designated by the Massachusetts Public Health Association; and 2 persons designated by the Massachusetts Medical Society. In addition, the regional administrator of the federal Centers for Medicare & Medicaid Services or a designee, and a member of the senior management of a Medicare administrative contractor will be invited to participate in the commission, but shall not have a vote.

(c) The commission shall undertake a study of the feasibility of mandating a single claims administration system for all payers in the commonwealth, other than Medicare, and of the potential savings to be derived from doing so. For purposes of this section, the term 'payer' shall mean both a private health care payer and a public health care payer, as those terms are defined in section 1 chapter 118G of the General Laws. In undertaking its responsibilities under this section, the commission shall (i) determine the feasibility of using a single claims administration system for all payers in the commonwealth, other than Medicare; (ii) undertake a detailed analysis of the merits and limits of the Medicare claims administration system; (iii) determine what models exist that might constitute the most efficient and effective consolidated claims administration system; (iv) identify potential challenges associated with implementation of a single claims administration system for all payers in the commonwealth other than Medicare and also identify proposed solutions for such challenges; (v) identify the costs being incurred by payers and providers as a result of multiple claims administration systems; (vi) estimate the potential cost savings to the commonwealth if the Medicaid program were to implement a uniform claims administration system based on Medicare's system, using regional Medicare administrative contractors; (vii) estimate the potential cost savings if all private health care payers in the commonwealth implemented a uniform claims administration system based on Medicare's system, using regional Medicare administrative contractors, including for their Medicare advantage programs; and (viii) determine the potential savings and costs associated with creating incentives or requiring ERISA plans, Taft-Hartley plans and other self-funded health benefit plans to use regional Medicare administrative contractors for claims management.

SECTION 58. Notwithstanding any general or special law to the contrary, there shall be a special commission to make an investigation and study relative to the impact of reducing the number of health benefit plans that a health care payer may maintain and offer to individuals and employers. The commission shall consist of the 13 members including: the commissioner of insurance, who shall serve as chair; the executive director of the commonwealth health insurance connector authority; a representative of the Massachusetts Hospital Association, the Massachusetts Medicaid Society, the Massachusetts Association of Health Plans, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Health

Information Management Association, the Massachusetts Health Data Consortium, a MassHealth contracted managed care organization, Associated Industries of Massachusetts, a health care consumer group, and the Massachusetts chapter of the National Federation of Independent Business; and a representative of an association of health care providers licensed under chapter 112 of the General Laws who is not a medical doctor. In conducting its analysis, the commission shall examine:

(i) the administrative costs associated with paying claims and submitting claims for multiple health benefit plans on health care payers and providers;

(ii) the costs associated with reducing the number of health benefit plans on consumer and employer choice;

(iii) the impact of limiting the number of health benefit plans on competition between and among insurance payers, including but not limited to, tiered products, limited network products and products with a range of cost sharing options; and

(iv) the potential for disruption to the market resulting from closing a health care payer's existing health benefit plans.

The special commission shall convene not later than October 1, 2010 and shall submit a report to the clerks of the house and senate not later than December 31, 2010.

SECTION 59. Notwithstanding any special or general law to the contrary, in implementing this act, the executive office of health and human services, the department of public health, the division of health care finance and policy, the division of insurance, the group insurance commission and any other relevant governmental entities or commissions may consider the special needs of children and of pediatric patients. In developing or utilizing data standards, quality measurement systems, wellness initiatives or making comparisons of costs and prices, policymakers shall consider the special needs of children and of pediatric patients and may require that comparative data and reports segregate pediatric patients and providers from adult patients and providers.

SECTION 60. There shall be a special commission to make an investigation and study relative to the capital needs of the community hospital sector with regard to use of technology and adequacy of facilities, the ability of the sector to meet the health care needs of the general population in the next decade and potential sources of capital to meet those needs. The commission shall also evaluate the role of public programs, payments and regulations in supporting capital accumulation and make recommendations to advance the ability of the community hospital sector to meet the expected demand. The commission shall be comprised of the secretary of health and human services, the commissioner of public health, the secretary of administration and finance, a representative of the Massachusetts Council of Community Hospitals, a representative of the Massachusetts Hospital Association, a representative of the Associated Industries of Massachusetts, a representative of the Massachusetts Business Roundtable, the chief executive officer of the Massachusetts health and educational facilities authority, the chief executive officer of the Massachusetts development finance agency, the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on health care financing, a member

of the house of representatives who shall be chosen by the minority leader, a member of the senate who shall be chosen by the minority leader, a chief elected local official with a community hospital located in said community who shall be appointed by the governor, an individual knowledgeable about demographic trends and hospital utilization who shall be appointed by the governor and an individual knowledgeable about hospital finance and construction who shall be appointed by the governor.

The commission shall hold hearings and file a report with the clerks of the house and senate not later than December 31, 2011.

SECTION 61. Notwithstanding any general or special law to the contrary, the department of public health shall conduct a study of the commonwealth's community hospitals, with a particular focus on outmigration of patients and related trends, including but not limited to an examination of observed effects and their potential causes with respect to the following:

(i) the impact on individual community hospitals caused by the opening of additional health care services by providers within the primary service areas of such community hospital, in terms of changes in the number and types of procedures performed and changes in revenues;

(ii) recruitment and retention of personnel; and

(iii) changes in payer mix.

The department shall issue a report summarizing its findings and making recommendations with respect to strengthening community hospitals not later than December 31, 2010, and shall file such report with the joint committee on health care financing.

SECTION 62. Notwithstanding any general or special law to the contrary nothing in subsection (c) of section 6C of chapter 118G of the General Laws shall prevent the annual preparation of the public health access program beneficiary employer report under section 304 of chapter 149 of the acts of 2004.

SECTION 63. Notwithstanding the provisions of any general or special law to the contrary, the Division of Medical Assistance shall promulgate regulations on or before January 1, 2011 that are designed to conform the ordering of treatment related urine drug screens with both Chapter 160 of the Acts of 2006 governing independent clinical laboratory services and the Department of Public Health regulations at 105 CMR 164 et. seq. governing the provisions of substance abuse treatment services, by revising its definition of 'authorized prescriber' at 130 CMR 401.402 to separately include, for the purpose of ordering treatment related random urine drug screens, substance abuse treatment programs that are licensed by the Department of Public Health's Bureau of Substance Abuse Services.

SECTION 64. In order to facilitate the provision of cost effective health care services, enhance the quality of care and improve the coordination and efficiency of health care services in the commonwealth, the division of health care finance and policy, herein referred to as the division, shall undertake activities intended to foster the adoption by providers and payers in the commonwealth of arrangements by which providers will contract

to accept payment on a bundled, rather than a fee-for-service, basis. To promote provider participation in such bundled payment arrangements, the division shall make technical support available to providers and payers, survey or undertake research concerning existing and proposed bundled payment models within the commonwealth and elsewhere and disseminate the results of such research; assess the effects of federal programs intended to promote use of bundled payment arrangements; and identify sources of funding to support providers in designing and implementing bundled payment initiatives. The division shall have as an objective, but not as a requirement, the implementation of pilot bundled payment programs relating to payment for at least 2 acute conditions or procedures commencing by no later than January 1, 2011, under the terms of which inpatient services, as well as certain services provided pre- and post-inpatient stay, will be paid on a bundled payment basis; and the implementation of pilot bundled payment programs relating to payment for at least 2 chronic conditions commencing by no later than July 1, 2011. The division shall file reports on the efforts it undertakes to provide support for providers and payers to enter into bundled arrangements and on the progress made toward implementing the goals described in the preceding sentence of this section. Such reports shall be filed with the clerks of the senate and the house of representatives and with the governor not later than January 31, 2011, not later than July 29, 2011 and not later than December 30, 2011.

SECTION 65. The division of insurance shall conduct a study to ensure that the carrier reporting deadlines included in subsections (b) and (c) of section 6 of chapter 176J of the General Laws are of the appropriate duration to enable carriers to collect sufficient information with which to ensure the accuracy of proposed plan changes. If the division determines that a reporting date of 90 days prior to the effective date of plan changes is inappropriate, the division shall determine the appropriate length of time for carriers to report plan changes to the division of insurance and the attorney general and shall make such recommendation to the general court. The study shall be completed by July 31, 2011 and filed with the clerks of the house of representative and senate, the chairs of the joint committee on health care financing and the chairs of the house and senate committee on ways and means.

SECTION 66. For small group base rate factors applied under section 3 of chapter 176J between October 1, 2010 and June 30, 2012, a carrier shall limit the effect of the application of any single or combination of rate adjustment factors identified in paragraphs (2) to (6), inclusive, of subsection (a) of said chapter 3 of said chapter 176J of the General Laws that are used in the calculation of an individual's or small group's premium so that the final annual premium charged to an individual or small group does not increase by more than an amount established annually by the commissioner by regulation.

SECTION 66A. Notwithstanding any general or special law to the contrary, a participating provider, as defined in chapter 176O of the General Laws, may contract with a carrier, as defined in chapter 176J of the General Laws, to provide one-time supplemental funding for the purposes of issuing refunds for all health benefit plans issued to its current eligible individuals and small groups under said chapter 176J. The refund may take the form

of either a refund on the premium for the applicable 12-month period or any other form determined by the parties by contract. The division of insurance may require the filing of such contracts after execution for the purposes of ensuring distribution as provided in the contracts. The division shall issue a public report by December 31, 2010 detailing the participating providers who have entered into such contracts in calendar year 2010, the amount of one-time supplemental funding by participating provider, and the estimated aggregate refunds to be provided to eligible individuals and small groups. The commissioner may issue further regulations as necessary to implement this section.

SECTION 67. (a) Notwithstanding any general or special law to the contrary, there shall be a special commission on provider price reform that shall investigate the rising cost of health care insurance and the impact of reimbursement rates paid by health insurers to providers. The commission shall examine policies aimed at enhancing competition, fairness and cost-effectiveness in the health care market though the reduction of reimbursement disparities. Any recommendations shall consider, and be consistent with, the recommendations of the special commission on payment system as authorized in section 44 of chapter 305 of the acts of 2008.

(b) The commission shall consist of the secretary of administration and finance and the commissioner of health care finance and policy, who shall serve as co-chairs, the executive director of the group insurance commission, 1 person to be appointed by the senate president, 1 person to be appointed by the speaker of the house, and 5 members to be appointed by the Governor, 1 of whom shall be a representative of the Massachusetts Association of Health Plans, Inc., 1 of whom shall be a representative of Blue Cross and Blue Shield of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Medical Society, and 1 of whom shall be a health economist or expert in the area of payment methodology. The commission shall adopt rules and establish procedures it considers necessary for the conduct of its business. The commission may expend funds as may be appropriated or made available for its purposes. No action of the commission shall be considered official unless approved by a majority vote of the commission members.

(c) The commission shall examine: (i) the variation in relative prices paid to providers within similar provider groups; (ii) the variation in costs of providers for services of comparable acuity, quality and complexity; (iii) the variation in volume of care provided at providers with low and high levels of relative prices or health status adjusted total medical expenses; (iv) the correlation between price paid to providers and (1) the quality of care, (2) the acuity of the patient population, (3) the provider's payor mix, (4) the provision of unique services, including specialty teaching services and community services, and (5) operational costs, including labor costs; (iii) the correlation between price paid to providers and, in the case of hospitals, status as a disproportionate share hospital, a specialty hospital, a pediatric specialty hospital or as an academic teaching hospital; and (v) policies to promote the use of providers with low health status adjusted total medical expenses.

(d) In making its investigation, the commission shall consult with the attorney general, the health care quality and cost council, the division of health care finance and policy, health care economists, and other individuals or organizations with expertise in state and federal health care payment methodologies and reforms. The commission shall use data and recommendations gathered in the course of these consultations as a basis for its findings and recommendations.

(e) The commission shall file a report of its findings and recommendations.

Before a final vote on any recommendations, the commission shall consult with a reasonable variety of parties likely to be affected by its recommendations, including, but not limited to, the office of Medicaid, the division of health care finance and policy, the commonwealth health insurance connector, the Massachusetts Council of Community Hospitals, Inc., the Massachusetts League of Community Health Centers, Inc., 1 or more academic medical centers, 1 or more hospitals with a high proportion of public payors, 1 or more Taft-Hartley plans, 1 or more self-insured plans with membership of more than 500, the Massachusetts Municipal Association, Inc. and organizations representing health care consumers. The commission shall file the report of its findings and recommendations, with the clerks of the senate and the house of representatives and with the governor not later than February 1, 2011.

SECTION 68. Sections 1, 2, 3, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 36, 39, 43, 46, 47, 48, 49, 51, 60, 61, 65, 66 shall take effect on October 1, 2010.

SECTION 69. Section 30 shall take effect on October 1, 2011.

SECTION 70. Section 31 shall take effect on October 1, 2012.

SECTION 71. Sections 14, 35, 41, 62 shall take effect on July 1, 2012.

SECTION 72. Sections 38, 42, 44, 45 shall take effect on July 1, 2011.

SECTION 73. Sections 32, 37, 40 shall take effect on January 1, 2011.

Approved August 10, 2010.

Chapter 289. AN ACT AUTHORIZING THE DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO LEASE CERTAIN BUILDINGS AND PARK LAND IN THE TOWN OF HULL FOR DEVELOPMENT PURPOSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the lease of certain land in the town of Hull, therefore 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 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may lease a certain parcel of land and any improvements thereon for not less than 99 years, currently under the control of and used by the department of conservation and recreation for conservation and recreation purposes, to the town of Hull, for the purposes of economic development, subject to the requirements of sections 2 and 3 and to such additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance may prescribe in consultation with the commissioner of conservation and recreation. The parcel, shown on assessor's map 37, lots 001-A and 008, being a portion of the Nantasket Beach Reservation, is bounded by Nantasket avenue on the east, Hull Shore drive on the north, George Washington boulevard on the west and Wharf avenue on the south. The exact boundaries of the parcel shall be established prior to execution of the lease by a survey approved by the commissioner of capital asset management and maintenance.

Modification to the terms described above may be made prior to the conveyance in order to carry out the purposes of this act.

SECTION 2. The lease authorized in section 1 shall be granted only if the lessee agrees to assume the costs of any surveys and other expenses deemed necessary by the commissioner of capital asset management and maintenance for the lease.

SECTION 3. The town of Hull shall compensate the commonwealth for the property described in section 1 by providing necessary storage space for maintenance equipment of the department of conservation and recreation.

Approved August 10, 2010.

Chapter 290. AN ACT AUTHORIZING CERTAIN CHANGES IN THE LEASE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF GREENFIELD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital asset management and maintenance to change the terms of the lease of a certain parcel of land to the town of Greenfield, therefore 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 55 of the acts of 1996 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The parcel of land with the buildings and improvements thereon shall be leased for municipal purposes which shall include, but not be limited to, a youth center, and shall be consistent

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with any conditions that the commissioner of capital asset management and maintenance deems appropriate and such conditions shall be included in the lease.

SECTION 2. Said chapter 55 is hereby further amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. The parcel of land, buildings or other improvements described in section 1 shall be used by the town of Greenfield for municipal purposes which shall include, but shall not be limited to, a youth center, but if the parcel, buildings or other improvements cease to be used for such purposes during the term of the lease, the lease shall be terminated by notice from the commissioner of capital asset management and maintenance to the town of Greenfield.

Approved August 10, 2010.

**Chapter 291. AN ACT PROVIDING FOR DEVELOPMENT AND OPERATION OF
A NEW PARKER'S RIVER MARINA IN THE TOWN OF
YARMOUTH.**

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the following words shall have the following meanings unless the context clearly requires otherwise:-

“Developer”, the private entity selected to build, maintain and operate a new Parker’s River Marina.

“Development agreement”, the agreement entered into between the developer and the town, pursuant to clause (a) of section 4.

“Project”, the study, planning, design, construction, reconstruction, operation and maintenance of a new Parker’s River Marina in the town for public use in accordance with the terms of the development agreement.

“Town”, the town of Yarmouth.

SECTION 2. Notwithstanding chapters 30, 30B and 149 of the General Laws or any other general or special law to the contrary, the chief procurement officer of the town or his designee may solicit proposals for and, in conjunction with the board of selectmen, may negotiate and authorize the town to enter into a development agreement with a developer to undertake, as appropriate, all or a portion of the project using, in whole or in part, private sources of financing.

SECTION 3. (a) The chief procurement officer or his designee shall develop and publicly advertise a request for qualifications setting forth criteria for prequalification of developers, including minimum levels of experience, financial capability, bonding capacity and such other criteria as may be deemed appropriate by the board of selectmen. The chief procurement officer or his designee, may consult with legal, financial, technical or other experts in the prequalification of developers. The chief procurement officer shall also consult

with the board of selectmen in the development of a request for qualifications and with respect to the financial capacity of the respondents to such request for qualifications before determining which respondents are qualified. The chief procurement officer shall select a minimum of 3 developers who have been determined to be the most qualified, based on their abilities to finance and construct the project.

(b) The chief procurement officer or his designee shall develop and publicly advertise a request for proposals setting forth criteria of the qualified developers to undertake the project. The chief procurement officer or his designee may consult with legal, financial, technical and other experts within and outside government in the development of the request for proposals, the selection of a developer and the negotiation of a development agreement. The chief procurement officer or his designee shall not select a developer in accordance with this section without the written concurrence of the board of selectmen that the selected developer and its proposal have appropriate financial characteristics and provisions.

(c) The chief procurement officer or his designee shall, within 30 days after the designation of the selected qualified developers, furnish each qualified developer, as determined in subsection (a), with a request for proposals setting forth the minimum criteria for the project. Each such developer may then submit to the town, on or before the time and date specified in the request for proposals, a proposal in the format specified by the chief procurement officer or his designee. The chief procurement officer or his designee may waive any informalities in such proposals and reject any proposal if, in his sole discretion, such a rejection would be in the public interest. All proposals shall be reviewed in private and no proposal or any information contained therein shall be released to a third party other than as specified therein before the execution of the development agreement in accordance with this section and no such proposal shall be a public record until such development agreement is executed.

(d) Each proposal shall be evaluated by criteria determined by the chief procurement officer or his designee, in conjunction with the board of selectmen, and set forth in the request for proposals including, but not limited to, the proposed cost of the project and the financial benefit to the town, the reputation, industry experience and financial capacity of the developer, the time schedule for completion of the project, local citizen and government concerns, environmental concerns relative to the project, benefits to the public, the developer's ability to ensure labor harmony during the length of the project and such other criteria as deemed appropriate. The chief procurement officer or his designee may request oral presentations by such developers as he deems necessary for understanding, clarifying and improving the terms contained in the proposals. An oral presentation shall include a written component, including minutes of the meeting at which the presentation took place, which shall be made public after the execution of the development agreement.

(e) The chief procurement officer shall select the developer that he determines best meets the selection criteria for the benefit of the town. If the chief procurement officer selects a developer that did not submit the proposal offering the highest overall return to the

town, the chief procurement officer shall explain the reason for the selection in writing to the board of selectmen before the execution of the agreement.

SECTION 4. The board of selectmen, by a majority vote, may enter into a binding development agreement with the selected developer, subject to such terms and conditions as the board of selectmen shall determine to be in the best interests of the town, and the development agreement shall:

- (1) provide for construction of the project;
- (2) specify a construction schedule with project milestones and an enforceable project completion date, subject to delays beyond the control of the developer;
- (3) specify the cost of the project, as an aggregate total and separated into cost for each identified project segment, with maintenance costs annualized and separated from the cost of construction;
- (4) provide for a lease of the facility to the developer for a term not to exceed 40 years, with an option for renewal or extension of operation and maintenance services for 1 additional term not exceeding 10 years upon the completion and final acceptance of the project, but the developer shall retain the primary responsibility for all reconstruction, capital maintenance and operational maintenance work, if any, to be performed during the lease period; provided, however, that if the developer proposes that a third party perform any of the work on its behalf, then the third party shall be approved in advance by the chief procurement officer;
- (5) establish a schedule for annualized, periodic or other payments by the developer to the town, including establishment of a fund to assure the adequacy of maintenance expenditures; provided, however, that all payments shall be made in accordance with obligations established in the development agreement;
- (6) describe the procedures to be utilized in the completion of construction of the project;
- (7) outline the responsibilities of the town and the developer in obtaining any remaining environmental permits or approvals;
- (8) require that the developer to secure and maintain bonding and liability insurance coverage in amounts appropriate to protect the project's viability in accordance with section 7;
- (9) describe the method of financing for the project, including the developer's plans for issuing bonds on a tax-exempt basis;
- (10) set forth the commitments of the town necessary to secure the project's financing consistent with subsection (b) of section 10;
- (11) set forth the guarantee of performance and security to be provided by the developer;
- (12) specify the claims process to be utilized in the event of unforeseen circumstances during project design or construction and provide for the reimbursement to the developer for reasonable costs and expenses incurred in developing the design of the project and the construction costs estimate and in the financing of the project should the town, for any reason,

decide to terminate the agreement;

(13) clarify the responsibilities of the town and the developer in responding to hazardous materials on the developmental site;

(14) designate responsibility for operation and maintenance of the facility before, during and after project construction; and

(15) provide that the town's construction inspections shall be conducted by personnel employed directly and on a full-time basis by the town.

SECTION 5. The chief procurement officer shall obtain town meeting vote approval if the elected developer plans to issue non-tax exempt bonds.

SECTION 6. Agreements with the developer shall contain minority and women business enterprise or disadvantaged business enterprise goals and minority and women work force goals as specified by the town in accordance with state and federal law.

SECTION 7. An agreement with a developer shall require the developer's prime contractor to obtain a labor and material payment bond in accordance with section 29 of chapter 149 of the General Laws to cover all construction, reconstruction or maintenance, including capital maintenance, work of the project and shall require the payment of prevailing wages for labor performed on the project in accordance with sections 26 to 27H, inclusive, of said chapter 149.

SECTION 8. Notwithstanding chapters 7, 30, and 149 of the General Laws or any other general or special law to the contrary regarding procurement practices, the developer shall, in its sole discretion and in accordance with its own procurement practices and sound business judgment, determine the qualifications and selection of its own consultants, engineers, designers, architects, lawyers, contractors, investment bankers, materials suppliers and other persons or entities employed in connection with the project. The developer shall remain subject to all applicable antidiscrimination laws including, but not limited to, chapter 151B of the General Laws.

SECTION 9. (a) The plans and specifications for the project shall be approved by the board of selectmen.

(b) The development agreement shall provide that, upon return of operation and control of the facility to the town, the facility shall be in good repair in accordance with appropriate standards as shall be set forth in writing and incorporated by reference in the development agreement prior to the commencement of the construction of the project. The town shall also set forth the guidelines and standards to which the developer shall periodically maintain the facility and shall require the developer to repair the facility if the facility is found not to be in accordance with such maintenance standards, as shall be indicated by the town in writing.

(c) The town may exercise, on its own behalf and on behalf of the developer, any power possessed by it to facilitate the development, construction, financing, operation and maintenance of the facility. For the purpose of facilitating the project or to assist the developer in the financing, development, construction, maintenance or operation of the facility,

the development agreement may include provisions for the town (i) to lease the facility to the developer or back from the developer or both; (ii) to exercise the power of eminent domain; (iii) to grant development rights and opportunities to the developer and third parties; (iv) to grant necessary easements and rights of access to the developer and third parties; (v) to issue permits and other authorizations; (vi) to provide remedies in the event of default of either of the parties; (vii) to grant contractual and real property rights to the developer and third parties; and (viii) to exercise any other power deemed necessary by the parties. Any person damaged in his property by the exercise of any of the powers granted in this section may recover damages under chapter 79 of the General Laws against the town with respect to those powers exercised by the town. Nothing in this section shall be construed in a manner that would allow the town or the developer to override any local zoning or land use law, ordinance or regulation.

SECTION 10. (a) In order to facilitate project refinancing, the selected developer may form a special purpose entity and the town may enter into agreements with such entity to effectuate the purposes of this section.

(b) Revenue bonds, interim receipts, temporary bonds, revenue refunding bonds or other types of indebtedness necessary to finance the construction, maintenance and operation of the facility shall not be deemed to constitute a debt of the town or any political subdivision thereof. All bonds and interim receipts shall contain on the face thereof a statement to the effect that neither the town nor any political subdivision thereof shall be obligated to pay the same or the interest thereon except from revenues generated by the facility, or from other federal, state or local resources specifically made available therefor, and that neither the faith and credit nor the taxing power of the town or any political subdivision thereof is pledged to the payment of the principal of or interest on the bonds and interim receipts.

SECTION 11. (a) While the developer has operation and control of the facility pursuant to a development agreement, the developer shall be liable to the same extent and with the same limitations as would be the town to any person sustaining bodily injury or damage to his property by reason of a defect or want of repair therein or thereupon as though the facility were a facility operated by the town and the developer shall be liable for the death of a person caused by such defect or want of repair to the same extent and with the same limitations as would be the town under chapter 258 of the General Laws. The town shall not be liable for injury, damage or death sustained by any person due to defect or want of repair therein or thereupon sustained during the operation of the facility by the developer. Any notice of such injury, damage or death required by law shall be given to the registered agent of the developer and to the town but claims instituted pursuant to section 4 of said chapter 258 shall be presented to the town. Upon receipt by the town of any such notice, the town shall promptly notify such registered agent of the notice and shall promptly notify the person giving notice of name and address of the registered agent.

(b) While the developer has operation and control of the facility pursuant to a development agreement, the developer shall be liable to the same extent and with the same

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limitations as would be the town in accordance with chapter 258 of the General Laws, as if the facility were a facility operated by the town. The town shall not be liable for injury, damage or death sustained by a person during the operation of the facility by the developer or for any injury, damage or death caused by the negligence of the developer. Any notice of such injury, damage or death required by law shall be given to the registered agent of the developer and to the town but claims instituted pursuant to section 4 of said chapter 258 shall be presented to the town. Upon receipt by the town of any such notice, the town shall promptly notify such registered agent of the notice and shall promptly notify the person giving notice of the name and address of the registered agent.

SECTION 12. Nothing in this act or any action taken or contract or agreement entered into pursuant to this act shall change or alter any contract or agreement between the town and any public entity which is in force and effect on the effective date of this act or impose any additional costs or obligations on the town or any such public entity.

SECTION 13. This act shall take effect upon its passage.

Approved August 10, 2010.

Chapter 292. AN ACT RELATIVE TO INHALANT ABUSE.

Section 35 of chapter 123 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the purposes of this section, "substance abuser" shall mean a person who chronically or habitually consumes or ingests controlled substances or who intentionally inhales toxic vapors to the extent that: (i) such use substantially injures his health or substantially interferes with his social or economic functioning; or (ii) he has lost the power of self-control over the use of such controlled substances or toxic vapors.

Approved August 10, 2010.

Chapter 293. AN ACT PROMOTING FAIRNESS IN PRIVATE CONSTRUCTION CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 149 of the General Laws is hereby amended by inserting after section 29D the following section:-

Section 29E. (a) As used in this section the following words shall have the following meanings, unless the context clearly requires otherwise:

"Contract for construction", a contract for which a lien may be established under sections 2 or 4 of chapter 254 on a project for which the person whose contract with the project

owner has an original contract price of \$3,000,000 or more; provided, however, this shall not include projects containing or designed to contain at least 1 but not more than 4 dwelling units.

“Insolvent”, insolvent as defined under federal bankruptcy law or being a debtor in a proceeding commenced under federal bankruptcy law or under the corresponding law of another country, or being a debtor in a receivership proceeding or having made an assignment for the benefit of creditors.

(b) A communication required in this section to be in writing may be submitted in electronic form and by electronic means.

(c) Every contract for construction shall provide reasonable time periods within which: (i) a person seeking payment under the contract shall submit written applications for periodic progress payments; (ii) the person receiving the application shall approve or reject the application, whether in whole or in part; and (iii) the person approving the application shall pay the amount approved. The time periods for each application for a periodic progress payment shall not exceed: (i) for submission, 30 days, beginning with the end of the first calendar month occurring at least 14 days after the person seeking payment has commenced performance; (ii) for approval or rejection, 15 days after submission; provided, however, that the time period, as applicable to approval or rejection by the person at each tier of contract below the owner of the project, may be extended by 7 days more than the time period applicable to the person at the tier of contract above the person; and (iii) for payment, 45 days after approval, unless the payment is subject to the condition of receipt of payment by a third person but only to the extent enforceable under subsection (e). An application for a periodic progress payment which is neither approved nor rejected within the time period shall be deemed to be approved unless it is rejected before the date payment is due. A rejection of an application for a periodic progress payment, whether in whole or in part, shall be made in writing and shall include an explanation of the factual and contractual basis for the rejection and shall be certified as made in good faith. A rejection of an application for a periodic progress payment shall be subject to the applicable dispute resolution procedure. A provision in the contract which requires a party to delay commencement of the procedure until a date later than 60 days after the rejection shall be void and unenforceable.

(d) Every contract for construction shall provide a reasonable time period within which a written request submitted by a person seeking an increase in the contract price shall be approved or rejected, whether in whole or in part. The time period shall not exceed 30 days after the later of commencement of the performance of the work on which the request is based or submission of the written request; provided, however, that the time period, as applicable to approval or rejection by the person at each tier of contract below the owner of the project, may be extended by 7 days more than the time period applicable to the person at the tier of contract above the person. A request which is neither approved nor rejected within such time period shall be deemed to be approved and may be submitted for payment within the next application for a periodic progress payment, unless it is rejected before the

date payment is due. A rejection of a request, whether in whole or in part, shall be made in writing, shall include an explanation of the factual and contractual basis for the rejection and shall be certified as made in good faith. A rejection of a request shall be subject to the applicable dispute resolution procedure. A provision in the contract which requires a party to delay commencement of the procedure until a date later than 60 days after the rejection shall be void and unenforceable.

(e) A provision in a contract for construction which makes payment to a person performing the construction conditioned upon receipt of payment from a third person that is not a party to the contract shall be void and unenforceable, except:

(1) to the extent of amounts not received from the third person because the person performing the construction failed to perform under its contract and failed to cure the non-performance within the time required by the contract after receipt of written notice as provided in the contract or, in the case of contract lacking a cure and notice provision, failed to cure the non-performance within 14 days after receipt of written notice of the failure to perform; or

(2) to the extent of amounts not received from the third person because the third person is insolvent or becomes insolvent within 90 days after the date of submission of the requisition for which payment is sought; provided, however, that the person seeking to enforce the payment condition (i) filed a notice of contract under chapter 254 and in the case of a person having no direct contractual relationship with the original contractor, also sent a notice of identification within the time required under said chapter 254, prior to the person's submission of the first application for payment after commencement of performance at the project site and did not dissolve the lien created by the filing of such notice of contract; and (ii) within the time periods allowed by said chapter 254 files a statement of amount due and commenced or commences a civil action to enforce the lien; and (iii) pursues all reasonable legal remedies to obtain payment from the person with whom the person had a direct contract unless and until there is a reasonable likelihood the action shall not result in obtaining payment.

The foregoing exceptions shall be expressly stated in any conditional payment provision and the person seeking to enforce the payment condition shall have the burden of proof as to each element. Nothing in this section or in a conditional payment provision shall be valid as a defense to enforcement of a lien claimed under said chapter 254 by the person furnishing the construction nor shall it excuse compliance with said chapter 254. A party aggrieved by the failure of the party seeking to enforce the payment condition to pursue all reasonable legal remedies to obtain payment may avail itself of the procedure set forth in section 15A of said chapter 254, for a summary determination of whether all reasonable legal remedies have been fulfilled with respect to the particular lien claim at issue; provided, however, that the aggrieved party has first made a request in writing that the party seeking to assert the payment provision identify the legal remedies the aggrieved party has pursued and either: (i) has not received a response in writing within 10 days after making the request;

or (ii) having received a response, has requested the party to pursue specific additional legal remedies and the party has failed unreasonably to take such actions.

(f) A provision in a contract for construction, including without limitation a payment condition enforceable under subsection (e), purporting to require a person to continue performance of the construction if payment of an approved amount is due under the terms of the contract but is not received, and more than 30 days have elapsed since the date payment was due, shall be void and unenforceable, except for: (i) a dispute regarding the quality or quantity of the construction so furnished; or (ii) a default by the person under the contract for construction after approval of the payment; provided, however, that the person has received (i) a prior written notice of such dispute or default certified as made in good faith; and (ii) all sums due less any amounts attributable to the dispute or default.

(g) A provision in a contract for construction which purports to waive or limit any provisions of this section shall be void and unenforceable.

SECTION 2. Notwithstanding any general or special law to the contrary, section 29E of chapter 149 of the General Laws shall not apply to a contract for construction relating to a project for which the owner's contract was entered into prior to the effective date of this act.

Approved August 10, 2010.

Chapter 294. AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT IN CERTAIN LAND TO THE TOWN OF WEST BOYLSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may, grant an easement over a certain parcel of land and any improvements thereon, currently under the control of and use by the department of conservation and recreation for watershed and conservation purposes, to the West Boylston Water District, a body corporate established by chapter 352 of the acts of 1933, its grantees, successors and assigns for the purposes of locating, constructing, operating and maintaining a single well or well field and piping, pump stations and other appurtenances associated with a public water supply, including driveway access to the well and pump station and a pipe connection to the municipal water system, to serve the West Boylston public water supply system, subject to the requirements of sections 2 to 7, inclusive, and to such additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance in consultation with the commissioner of conservation and recreation, may prescribe. The easement shall contain 10

acres more or less and shall be shown on a plan prepared by the West Boylston Water District and approved by the department of conservation and recreation. The plan shall be recorded in the south Worcester district registry of deeds and filed with the department of conservation and recreation. Modification to the plan described above may be made prior to the conveyance in order to carry out the purposes of this act.

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

SECTION 3. The easement authorized in section 1 shall be granted only if the grantee agrees to assume the cost of any appraisals, surveys and other expenses deemed necessary by the commissioner of capital asset management and maintenance for the transactions contemplated by this act.

SECTION 4. In consideration for the grant authorized in section 1, the grantee shall compensate the commonwealth through: (i) the transfer of land, development rights or an interest in land to the department of conservation and recreation, with a value equal to or greater than the full and fair market value of the easement described in said section 1, or its value in use as proposed, whichever is greater, as determined by independent appraisal; (ii) in a sum equal to the full and fair market value of the easement or its value in use as proposed, whichever is greater, as determined by independent appraisal; or (iii) through some combination thereof. The exact boundaries of the property interests to be conveyed to the commonwealth shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, after completion of a survey.

SECTION 5. To ensure a no-net-loss of lands protected for natural resource purposes, the West Boylston Water District shall convey or cause to be conveyed to the commonwealth lands or interest in lands to be held by the department of conservation and recreation for conservation or recreation purposes. The land or interest in land shall be of equal or greater size and resource values than the easement described in section 1, as determined by independent appraisal.

SECTION 6. The value of the easement described in section 1 and the value of the property interests received by the commonwealth shall be as determined by an independent appraisal prepared in accordance with the usual and customary professional appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation.

The commissioner of capital asset management and maintenance shall submit the appraisal to the inspector general for the inspector general's review and comment. The inspector general shall review and approve the appraisal and the review shall include an examination of the methodology utilized for the appraisal. The inspector general shall prepare

a report of his review and file the report with the commissioner of capital asset management and maintenance for submission by the commissioner to the house and senate committees on ways and means and the chairmen of the joint committee on state administration and regulatory oversight. The commissioner shall also submit copies of the appraisals and the inspector general's review and approval and comments, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration and regulatory oversight at least 15 days prior to the execution of any documents effecting the grant of the easement described in section 1.

SECTION 7. Notwithstanding any general or special law to the contrary, if the appraised value of property interests described in section 4 be determined to be greater than the appraised value of the easement described in section 1, the commonwealth shall not be obligated to pay the difference as additional consideration to the West Boylston Water District. If there is a disparity in these appraised values, as determined in sections 5 and 6, in favor of the grantee, the grantee shall pay a sum equal to the difference to the department of conservation and recreation. Any additional compensation received by the commonwealth pursuant to section 5 shall be deposited in the Water Supply Protection Trust established in section 73 of chapter 10 of the General Laws.

Approved August 10, 2010.

Chapter 295. AN ACT RELATIVE TO THE DISPOSITION OF MUSEUM PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 200A the following chapter:-

CHAPTER 200B. Disposition of Museum Property

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

“Claimant”, a person, other than the lender, who claims to be legally entitled to, or who establishes legal entitlement to, property held by a museum.

“Lender”, a person who loans property to a museum and whose name appears in the museum's records as the person legally entitled to the property held by the museum.

“Loan”, a deposit of property with a museum for a specified period of time, that is not accompanied by a transfer of title to the property or other evidence of donative intent; but does not include a consignment of property for sale.

“Museum”, an institution or entity located in the commonwealth that:

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(i) is operated by a nonprofit corporation, trust, association, public agency or educational institution;

(ii) is operated primarily for educational, scientific, historic preservation, cultural or aesthetic purposes; and

(iii) owns, borrows, cares for, exhibits, studies, archives or catalogues property.

The word, “museum” shall include, but not be limited to, historical societies, historic sites, landmarks, parks, archives, monuments, botanical gardens, arboreta, zoos, nature centers, planetaria, aquaria, libraries, technology centers and art, history, science and natural history museums.

“Person”, an individual, association, partnership, corporation, trust, estate or other entity having a legal interest in property in the custody of a museum.

“Property”, tangible objects, animate or inanimate, in the custody of a museum.

“Undocumented property”, property:

(i) that is held by a museum;

(ii) that is assumed to be a gift to the museum; and

(iii) whose ownership cannot be determined by reference to the museum’s records.

Section 2. (a) A notice to a lender or claimant under this chapter shall contain:

(1) the lender’s or claimant’s name, if known;

(2) the lender’s or claimant’s address, if known;

(3) a description of the property on loan to the museum;

(4) the date of the loan, if known, or the approximate date the property came into the custody of the museum;

(5) the name of the museum; and

(6) the name, address and telephone number of the appropriate museum official or office to be contacted regarding the property.

(b) A notice mailed to a lender or claimant under this chapter shall be sent by certified mail, return receipt requested, to the lender’s or claimant’s address. Notice shall be deemed to have been provided if the museum receives, within 60 days of mailing the notice to the lender or claimant a return receipt indicating a completed delivery to the lender’s or claimant’s address. The date of a notice provided under this subsection shall be the date of delivery to the lender’s or claimant’s address, as identified in the return receipt.

(c) If notice to a lender or claimant is not given in accordance with subsection (b), or if, after a diligent search of its records, a museum does not know or cannot determine the lender’s or claimant’s identity or address, notice may be given by publication, in which case notice shall be published:

(1) at least once per week for 3 successive weeks in a newspaper of general circulation in the county or municipality in which the museum is located; and

(2) if the museum has in its records the lender’s or claimant’s address, at least once per week for 3 successive weeks in a newspaper of general circulation in the county or municipality in which the lender or claimant is located.

For purposes of this chapter, the date of notice given under this subsection shall be the date of the last published notice under either clause (1) or (2), whichever occurs later.

Section 3. (a) Unless a written loan agreement provides otherwise, a museum may apply conservation measures to, or dispose of, undocumented property or property on loan to the museum without the lender's or claimant's permission or notice to the lender or claimant if:

(1) immediate action is required to protect the undocumented property or property on loan; or

(2) the property on loan has become a hazard to the health and safety of the public or to the museum's staff, and if at least 1 of the following applies:

(i) the property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum may dispose of the property without delay and shall notify the lender or claimant of the action taken within 30 days;

(ii) the museum is unable to reach the lender or claimant at the lender's or claimant's address or phone number and is required to take action within 30 days; or

(iii) the museum contacts the lender or claimant and the lender or claimant does not agree to the protective measures the museum recommends and does not, or is unable to, terminate the loan and collect the property within the time the museum determines the action is necessary.

(b) Unless a written loan agreement provides otherwise, a museum that applies conservation measures to or disposes of loaned property in accordance with subsection (a) shall:

(1) acquire and may enforce a lien on the loaned property in the amount of the costs incurred by the museum;

(2) not be liable to the lender or claimant for damage to, or loss of, the loaned property so long as the museum had a reasonable belief at the time the action was taken that the action was necessary; and

(3) if the museum applied conservation measures, not be liable to the lender or claimant for damage to, or loss of, the loaned property so long as the museum exercised reasonable care in choosing and applying such conservation measures.

Section 4. (a) Unless a written loan agreement provides otherwise, a museum may give notice of the museum's intent to terminate a loan of property at any time if:

(1) the property was loaned to the museum for an indefinite term; or

(2) the property was loaned to the museum for a specified term and the term has expired.

(b) A mailed notice of intent to terminate a loan shall comply with subsection (b) of section 2, and shall include the following statement: "The records of (name of museum) indicate that you have property on loan to it. The museum hereby terminates the loan. If you desire to claim the property, you must contact the museum, establish your ownership of the property, and make arrangements to collect the property. If you fail to do so within 1 year after the date on which this notice was delivered, you will be considered to have donated the

property to the museum and the museum will become the owner of the property.”

(c) If a lender or claimant does not respond to a notice of intent to terminate a loan under this chapter and does not collect the property within 1 year from the date of the notice, the museum shall acquire title to the property and may sell, dispose of or retain the property.

Section 5. Property in the possession of a museum for which the museum does not know, and has no reasonable means of determining, the identity of the lender or claimant shall become the property of the museum if no person has claimed the property within 7 years after the museum can document the museum’s possession of the property. The museum shall become the owner of the property free from all claims on the day after the 7-year period ends. This section shall not apply to stolen or confiscated property.

Section 6. (a) Unless a written loan agreement exists between the parties, no action for damages shall be brought against a museum or the museum’s employees, agents, officers or trustees because of injury, damage to or loss of property loaned to the museum more than 2 years after the date the museum provided notice to the lender or claimant of the damage or loss.

(b) No action shall be brought against a museum or the museum’s employees, agents, officers or trustees to recover loaned or undocumented property more than 2 years after the date the museum provides notice to the lender or claimant of the museum’s intent to terminate a loan or the museum’s assertion of title to undocumented property.

(c) No action shall be brought against a museum or the museum’s employees, agents, officers or trustees to recover loaned property more than 2 years after the expiration date of the most recent written contract between the lender or claimant and the museum.

(d) A lender or claimant shall be deemed to have donated loaned property to a museum if the lender or claimant fails to contact the museum and establish the lender’s or claimant’s claim to the property after receiving notice of the museum’s intent to claim title to the property or dispose of the property or if the lender or claimant fails to file an action to recover the loaned property within the periods specified in subsections (b) and (c).

(e) A person who purchases property from a museum shall acquire title to the property if, prior to the person’s purchase, the museum acquired title to the property under this chapter.

(f) Notwithstanding subsections (d) and (e), a lender or claimant who has not received notice of intent to terminate a loan or notice of the museum’s assertion of title to undocumented property and who proves that the museum received satisfactory notice of interest in the property under subsection (b) of section 7, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time the museum disposed of the property.

(g) If a person claims a competing interest with a second person in property loaned to a museum, the burden shall be on the person claiming the competing interest to prove such person’s interest in the property. A museum shall not be liable for the return of property to a claimant who has produced reasonable proof of ownership if, at the time the museum returned the property, the claimant’s claim was uncontested.

Section 7. (a) (1) A museum accepting a loan of property shall inform the lender, in

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writing, of the provisions of this chapter at the time the loan is made. A copy of this chapter or a citation to this chapter within the loan agreement shall satisfy the requirements of this subsection.

(2) A museum shall notify a lender or claimant of the museum's change of address or dissolution.

(3) A museum shall retain all written records regarding property acquired, under this chapter for at least 10 years from the date that the museum acquired title to the property or until the dissolution of the museum, whichever occurs first.

(b) (1) A lender, a lender's heir or legal agent, or a claimant shall notify the museum promptly, in writing, of a change in ownership of loaned property or if there is a change in the name or address of the lender or claimant.

(2) A lender or claimant may file with a museum a written notice of interest in the property held by the museum. A notice of interest in the property shall:

(i) contain an adequate description of the property to enable the museum to identify the property;

(ii) be accompanied by documentation sufficient to establish the lender or claimant as the owner of the property; and

(iii) be signed under penalty of perjury by the lender or claimant, or by a person authorized to act on behalf of the lender or claimant.

Section 8. This chapter shall not be construed to abrogate the rights and obligations of a lender, claimant or museum identified in a written agreement.

This chapter shall not preclude a museum from using any other statutory or judicial method of establishing or perfecting title to property in the museum's custody.

SECTION 2. A museum holding property on loan as of the effective date of this act shall be subject to chapter 200B of the General Laws.

Approved August 10, 2010.

Chapter 296. AN ACT AUTHORIZING THE WARRANTLESS ARREST FOR RECKLESS OR NEGLIGENT OPERATION OF A MOTOR VEHICLE THAT CAUSES SERIOUS BODILY INJURY OR DEATH.

Be it enacted, etc., as follows:

Section 21 of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word "person", in line 34, the following words:- , or whoever operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered in violation of paragraph (a) of subdivision (2) of section 24 and by such operation causes another person serious bodily injury as defined in section 24L, or whoever commits motor vehicle homicide in violation of subsection (a) or (b) of section 24G.

Approved August 10, 2010.

Chapter 297. AN ACT RELATIVE TO THE CONTINUED USE OF MEMORIAL PARK IN THE TOWN OF ROCKLAND.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the town of Rockland may continue to use portions of the area known as Memorial Park currently designated for use as school buildings and related structures, for the construction of new and renovated school buildings and related structures, and the educational purposes incidental to school buildings as shown on a plan entitled "Plan of Rockland Public Schools - Memorial Park, dated April, 2010".

Approved August 10, 2010.

Chapter 298. AN ACT RELATIVE TO RECORDING REQUIREMENTS AT REGISTRIES OF DEEDS.

Be it enacted, etc., as follows:

Chapter 36 of the General Laws is hereby amended by striking out section 14, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 14. (a) Each register shall keep a record, in book or electronic form, into which the register shall enter recording information for all instruments accepted for record in the order in which they are recorded. Upon recording of an instrument, the following information shall be entered into the record: (i) the day, hour and minute when the register assigns an instrument number or book and page number, as the case may be; (ii) the instrument number, or book and page number, so assigned; (iii) the names of the grantors and grantees in the instrument; and (iv) the city or town in which the land lies.

(b) No instrument received by the register shall be considered recorded until the register assigns to the instrument an instrument number, or book and page number, as the case may be.

(c) A change or correction made to the record shall be accessible to the public in that particular registry district in which the affected land lies. Such change or correction shall be maintained by the register as part of the record for public inspection during registry business hours at each office in the registry district. A change or correction to the record shall document the nature and date of the change or correction.

Approved August 10, 2010.

Chapter 299. AN ACT RELATIVE TO AUGMENTATIVE AND ALTERNATIVE COMMUNICATION OPPORTUNITIES FOR CHILDREN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the board of elementary and secondary education shall update 603 CMR 7.06(25)(d) to require an approved program for teachers of students with moderate disabilities to include instruction on the appropriate use of augmentative and alternative communication and other assistive technologies.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, the board of elementary and secondary education shall update 603 CMR 7.06(26)(b)(12) to require an approved program for teachers of students with severe disabilities to also include instruction on the appropriate use of augmentative and alternative communication and other assistive technologies.

Approved August 10, 2010.

Chapter 300. AN ACT TO CREATE A SILVER ALERT COMMUNITY RESPONSE SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after section 18K the following section:-

Section 18L. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“EMS first responder”, a person providing emergency medical services as defined in section 1 of chapter 111C.

“First responders”, members of police and fire departments, members of the state police participating in highway patrol and members of emergency reserve units of a volunteer fire department or fire protection district trained to administer first aid; provided, however, that first responders shall not include police officers, fire fighters and persons engaged in police and fire work whose duties are primarily clerical or administrative.

“Private safety department”, an entity that provides emergency police, fire, ambulance or medical services, excluding a municipality or a public safety department.

“Public safety department”, a functional division of a municipality or a state that provides fire fighting, law enforcement, ambulance, medical or other emergency services.

“Secretary”, the secretary of public safety.

(b) There is hereby created, subject to available funds, a silver alert community response system. The silver alert system shall be used, when appropriate, to alert public safety departments and private safety departments, when an adult with serious memory impairment such as Alzheimer’s disease or other dementia is reported to a police department

as a missing person. The silver alert system shall direct and focus law enforcement and other key response resources in a cost-effective way within a geographic area consistent with the missing person's last known location and in accordance with the best available research data related to activities of persons with Alzheimer's disease or other dementia.

(c) The executive office of public safety, in conjunction with the department of state police, shall, subject to available funds, develop and implement the silver alert system. The secretary shall adopt rules and regulations, as necessary, to ensure proper implementation of the silver alert system.

In promulgating such rules and regulations, the secretary shall consult with: the secretary of elder affairs, the attorney general, the executive director of the state 911 department, a representative of the state police, a representative of the Massachusetts Chiefs of Police Association, a representative of the Massachusetts Sheriffs' Association, a park ranger with the department of conservation and recreation, a representative of the Massachusetts/New Hampshire chapter of the National Alzheimer's Association and a representative of the Alzheimer's Services of Cape Cod and the Islands.

(d) All first responders, EMS first responders, 911 operators and other appropriate personnel as determined by the secretary shall be trained on the silver alert system application and protocols. Re-training shall be included in the in-service training curriculum for such personnel. Training shall include information relative to drivers whose memory impairments may put them at high risk for accidents or becoming lost while driving.

(e) The secretary shall develop a plan to ensure that the silver alert system shall utilize a localized reverse 911 emergency phone system.

SECTION 2. The executive office of public safety and security may coordinate the silver alert community response system established pursuant to section 18L of chapter 6A of the General Laws with the national MedicAlert +Safe Return Program.

Approved August 10, 2010.

Chapter 301. AN ACT REGULATING CERTAIN INSURANCE BENEFITS FOR ELECTED OFFICIALS OF THE TOWN OF NEWBURY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 32B of the General Laws or any other general or special law to the contrary, an elected official of the town of Newbury who receives a stipend shall not be eligible for participation in the town's contributory health and life insurance plans unless the official pays to the town 100 per cent of the cost of participation in the plans, plus any administrative costs that may be assessed by the board of selectmen.

SECTION 2. Notwithstanding section 1, the town clerk shall remain eligible for participation in the town's contributory health and life insurance plans at the same rate of contribution as nonunion employees of the town.

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

Approved, August 11, 2010.

**Chapter 302. AN ACT RELATIVE TO THE DEVELOPMENT OF AIR RIGHTS
OVER THE MASSACHUSETTS TURNPIKE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith certain air rights, therefore 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 46 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 second paragraph.

SECTION 2. Said section 46 of said chapter 6C, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The construction or occupancy of any building or other thing erected or affixed under any lease under this section of air rights 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.

Approved, August 11, 2010.

**Chapter 303. AN ACT VALIDATING THE ACTIONS TAKEN AT A CERTAIN
TOWN ELECTION IN THE TOWN OF HOPKINTON.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, all acts and proceedings taken by the town of Hopkinton at the town election held on May 17, 2010, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in the warrant or ballot for said election relative to the ballot question to exempt from the provisions of proposition 2 and one-half, so-called, the amounts required to pay for the bond issued in order to pay for the design of traffic, roadway and streetscape enhancements in the downtown area of the town of Hopkinton.

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

Approved, August 11, 2010.

Chapter 304. AN ACT VALIDATING THE ACTS AND PROCEEDINGS OF THE SPECIAL TOWN ELECTION IN THE TOWN OF WENHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, all acts and proceedings taken by the town of Wenham at the special town election held on December 17, 2009 and all actions taken pursuant thereto are hereby ratified, validated and confirmed, notwithstanding any defect or omission in posting the warrant for the election.

SECTION 2. Notwithstanding any general or special law to the contrary, the Hamilton-Wenham Regional School District may repay cash advances made on account of capital projects in fiscal year 2010 from proceeds of bonds or notes issued to pay costs of such projects in fiscal year 2011.

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

Approved, August 11, 2010.

Chapter 305. AN ACT AUTHORIZING THE CITY OF NORTH ADAMS TO USE RESERVE FUNDS TO REDUCE DEBT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 63 of chapter 44 of the General Laws or any other general or special law to the contrary, the city of North Adams, during fiscal year 2011, following a majority vote of the city council and approval by the mayor, may apply the proceeds of the sale or other disposal of real estate, including the taking by eminent domain by another governmental unit, and the proceeds currently in the city's Land Sale Reserve Account to eliminate or reduce the budgeted debt of the city for fiscal year 2011; provided, however, that this shall not include land acquired through tax title foreclosure.

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

Approved, August 11, 2010.

Chapter 306. AN ACT RELATIVE TO TUITION RETENTION AT THE UNIVERSITY OF MASSACHUSETTS AT AMHERST.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure forthwith funding for school management, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

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SECTION 1. Chapter 131 of the acts of 2010 is hereby amended by striking out sections 108 to 110, inclusive.

SECTION 2. Said chapter 131, as so appearing, is hereby further amended by striking out section 199.

Approved, August 11, 2010.

**Chapter 307. AN ACT RELATIVE TO THE REQUIREMENTS FOR LICENSING
AS A REAL ESTATE BROKER OR SALESMAN.**

Be it enacted, etc., as follows:

SECTION 1. Section 87RR of chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “contractor”, in line 17, the following words:- and may, by agreement, be paid as an outside salesperson on a commission- only basis.

SECTION 2. Section 87SS of said chapter 112, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Every individual applicant for a license as a salesman who is required to take an examination therefor shall, as a prerequisite to taking such examination, submit proof satisfactory to the board that he has completed courses in real estate subjects approved by the board, such courses to total 40 classroom hours of instruction; provided, however, that applicants having successfully completed a course in real property while enrolled in an accredited law school in the commonwealth may also take such examination. Every individual applicant for a license as a broker who is required to take an examination therefor shall, as a prerequisite to taking such examination, submit proof satisfactory to the board that he has been actively associated with a real estate broker for a period of 3 years as a real estate salesman and that he has completed additional courses in real estate subjects approved by the board, such courses to total 40 classroom hours of instruction.

SECTION 3. Section 2 shall take effect on June 1, 2011.

Approved, August 11, 2010.

Chapter 308. AN ACT RELATIVE TO FLEA MARKET VENDORS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 62C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of “Promoter” and inserting in place thereof the following definition:-

“Promoter”, a person who, either directly or indirectly, rents, leases or grants a license to use space to a person for the display for sale or for the sale of tangible personal property subject to tax under chapter 64H.

SECTION 2. The definition of “Show” in said section 1 of said chapter 62C, as so appearing, is hereby amended by inserting after the word “market”, in line 24, the following words:- , either indoor or outdoor.

SECTION 3. Section 1 of chapter 101 of the General Laws, as so appearing, is hereby amended by striking out the definitions of “Transient vendor” and “Temporary or transient business” and inserting in place thereof the following 6 definitions:-

“Promoter”, a business or person who operates for the purpose of either directly or indirectly, renting, leasing or granting a license to use space to any vendor for the display for sale or for the sale of tangible personal property or services subject to tax under chapter 64H; provided, however, that this shall not include a state or county fair as defined in section 1 of chapter 128A; and provided further, that a promoter licensed under this chapter shall comply with sections 8A and 67A of chapter 62C or any regulations pursuant thereto as required by the commissioner of revenue.

“Tangible personal property”, personal property of any nature consisting of any produce, goods, wares, merchandise and commodities whatsoever, brought into, produced, manufactured or being within the commonwealth.

“Temporary or transient business”, an exhibition and sale of goods, wares or merchandise which is carried on in a tent, booth, building or other structure unless such place is open for business during usual business hours for a period of at least 12 consecutive months; provided, however, that this shall not include a business operating under a written agreement with a licensed promoter.

“Transient vendor”, a person, either principal or agent, who engages in a temporary or transient business in the commonwealth selling goods, wares or merchandise, either in 1 locality or in traveling from place to place; provided, however, that this shall not include a person operating under a written agreement with a licensed promoter.

“Usual business hours”, the time period during which similar businesses in the community conduct business.

“Written operating agreement”, a written agreement between a promoter, licensed under section 3A and a vendor to conduct business at any location.

SECTION 4. Said chapter 101, is hereby amended by inserting after section 3 the following section:-

Section 3A. (a) Each business or person, before commencing business as a promoter, shall make a written application, under oath, for a license to the deputy director stating the names and residences of the owners or parties in whose interest the business is to be conducted. Upon the payment of the fee under the fee schedule in subsection (b) the deputy director shall issue a license granting the authority to do business as a promoter. A license shall expire 1 year from the date thereof or on the day of its surrender or of the filing of an affidavit of its loss, if it is earlier surrendered or if such affidavit is earlier filed. The license

shall contain a copy of the application therefore and shall not be transferable.

(b) For the purpose of determining a single show for this chapter, the conduct of an activity or event described in the definition of “show” in section 1 of chapter 62C held on a single day in the commonwealth shall constitute a single show. The fee schedule for a license as a promoter shall be as follows: \$200 for 1 to 9 single shows to be held per year; \$300 for 10 to 19 single shows to be held per year; \$400 for 20 to 29 single shows to be held per year; \$500 for 30 to 39 single shows to be held per year; \$600 for 40 to 49 single shows to be held per year; and \$1,000 for over 50 single shows to be held per year.

(c) Each promoter licensed to conduct business shall maintain a copy of the written operating agreement with each vendor which shall include documentation regarding the identity and location of each vendor, including social security number or tax identification number and a general description of merchandise sold by each vendor. The promoter shall maintain such records for a period of not less than 12 months. The deputy director or law enforcement authorities may request a promoter to provide the records. A promoter licensed under this section shall comply with sections 8A and 67A of chapter 62C or any regulations pursuant thereto as required by the commissioner of revenue.

SECTION 5. A vendor operating under an agreement with a licensed promoter, as defined in section 1 of chapter 101 of the General Laws, inserted by section 3, shall not be required to apply and pay a fee for a license authorizing the sale of goods, wares and merchandise within a municipality as required by section 5 of said chapter 101 unless, on the effective date of this act, the municipality requires such a vendor to pay a fee under said section 5 of said chapter 101, or under any other statute, local by-law, regulation or policy, in which case, notwithstanding any general or special law to the contrary, said municipality may continue to charge such fees under said section 5 of said chapter 101 or under such other statute, local by-law, regulation and policy.

Approved, August 11, 2010.

Chapter 309. AN ACT RELATIVE TO ABANDONED VESSELS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 91 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “forty-three”, in line 10, the following figures:- , 43A, 43B, 43C.

SECTION 2. Said chapter 91 is hereby further amended by striking out sections 38 to 43, inclusive, as so appearing, and inserting in place thereof the following 10 sections:

Section 38. As used in sections 38 to 48, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Abandoned”, unoccupied, deserted, forsaken, derelict, wrecked or sunken vessel or

other shipwrecked property, on the shores or waters of the commonwealth and not in the custody of the owner or his agent or of any other person lawfully authorized to take possession of the vessel and deemed by the department or the harbor master of the city or town, in whose jurisdiction the vessel lies or whomsoever is so empowered by said city or town, to be an obstruction to the safe and convenient navigation or other lawful use of such waters.

“Certificate of number”, a document issued by the director stating the name and address of the owner and the number awarded to a vessel pursuant to this chapter, except such vessels, other than livery boats, owned by a manufacturer of, or dealer in, boats.

“Certificate of documentation number”, a document issued by the United States Coast Guard stating the name and address of the owner of a commercial vessel and the identification number awarded to a vessel pursuant to this chapter.

“Claimant”, the commonwealth, its political subdivisions, or any person or entity, public or private, which desires to acquire title to an abandoned vessel.

“Department”, the department of conservation and recreation acting through the division of waterways.

“Director”, the director of law enforcement within the executive office of energy and environmental affairs.

“Identification number”, the number awarded to a vessel pursuant to this chapter and upon approval of an application for a certificate of number or certificate of documentation number.

“Lienholder”, a person or entity holding a lien on a vessel pursuant to generally accepted admiralty or maritime law.

“Office”, the office of law enforcement within the executive office of energy and environmental affairs.

“Operator”, a person who operates or who has a charge of the navigation or use of a vessel.

“Owner”, a person, other than a lienholder, holding title to a vessel, including a person entitled to the use or possession of a vessel subject to an interest of another person, reserved or created by agreement and securing payment or performance of an obligation, but excluding a lessee under a lease not intended as a security interest.

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

“Removal costs”, costs associated with the removal or destruction of any vessel from land or water, including the reimbursement of any costs incurred by the claimant in the course of acquiring title to an abandoned vessel.

“Vessel”, a boat or watercraft of every description, motorized and non-motorized, except a seaplane on the water, used or capable of being used as a means of transportation on water including, but not limited to, documented boats and ships, flat-bottomed boats, barges, scows and rafts and including all equipment, modes of power and property aboard the vessel.

Section 39. It shall be unlawful for any person to willfully abandon a vessel upon public land or the shores or waters of the commonwealth or upon private property or the water thereof adjacent to public land or the shores or waters of the commonwealth without the consent of the official designated by law to have jurisdiction over such public land or waterway, or the owner or other person in charge of the private property. Mooring, grounding or otherwise attaching or fastening a vessel upon public land or waterway or private property without consent for a period of more than 90 days shall constitute prima facie evidence of abandonment. A vessel that the owner, operator or lienholder has placed at a storage or repair facility, which is subject to section 63, sections 179 or 180 of chapter 6, sections 26 to 27D, inclusive, of chapter 9, section 14 of chapter 255 or any other applicable federal or state law, shall not be considered an abandoned vessel for purposes of this chapter.

Section 40. A claimant wishing to obtain title to a vessel abandoned upon public land or the shores or waters of the commonwealth or upon any private property or the water thereof adjacent to public land or the shores or waters of the commonwealth and not subject to the exclusive jurisdiction of the United States may apply to the office for title under this section. If there is more than 1 claimant, the office shall give preference for the claim in the following order: (i) lienholders, in order of priority as determined by admiralty or maritime law; and (ii) the first of the following to file: the department, the office, another political subdivision of the commonwealth, the municipal government or jurisdiction wherein the vessel lies and the government of the United States of America or any political subdivision thereof. In no event shall preference be granted if emergency conditions exist and the procedures under this section would jeopardize navigation, public health or safety. In the event that there is more than 1 equal claimant, the office shall hold an auction and the title, subject to valid liens as provided for hereunder, shall go to the highest bidder.

Prior to applying to the office for title pursuant to section 41, the claimant shall: (i) if the vessel has an identification number, a registration number, equipment numbers, a certificate of documentation number, a certificate of number or other means of identification, contact the office to determine if the vessel has been stolen; (ii) secure the owner's last known address and the address of any lienholder appearing on record if, after 30 days, the office determines that the vessel is abandoned and not stolen; provided, however, that the claimant shall notify the owner, any known lienholder and the department by certified first class mail, return receipt requested, of the owner's, lienholder's or other party's, as required by regulation address of record; and (iii) if the owner of record fails to reply within 30 days, the claimant shall cause a notice to appear for 3 consecutive printings in a newspaper of general circulation published in the county, city or town of the owner's last known address, or if the owner's name and address are unavailable, where known lienholders have their places of business or, if no lienholder's name and address is known, where the vessel is located; provided, however, that the notice shall include: (1) a description of the vessel and any identifying information; (2) a description of the location where the vessel is situated; (3) a statement informing the owner and any lienholder of their right to reclaim the vessel within

30 days, subject to the rights of any other lienholder; (4) a statement that failure to claim the vessel will constitute a waiver of all rights, title and interest in the vessel; and (5) a statement that if ownership or a lienholder interest is not claimed and the vessel is not removed within 90 days after the owner, the owner's agent or employee signs the return receipt or within 90 days after the last day of notice by publication, whichever is later, the claimant may apply to the office for title to the vessel.

Section 41. If the owner or lienholder fails to claim the vessel within 90 days after the return receipt is received by the claimant or within 90 days after the last day of notice by publication, whichever is later, and if the commonwealth is not the owner pursuant to section 179 or 180 of chapter 6 or sections 26 to 27D, inclusive, of chapter 9, and if the United States is not the owner pursuant to federal law or regulation, the claimant may apply to the office for a title, subject to any lien which is valid and enforceable under any other statute, including section 9 of chapter 106. The application shall include: (i) a notarized affidavit by the claimant stating that the vessel has been abandoned for at least 90 days, that all notice requirements pursuant to this chapter have been satisfied and that the vessel is not subject to said section 179 or 180 of said chapter 6 or said sections 26 to 27D, inclusive, of said chapter 9 or the requirements of section 63, or any other applicable state or federal law or regulation; (ii) if applicable, a copy of the letter to the identified owner and any lienholders and accompanying return receipts; provided, however, that in the alternative, the claimant may supply a detailed explanation of the unsuccessful steps taken to identify the owner and any lienholders and to secure the address of the owner or any lienholders, including any returned notices; and (iii) in the case of notice by publication, original copies of the notice as published. The office shall certify that the claimant has met the requirements of this section and such certification shall be included with the records of the granting of the title.

Section 42. Except as otherwise set forth in this chapter or in section 179 or 180 of chapter 6 or sections 26 to 27D, inclusive, of chapter 9, or any other applicable state or federal law, the office may grant title to an abandoned vessel and any contents therein to a claimant. Upon certification as required by section 41 and upon payment of any fees or taxes due, the office shall issue the claimant title to the vessel. The applicant shall be responsible for all costs incurred in transferring title. If the claimant wishes to operate the vessel, the claimant shall, if required by law, register the vessel with the office in accordance with chapter 90B or document the vessel under the applicable federal requirements.

Section 43. After receiving title, the claimant may remove the vessel, destroy it or sell it. Removal costs shall be borne by the previous owner if that owner has been identified and otherwise shall be borne by the claimant. If the new owner intends to destroy or otherwise dispose of the vessel, the new owner shall do so in compliance with all related state and federal statutes.

Section 43A. If an abandoned vessel or an unlawful or unauthorized structure or thing is deposited or suffered to remain in the tide waters of the commonwealth and if the department deems it is, or is liable to cause or become, an obstruction to the safe and convenient navigation or other lawful use of such waters, the department shall move it or cause

it to be removed, after which time the department may become a claimant and apply for title from the office, in accordance with sections 40 to 43, inclusive.

For a vessel that has been abandoned that does not pose an obstruction to the safe and convenient navigation or other lawful use of the tidewaters of the commonwealth, and for which no other claimant commences proceedings under this chapter within 60 days of the department having notice of the vessel, the department may become a claimant and apply for title from the office, in accordance with said sections 40 to 43, inclusive.

Section 43B. A person who willfully abandons a vessel shall be punished by a fine of not more than \$10,000, except where a vessel, scow, lighter or other structure is or has been grounded within the limits of a harbor or on the shores of the commonwealth by reason of accident, emergency, errors of navigation, or in order to prevent loss of life or the sinking of such vessel, scow, lighter or other structure.

Section 43C. A person who obtains or attempts to obtain title to a vessel through fraudulent means shall be punished by a fine of not more than \$1,000.

Section 43D. The department, in consultation with the office, shall promulgate such rules and regulations as are necessary to carry out the provisions of sections 38 to 43C, inclusive.

SECTION 3. Section 49 of said chapter 91 is hereby repealed.

SECTION 4. Sections 72 and 73 of chapter 92 of the General Laws are hereby repealed.

Approved, August 13, 2010.

Chapter 310. AN ACT FURTHER REGULATING FUNERAL PROCESSIONS.

Be it enacted, etc., as follows:

Chapter 85 of the General Laws is hereby amended by striking out section 14A, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 14A. (a) For purposes of this section, the following words shall have the following meanings:-

“Funeral directing”, the business, practice or profession, as commonly practiced, of (a) directing or supervising funerals or providing funeral service; (b) handling or encasing, or providing services for handling or encasing, dead human bodies, and preparation of dead human bodies, otherwise than by embalming, for burial or disposal; (c) providing embalming services; (d) providing transportation, interment and disinterment of dead human bodies; and (e) maintaining an establishment so located, constructed and equipped as to permit the decent and sanitary handling of dead human bodies with suitable equipment in such establishment for such handling.

“Funeral director”, any person engaged, or holding himself out as engaged, in the business, practice or profession of funeral directing.

“Funeral escort”, a person or entity that provides vehicle escort services for funeral processions, including, but not limited to, law enforcement personnel.

“Funeral escort vehicle”, a vehicle operated by a funeral escort.

“Funeral home”, a “licensed funeral establishment” as defined in regulations of the board of registration in embalming and funeral directing.

“Funeral lead vehicle”, any motor vehicle, including a funeral hearse, leading and facilitating the movement of a funeral procession.

“Funeral procession”, 2 or more vehicles accompanying the body or the cremated remains of a deceased person, in the daylight hours, including a funeral lead vehicle or a funeral escort vehicle.

(b)(1) Operators of vehicles in a funeral procession must exercise due care while driving in a funeral procession. A vehicle in a funeral procession may follow the preceding vehicle in the funeral procession as closely as is practicable and safe.

(2) The operator of a motor vehicle in a funeral procession shall not drive the vehicle at a speed greater than 55 miles per hour on a highway where the posted speed limit is 55 miles per hour or more or greater than 5 miles per hour below the posted speed limit on a street or road that is not a highway.

(3) A vehicle being operated in any funeral procession must have its headlights and taillights illuminated.

(4) The turn signals must be flashing simultaneously as warning lights on a vehicle that is the first vehicle in a funeral procession and on a vehicle which the operator has reason to believe is the last vehicle in the funeral procession.

(c) (1) Except as provided in paragraph (4) of this subsection, pedestrians and operators of all vehicles shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.

(2) Whenever the funeral escort vehicle or funeral lead vehicle in a funeral procession lawfully enters an intersection, either by reason of a traffic control device or at the direction of law enforcement personnel, the remaining vehicles in the funeral procession may continue to follow the funeral lead vehicle through the intersection despite any traffic control device, general law or ordinance to the contrary relative to right-of-way, if the operator of each vehicle exercises reasonable care toward other vehicles and any pedestrians on the roadway.

(3) Except as provided in paragraph (4) of this subsection, an operator of a funeral escort vehicle may, while exercising due care, direct operators of other vehicles in a funeral procession to proceed through an intersection or to make turns or other movements despite any traffic control device signal to the contrary.

(4) A funeral procession shall have the right-of-way at intersections regardless of traffic control devices subject to the following conditions and exceptions:

(i) operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle emitting an audible siren or flashing emergency lights;

(ii) operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by law enforcement personnel; and

(iii) operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.

(d) An operator of a vehicle that is not part of a funeral procession shall not:

(1) drive between the vehicles forming a funeral procession while the vehicles are in motion except when authorized to do so by law enforcement personnel or when driving an authorized emergency vehicle emitting an audible siren or flashing emergency lights;

(2) join a funeral procession to secure the right-of-way as granted by subsection (c);

(3) pass a funeral procession on a multiple lane highway on the funeral procession's right side unless the funeral procession is in the farthest left lane; or

(4) enter an intersection, even if the operator is facing a green traffic control signal when a funeral procession is proceeding through a red traffic control signal at the intersection as permitted under subsection (c), unless the operator may do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is within the intersection, the operator of the vehicle facing the green may proceed, subject to the right-of-way of a vehicle participating in a funeral procession.

(5) a vehicle owned by a funeral home establishment or a licensed or registered certified funeral director, and operated by a funeral director, an employee or an independent contractor of a funeral home may have mounted thereon flashing, rotating or oscillating lights as may be assigned by the registrar of motor vehicles. Such lights shall only be displayed when such owner or operator is proceeding in a funeral procession and at no other time.

(e)(1) Liability for any death, personal injury or property damage suffered by any person in a funeral procession shall not be imposed upon the funeral director, funeral home, funeral escort or their employees or agents if the funeral procession was operating in accordance with subsections (b) to (d), inclusive, or would have been operating in such compliance but for the failure of the operator of one or more vehicles in the funeral procession to exercise due care.

(2) Liability for any death, personal injury or property damage that results from, is caused by or arises out of any action or inaction of any operator of a vehicle in a funeral procession under the control of a funeral director, funeral home, funeral escort or their employees or agents shall not be imposed on such funeral director, funeral home, funeral escort or their employees or agents if the funeral procession was operating in accordance with subsections (b) to (d), inclusive, or would have been operating in such compliance but for the operator of 1 or more vehicles in the funeral procession not exercising due care.

(3) This subsection shall not apply if the death, personal injury or property damage allegedly arose from a negligent act or omission in the operation of a vehicle by the funeral director, funeral home, funeral escort or their employees or agents. The operator of a vehicle in a funeral procession shall not be deemed to be an agent of the funeral director, funeral home or funeral escort unless such operator is an employee of the funeral director, funeral home or funeral escort and is acting in the course of his employment, or unless the operator

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was retained as an independent contractor of the funeral director, funeral home or funeral escort and is performing services therefore.

(f) This section shall not create a new cause of action or substantive legal rights against any funeral director, funeral home, funeral escort or their employees or agents. This section shall not affect any immunities from civil liability or defenses established by general law or any immunity from civil liabilities or defense available at common law to which a funeral director, funeral home, funeral escort or their employees or agents may be entitled.

(g) A funeral procession of not more than 10 vehicles shall have the right, except on Sundays and legal holidays, to use any parkway, boulevard or other public way to the same extent and subject to the same regulations and restrictions as vehicles commonly known as pleasure vehicles.

Approved, August 13, 2010.

Chapter 311. AN ACT RELATIVE TO THE REGISTRATION AND INSPECTION OF STREET RODS AND CUSTOM VEHICLES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 90 of the General Laws is hereby amended by inserting after section 2G the following 2 sections:-

Section 2H. (a) For purposes of this section, section 2I and section 33, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Custom vehicle”, a motor vehicle for which the year of manufacture is after 1948, for which the model year is at least 25 years old and that has been altered from the manufacturer’s original design or has a body constructed, in whole or in part, from non-original materials.

“Model year”, the model year indicated on a motor vehicle’s certificate of origin or, if there is no such certificate, the model year the body of such vehicle most closely resembles.

“Replica vehicle”, a motor vehicle constructed or assembled by a non-manufacturer from new or used parts that, when assembled, replicates an earlier year, make and model vehicle.

“Specially-constructed vehicle”, a motor vehicle reconstructed or assembled by a non-manufacturer from new or used parts, the exterior of which does not replicate or resemble any other manufactured vehicle.

“Street rod”, a motor vehicle for which the year of manufacture is prior to 1949, and which has been altered from the manufacturer’s original design or has a body constructed from non-original materials.

(b) The registrar shall issue certificates of registration and number plates for street rods, replica vehicles, specially-constructed vehicles and custom vehicles in accordance with

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this section. The registrar may assign an appropriate registration plate to a custom vehicle, replica vehicle, specially-constructed vehicle or street rod based upon the vehicle's intended use and the registration requirements under 540 CMR 2.05.

(c) Street rods, replica vehicles, specially-constructed vehicles and custom vehicles shall not be considered antique motor cars and shall not be eligible for registration pursuant to section 6A.

(d) Replica vehicles shall be titled as the year in which the vehicle was built and the make, model and year of the vehicle that is intended to be replicated. A label of "Replica" shall be applied to the title and registration card. Custom vehicles and street rods shall be titled as the year in which the vehicle was built and an appropriate description of the vehicle including make, model and model year; provided, however, that the manufacturer's name shall continue to be used as the make with a label of "street rod" or "custom vehicle" applied to the title and registration card. Specially-constructed vehicles shall be titled and registered showing the make as "specially constructed" and the year the vehicle was built shall be the vehicle model year.

Section 2I. (a) The registrar, prior to the initial registration of a custom vehicle, replica vehicle, specially-constructed vehicle or street rod, may require such vehicle to undergo a salvage-type inspection at a facility to be determined by the registrar to ensure that stolen parts have not been included in the vehicle.

(b) The registrar, prior to the initial registration of a custom vehicle, replica vehicle, specially-constructed vehicle or street rod, may require such vehicle to obtain a state-assigned vehicle identification number, unless the registrar is satisfied that there is a clearly visible state-assigned vehicle identification number that was previously assigned by the commonwealth or another state.

(c) The registrar may refuse to register or may revoke the registration of a custom vehicle, replica vehicle, specially constructed vehicle or street rod, originally built by its manufacturer as a model year 1966 or later vehicle, unless such vehicle is equipped with operable safety belts for all passenger positions.

(d) The registrar may refuse to register or may revoke the registration of a custom vehicle, replica vehicle, specially constructed vehicle or street rod if the registrar determines that the original manufacturer had installed an air bag or air bags in the vehicle and the current version of the vehicle does not contain such air bag or air bags.

SECTION 2. Section 33 of said chapter 90, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

(37) For the registration of every street rod, replica vehicle, specially constructed vehicle or custom vehicle, as defined in section 2H consistent with the vehicle's intended use and the requirements of 540 CMR 2.05.

SECTION 3. Subsection (b) of section 142M of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

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Street rods and custom vehicles, as defined and registered pursuant to section 2H of chapter 90, shall receive an emissions waiver certificate. Specially constructed vehicles and replica vehicles, as defined and registered pursuant to said section 2H of said chapter 90, and registered on or before April 30, 2012, shall receive an emissions waiver certificate. Specially constructed vehicles and replica vehicles, as so defined, registered after April 30, 2012 shall be subject to emission control requirements based on the model year and configuration of the engine installed in the specially constructed or replica vehicle, whether the engine is an original equipment manufacturer's production engine, rebuilt engine or crate engine. Regulations relative to emissions compliance for replica or specially constructed vehicles registered after April 30, 2012 may establish maximum limits on the annual number of vehicle miles traveled by these vehicles; provided, however, that any such limit set, shall not be set at less than 3,000 miles per year. If the model year of the engine installed in the specially constructed or replica vehicle requires an onboard diagnostic system, the vehicle shall be subject to an onboard diagnostic system emissions test applicable to the certified configuration, including any exclusions or exemptions otherwise granted to that certified configuration.

SECTION 4. This act shall take effect on April 30, 2011.

Approved, August 19, 2010.

**Chapter 312. AN ACT AUTHORIZING THE DEPARTMENT OF
TRANSPORTATION TO ERECT CERTAIN SIGNS REGARDING
THE SOUTHWICK ZOO.**

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the Department of Transportation may erect tourist attraction signs regarding the Southwick Zoo on interstate highway route 495 at exits 19 and 20, northbound and southbound, in the town of Milford.

Approved, August 19, 2010.

Chapter 313. AN ACT RELATIVE TO POSTPARTUM DEPRESSION.

Be it enacted, etc., as follows:

The department of public health may consult with health care providers, including, but not limited to, obstetricians, gynecologists, pediatricians and primary care providers, non-profits and health insurance carriers regarding postpartum depression to develop a culture of awareness, de-stigmatization and screening for perinatal depression so that resi-

dents of the commonwealth may be assured of the most effective and affordable provision of public health services possible. The department shall develop standards for measuring effective screening for postpartum depression using recognized clinical standards and best practices and shall make recommendations for health plan and health care provider data reporting. The department shall issue regulations that require providers and carriers to annually submit data on screening for postpartum depression. Following the receipt of the data, the commissioner of public health shall issue an annual summary of the activities related to screening for postpartum depression, including best practices and effective screening tools. The department shall annually file the summary with the commissioner of public health and the clerks of the house of representatives and the senate not later than June 30; provided, however, that the first report is due not later than June 30, 2011.

There is hereby established a special commission to consist of 5 members of the senate, 1 of whom shall be a member of the minority party appointed by the minority leader, 1 of whom shall serve as co-chair, 5 members of the house of representatives, 1 of whom shall be a member of the minority party appointed by the minority leader, 1 of whom shall serve as co-chair, the commissioner of the department of public health, the commissioner of the department of mental health, the commissioner of insurance, the commissioner of the department of children and families, the commissioner of early education and care, and the director of Medicaid, or their designees, all of whom shall serve as ex officio members, and 18 persons to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts chapter of the National Association of Social Workers, 1 of whom shall be appointed jointly by the Massachusetts Midwives Association and the Massachusetts Affiliate of the American College of Nurse Midwives who shall be a midwife licensed to practice in the commonwealth, 1 of whom shall be a representative from the Nurses United for Responsible Services who shall be an advance practice psychiatric nurse, 1 of whom shall be a representative from the Massachusetts Coalition of Nurse Practitioners who shall be a nurse practitioner, 1 of whom shall be a representative of the Massachusetts Psychological Association who shall be a psychologist, 1 of whom shall be a representative from the children's behavioral health advisory council established in section 16Q of chapter 6A of the General Laws, 1 of whom shall be a representative from the Massachusetts Behavioral Health Partnership or a managed care organization or managed care entity contracting with MassHealth, 5 of whom shall be representatives of the Massachusetts Medical Society appointed in consultation with their relevant specialty chapters, including a pediatrician, an obstetrician, a family physician, a psychiatrist and a child and adolescent psychiatrist, 1 of whom shall be a woman who has experienced postpartum depression, 1 of whom shall be a representative from a regionally-based nonprofit group currently serving women suffering from postpartum depression, 1 of whom shall be a representative from the Massachusetts Association of Health Plans and 3 of whom shall be representatives from commercial health insurance carriers or managed care organizations doing business in the commonwealth, is hereby established for the purpose of making an investigation and study relative to postpartum depression, including, but not limited to: (i) an assessment of current research

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on the subject and whether there exist evidence-based, best or promising practices on the prevention, detection or treatment of postpartum depression; (ii) a review of current policies and practices with respect to screenings for postpartum depression, including the frequency and location of screenings and training personnel administering the screenings, the availability of reimbursement and issues relative to medical necessity and third-party coverage; (iii) provision of assistance to the department of public health, other state agencies and organizations in the development of professional and public educational materials and programs on postpartum depression, in the development of referral lists for postpartum depression treatment, building on existing resources and in the designation of authorized validated screening tools; (iv) provision of assistance to the department of public health, other state agencies and organizations relative to applications for federal funding to support efforts consistent with the mission and purpose of the commission; and (v) any other matters that the commission considers relevant to the fulfillment of its mission and purpose.

Said commission shall provide guidance and advice to the governor, the general court and the secretary of health and human services relative to current research on postpartum depression including, but not limited to, best and promising practices in the prevention, detection and treatment of postpartum depression and recommend policies, including legislation, to promote greater public awareness, screening and treatment of postpartum depression. The special commission may conduct public hearings, forums or meetings to gather information and to raise awareness of postpartum depression, including the sponsorship of or participation in statewide or regional conferences.

Said commission shall file an annual report at the end of each state fiscal year with the governor and the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on public health and the joint committee on financial services, along with recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect. The special commission may file such interim reports and recommendations as it considers appropriate.

Approved, August 19, 2010.

Chapter 314. AN ACT ABOLISHING THE BOARD OF PUBLIC WORKS IN THE TOWN OF HOPKINTON.

Be it enacted, etc., as follows:

SECTION 1. Chapter 375 of the acts of 1998 is hereby amended by striking out section 1, as appearing in section 1 of chapter 262 of the acts of 2006, and inserting in place thereof the following section:-

Section 1. There is hereby established in the town of Hopkinton a department of public works, in this act called “the department”, which shall be under the supervision and control of the town manager, except for those powers and duties assigned under this chapter

to the board of selectmen, in this act called “the board”.

SECTION 2. Said chapter 375 is hereby further amended by striking out section 4, as amended by section 2 of said chapter 262, and inserting in place thereof the following section:-

Section 4. The board shall have the exclusive authority to establish rates, fees and other charges for such services, programs and other public benefits as may have come within the jurisdictions of any of the boards, departments or offices which have been abolished by this act. The town manager shall appoint and, subject to appropriation, fix the compensation of a director of public works, who shall exercise and perform, under the supervision and direction of the town manager, such of the powers, rights and duties which have been transferred to the department hereunder as the town manager may from time to time designate. The director shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the town manager. The director shall be specifically fitted by education, training and experience to perform the duties of the office and may or may not be a resident of the town. Except as otherwise set forth in this act, during the director's tenure, the director shall hold no elective or other appointive office, nor shall the director be engaged in any other business or occupation. The director shall, subject to the approval of the board, appoint such assistants, agents and employees as the exercise and performance of the director's powers, rights and duties may require. The director shall keep full and complete records of the doings of the director's office and render to the board as often as it may require a full report of all operations under the director's control during the period reporting upon.

SECTION 3. Said chapter 375 is hereby further amended by striking out section 10 and inserting in place thereof the following section:-

Section 10. The town manager shall appoint the director for a term of from 1 to 3 years commencing on July 1 and expiring on June 30; provided, however, that the initial term of such director shall commence on the date of appointment by the town manager and terminate on the next following June 30. The town manager may remove the director when, in the town manager's judgment, the public interest so requires. The director shall not be subject to section 9A of chapter 30 or chapter 31 of the General Laws.

SECTION 4. Section 3 of chapter 262 of the acts of 2006 is hereby repealed.

SECTION 5. Chapter 136 of the acts of 2009 is hereby repealed.

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

Approved, August 19, 2010.

Chapter 315. AN ACT AUTHORIZING THE GRANTING OF LICENSES FOR THE SALE OF WINE AT AUCTIONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 138 of the General Laws is hereby amended by inserting after section 14 the following section:-

Section 14A. The licensing authority in any city or town wherein the granting of licenses to sell all alcoholic beverages or wines and malt beverages only may grant licenses for the sale of wine at auctions, not to be drunk on the premises, to an applicant that is licensed as an auctioneer pursuant to chapter 100 for not less than 10 years. Each license shall describe the premises to which it applies and shall be granted only for the premises which are either the principal place of business or headquarters of the applicant and legally zoned to allow such sales or which are the premises of a licensee under section 12 or section 15. The fee for the license shall not exceed the minimum fee for holders of licenses under section 14. A holder of a license for the sale of wine at auctions may conduct any such auction on any day and at any time permitted under section 12. Applications shall be granted by the licensing authority according to the local procedure for granting licenses under said section 14.

A licensee who holds a license under this section may provide, without charge, on-premises sample wine tastings for prospective customers if such wines shall be available for sale at auction on those premises; provided, however, that no single serving of wine shall exceed $\frac{1}{4}$ of an ounce; and provided further, that the licensee shall control the dispensing of the wine.

Approved, August 19, 2010.

Chapter 316. AN ACT DESIGNATING THE CITY OF SALEM AS THE BIRTHPLACE OF THE NATIONAL GUARD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith the city of Salem as the birthplace of the National Guard, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

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

Section 60. The city of Salem shall be designated and known as the birthplace of the National Guard.

Approved, August 19, 2010.

Chapter 317. AN ACT RELATIVE TO THE PUBLIC HEALTH ENTERPRISE FUND IN THE TOWN OF STOUGHTON.

Be it enacted, etc., as follows:

Notwithstanding section 5B of chapter 40 and section 53F½ of chapter 44 of the General Laws or any other general or special law to the contrary, in the town of Stoughton, if the certified retained earnings of the Public Health Enterprise Fund, as of July 1 in any fiscal year, exceeds the approved fiscal year operating budget of said fund, up to 50 per cent of such excess may, by a vote of the town meeting, be transferred to the Stabilization Fund.

Approved, August 20, 2010.

Chapter 318. AN ACT RELEASING A RESTRICTION ON A PARCEL IN THE TOWN OF NORWOOD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith clear title to the property for transfer, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

(a) Notwithstanding any general or special law to the contrary, any restriction on the use of, and any reversionary interest held by the commonwealth on, the parcel designated as the Walnut Lodge property in the first paragraph of chapter 544 of the acts of 1976 conveyed to Caritas Norwood Hospital, Inc., on June 20, 1978, are hereby released.

(b) For the purposes of this section, "Caritas Norwood Hospital, Inc. or its successors" shall mean Caritas Norwood Hospital Inc. or any person, group or entity that purchases all, or substantially all, of the assets of Caritas Christi Health Care System or all, or substantially all, of the assets of Caritas Norwood Hospital, Inc. including any subsequent purchasers, whether such purchase is effected by sale, merger or otherwise.

(c) In consideration for the releases set forth in subsection (a), Caritas Norwood Hospital, Inc., or its successors, shall maintain services for the treatment of alcoholism and related conditions at the Walnut Lodge property or, if not at the Walnut Lodge property, at the site of the Caritas Norwood Hospital, Inc. and upon any disposition of the Walnut Lodge property by Caritas Norwood Hospital, Inc. or its successors, 50 per cent of the gross proceeds from the sale, lease or other disposition of the parcel shall be paid by the seller to the commonwealth acting by and through the commissioner of capital asset management and maintenance. For the purposes of this section, "gross proceeds" shall mean all payments paid to Caritas Norwood Hospital, Inc. or its successors, as and when paid, by a transferee who will not use the property as a medical care facility. Under any change of use by Caritas Norwood Hospital, Inc. or any successor thereto, if the Walnut Lodge property, or any portion thereof, ceases to be used for the treatment of alcoholism and related conditions then

Caritas Norwood Hospital, Inc. or any successor thereto, shall pay to the commonwealth, acting by and through the commissioner of capital asset management and maintenance, the sum of 50 per cent of the assessed valuation of the land included in such change of use, as such assessment valuation appears on the real estate tax assessment listing maintained by the assessors of the town of Foxborough for the fiscal year in which the change of use occurs. Nothing in this section shall restrict the transfer or conveyance of the Walnut Lodge property, or any portion thereof, for use as a medical care facility.

Approved, August 26, 2010.

Chapter 319. AN ACT PROVIDING FOR RECALL IN THE TOWN OF COLRAIN.

Be it enacted, etc., as follows:

SECTION 1. A person who holds an elected office in the town of Colrain, with more than 6 months remaining in the term of that office on the date of the filing of a recall affidavit, may be recalled from office by the registered voters of the town of Colrain, in the manner herein provided.

SECTION 2. (a) Fifty or more voters of the town of Colrain may file with the clerk of the town, an affidavit containing the name of the officer whose recall is being sought, along with a statement of the grounds of removal. The clerk of the town shall provide to the voters, petition blanks demanding the recall, printed forms of which shall be kept available by the clerk. The petition blanks may be completed either in writing or typewriting, shall be addressed to the board of selectmen, shall contain the names of the voters who filed the affidavit and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to that office; and shall be dated and signed by the clerk. A copy of the petition shall be kept on file in the office of the clerk in a record book maintained for that purpose.

(b) The recall petitions shall be returned and filed in the office of the clerk within 14 days following the date upon which the clerk issued the petitions; they shall contain the signatures of at least 10 per cent of the total number of voters duly recorded on the registration list of the clerk as of the most recent preceding town election.

(c) The clerk shall, within 48 hours following the filing, submit the petition to the registrars of voters who shall, within 5 days, certify thereon the number of signatures which in fact are names of voters in the town.

SECTION 3. (a) If the recall petitions shall be certified by the registrars of voters to contain the sufficient number of voter signatures, the clerk of the town shall forthwith submit the petitions to the board of selectmen. Upon its receipt of the certified petitions, the board of selectmen shall, within 48 hours, give written notice of the recall petitions and the certification thereof to the person whose recall is being sought.

(b) If the officer sought to be recalled does not resign his or her office within 5 days following the delivery of the notice, the board of selectmen shall order an election to be held not less than 65 nor more than 90 days after the date of the certification; provided, however, that if another town election is to occur within 100 days after the date of the certification the board of selectmen may, at its discretion, postpone the holding of the recall election until the date of that other town election.

(c) If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section; provided, however, that only the ballots for new candidates shall be counted.

SECTION 4. An officer whose recall is sought shall not be a candidate to succeed himself or herself at the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the election shall be in accordance with the law relative to elections, unless otherwise provided in this act.

SECTION 5. (a) The incumbent shall continue to perform the duties of his or her office until the recall election is held. If not recalled in that election, the incumbent shall continue in office for the remainder of his or her unexpired term, subject to recall as before, except as provided herein.

(b) If the incumbent officer is recalled, he or she shall be considered removed upon the qualification of a successor who shall hold office for the remainder of the unexpired term; provided, however, that if the successor fails to qualify within 5 days after receiving notification of election, the incumbent nevertheless shall thereupon be deemed removed and the office shall remain vacant for the remainder of the unexpired term.

SECTION 6. (a) Ballots used at a recall election shall contain the following propositions in the order indicated:

FOR THE RECALL OF (NAME OF OFFICER)

AGAINST THE RECALL OF (NAME OF OFFICER)

Adjacent to each proposition, there shall be a place to mark a vote.

After the propositions shall appear the word "CANDIDATES" followed by the names of all candidates arranged alphabetically by surname.

(b) If a majority of the votes cast upon the question of recall are for the recall, the candidate receiving the highest number of votes shall be declared elected.

(c) If a majority of the votes cast upon the question of recall are against the recall, the votes for candidates need not be counted unless the incumbent officer has previously resigned from office pursuant to section 3.

SECTION 7. A recall petition shall not be filed against an officer within 6 months of the assumption of his or her office. In the case of an officer who has been subjected to a recall election and was not recalled thereby, a subsequent recall petition shall not be filed against that officer until at least 6 months after the date of the election at which the initial recall was voted upon.

SECTION 8. A person who has been recalled from an office or who has resigned

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from an office while recall proceedings were pending, shall not be appointed to any town office within 12 months after the recall or resignation.

SECTION 9. This act shall take effect upon its passage.

Approved, August 31, 2010.

**Chapter 320. AN ACT VALIDATING THE ACTS AND PROCEEDINGS TAKEN
AT AN ANNUAL TOWN MEETING HELD IN THE TOWN OF
ESSEX.**

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 and proceedings taken by the town of Essex at its May 3, 2010 annual town meeting and all actions taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if the warrant for that town meeting had been posted in full compliance with the law.

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

Approved, August 31, 2010.

Chapter 321. AN ACT RELATIVE TO REPRECINCTING.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 54 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 1, the words “nineteen hundred and ninety-two” and inserting in place thereof the following figure:- 2001.

SECTION 2. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words “Not later than July first in such year” and inserting in place thereof the following words:- Within 7 days of the last day the city council may vote,.

SECTION 3. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 26, the words “September first immediately following” and inserting in place thereof the following words:- 35 days after the final day to give written notice to the state secretary.

SECTION 4. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 27, the word “fifteen” and inserting in place thereof the following figure:- 7.

SECTION 5. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 31, the word “twenty” and inserting in place thereof the following figure:- 7.

SECTION 6. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 33, the words “October fifteenth immediately following” and inserting in place thereof the following words:- 14 days after the last day to receive notice from the local election district review commission.

SECTION 7. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 38, the words “October fifteenth” and inserting in place thereof the following words:- the forty-ninth day following the final day to give notice to the state secretary.

SECTION 8. Said section 1 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 39, the word “thirty” and inserting in place thereof the following figure:- 15.

SECTION 9. Said section 1 of said chapter 54, as so appearing, is hereby further amended by adding the following paragraph:-

Should the state secretary determine that decennial federal census figures are available at such time as to allow this process to begin earlier, the state secretary shall designate the date on which such process shall begin.

SECTION 10. Section 2 of said chapter 54, as so appearing, is hereby amended by striking out, in line 14, the words “next following” and inserting in place thereof the following words:- following the making thereof.

SECTION 11. Section 6 of said chapter 54, as so appearing, is hereby amended by striking out, in line 1, the words “nineteen hundred and ninety-two” and inserting in place thereof the following figure:- 2001.

SECTION 12. Said section 6 of said chapter 54, as so appearing, is hereby further amended by striking out, in lines 28 and 29, the words “July first of the year in which such division is authorized or required to be made” and inserting in place thereof the following words:- 7 days after the date on which the board of selectmen is authorized or required to divide the town into precincts.

SECTION 13. Said section 6 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 39, the words “September first of said year” and inserting in place thereof the following words:- 35 days following the date the town clerk must transmit to the state secretary a copy of the division.

SECTION 14. Said section 6 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 42, the words “September twentieth of said year” and inserting in place thereof the following words:- the forty-ninth day following the date the town clerk must transmit to the state secretary a copy of such division.

SECTION 15. Said section 6 of said chapter 54, as so appearing, is hereby further

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amended by striking out, in line 47, the words “October fifteenth” and inserting in place thereof the following words:- 64 days following the date the town clerk must transmit to the state secretary a copy of such division.

SECTION 16. Said section 6 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 52, the words “September twentieth” and inserting in place thereof the following words:- the forty-ninth day following the date the town clerk must transmit to the state secretary a copy of such division.

SECTION 17. Said section 6 of said chapter 54, as so appearing, is hereby further amended by striking out, in line 53, the word “thirty” and inserting in place thereof the following figure:- 15.

SECTION 18. Said section 6 of said chapter 54, as so appearing, is hereby further amended by adding the following paragraph:-

Should the state secretary determine that decennial federal census figures are available at such time as to allow this process to begin earlier, the state secretary shall designate the date on which such process shall begin.

SECTION 19. Section 9 of said chapter 54, as so appearing, is hereby amended by striking out, in line 1, the words “six thousand” and inserting in place thereof the following figure:- 6,200.

Approved, August 31, 2010.

Chapter 322. AN ACT ESTABLISHING A BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS.

Be it enacted, etc., as follows:

SECTION 1. Section 9 of chapter 13 of the General Laws, as amended by section 29 of chapter 4 of the acts of 2009, is hereby further amended by inserting after the word “counselors”, in line 7, the following words:- , the board of certification of community health workers.

SECTION 2. Said chapter 13 is hereby further amended by adding the following 3 sections:-

Section 106. There shall be a board of certification of community health workers, called the board in sections 106 to 108, inclusive. The board shall consist of 11 members who shall be residents of the commonwealth, 1 of whom shall be the commissioner of public health or the designee thereof, who shall serve as chair of the board, and 10 of whom shall be appointed by the governor. Of the appointed members of the board, 6 shall be appointed to ensure representation of all 6 geographic regions of the executive office of health and human services and shall include not fewer than 4 community health workers selected from recommendations offered by the Massachusetts Association of Community Health Workers;

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1 shall represent a community health worker training organization; 1 shall represent the Massachusetts Public Health Association; 1 shall represent the Massachusetts Association of Health Plans; 1 shall represent the Massachusetts League of Community Health Centers; 1 shall represent a community-based community health worker employer; and 1 shall represent the public, subject to section 9B of chapter 13, and shall be familiar with community health worker services. Board members initially appointed to the board as community health workers shall be persons who are eligible for board certification as community health workers and shall obtain such certification within a time frame specified in regulations adopted by the board.

The term of office of each appointed member of the board shall be 3 years, except that of the initially appointed members of the board of which 3 members shall be appointed for terms of 1 year, 3 members for terms of 2 years, and 3 members for terms of 3 years, at least 1 of which is a community health worker. No member shall be appointed to more than 2 consecutive full terms; provided, however, a member appointed for less than a full term may serve 2 full terms and a former member shall again be eligible for appointment after a lapse of 1 or more years. Upon the expiration of his term of office, a member of the board shall continue to serve until the appointment of a successor. Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office after being given a written statement of the charges against him and sufficient opportunity to be heard thereon. Upon the death, resignation or removal for cause of any member of the board, the governor shall fill the vacancy for the remainder of that member's term.

Section 107. The board shall meet at least quarterly or more often upon the call of the chair at such times and places as the chair shall designate. The board shall, at its first meeting and annually thereafter, elect from among its members a vice-chair and a secretary. Such officers shall serve until their successors are elected and qualified. A quorum of the board shall consist of a majority of the members. The board shall keep records and minutes as are necessary to carry out its duties and as otherwise required by law. Board members shall serve without compensation, but shall be reimbursed for actual and reasonable expenses incurred in the performance of their official duties. The board shall be supported with a director, administrative assistant and such other professional staff and operating expenses as are required to discharge its duties.

Section 108. In addition to the powers and duties set forth in sections 106 and 107, the board shall have the following powers and duties:

(a) to develop and administer a program for certification of community health workers, and to establish education, training, experience and other qualifications for such certification, application requirements and standards for practice as a certified community health worker;

(b) to set standards and requirements for the establishment, board evaluation and board approval or board acceptance of community health worker education and training programs in the commonwealth, the successful completion of which shall make individuals

eligible to apply to the board for certification as a community health worker;

(c) to set standards and requirements for approval or acceptance of continuing education courses and programs as the board may require for the biennial renewal of a community health worker certificate;

(d) to establish minimum education, training, experience and other qualifications that a certified community health worker shall possess to qualify as a trainer in any education, training or continuing education program for community health workers approved or accepted by the board;

(e) to establish a means to acknowledge, document and assess relevant education, training, experience, mastery of core competencies or other qualifications acquired by community health workers practicing in the commonwealth before the effective dates of sections 106 to 108, inclusive, and sections 259 to 262, inclusive, of chapter 112 for purposes of certification without completion of a community health worker education and training program approved or accepted by the board;

(f) to establish and implement procedures for receipt, review and action upon applications for certification as a community health worker and the biennial renewal thereof, for which the board may require documentation of completion of continuing education, and the issuance of certificates of competency to practice as a community health worker;

(g) to make, adopt, amend, repeal and enforce such rules and regulations consistent with law as it deems necessary for the protection of the public health, safety and welfare and for the proper administration and enforcement of its responsibilities;

(h) to collect reasonable fees established pursuant to section 3B of chapter 7 and to deposit such fees into the Quality in Health Professions Trust Fund pursuant to section 35X of chapter 10 to support board operations and administration;

(i) to identify and adopt a certification examination or other means to assess community health worker competency in connection with board certification, should the board determine that such examination would enhance the advancement of the practice and profession of community health workers;

(j) to establish tiered classes or levels of practice as a certified community health worker and certification requirements for each established class or level, including a class or level which qualifies a board-certified community health worker to act as a trainer in an education, training or continuing education program approved or accepted by the board, for the purpose of enhancing career advancement as such tiered classes or levels of practice may be determined necessary by the board for that purpose following study and assessment by the board, with the assistance and advice of interested parties;

(k) to certify as a community health worker an applicant who has been duly certified as a community health worker under the laws of another state, territory or commonwealth of the United States or the District of Columbia where the requirements for certification are, in the opinion of the board, equivalent to those in the commonwealth for community health workers and such applicant submits documentation satisfactory to the board of such certification and the requirements therefor;

(l) to establish grounds for complaints related to the practice of community health workers and to establish and implement procedures for the review, investigation and resolution of such complaints;

(m) to establish the disciplinary actions available to the board in connection with complaint resolution, which may include a fine, reprimand, probation or censure or suspension, revocation or denial of a certificate issued by the board or a combination of the foregoing and to discipline certificate holders in accordance with procedures established by the board that shall conform with chapter 30A and 801 CMR 1.01 et seq.;

(n) to perform such other functions and duties as may be required to carry out this section.

SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the following 4 sections:-

Section 259. The following words as used in sections 259 to 262, inclusive, unless the context otherwise requires, shall have the following meanings:-

"Board", the board of certification of community health workers.

"Board-approved education and training program", a training and education program for community health workers that meets standards established by the board for such education and training.

"Certificate", the document issued by the board to qualified applicants for certification as a community health worker.

"Certification", the voluntary process by which an agency grants recognition and use of a credential to individuals who have met predetermined and standardized requirements.

"Certified community health worker", a community health worker to whom the board has issued a certificate of competency to practice as a certified community health worker.

"Community health worker", a public health worker who applies his unique understanding of the experience, language and culture of the populations he serves through 1 or more of the following roles:

(a) providing culturally appropriate health education, information and outreach in community-based settings such as homes, schools, clinics, shelters, local businesses and community centers;

(b) bridging or culturally mediating between individuals, communities and health and human services, including actively building individual and community capacity;

(c) assuring that community members access the services they need;

(d) providing direct services, such as informal counseling, social support, care coordination and health screenings;

(e) advocating for individual and community needs; and

(f) additional roles as may be identified by the board that may emerge in the development of community health worker practice.

Community health workers may be distinguished from other health professionals in that they:

(a) are employed primarily for their understanding of, and connection with, the populations and communities they serve;

(b) conduct outreach during a significant portion of the time they provide services through 1 or more of the roles set forth in this section; and

(c) have experience providing services in community settings.

"Core competencies", a set of overlapping and mutually reinforcing skills and knowledge essential for effective community health work in core areas that include, but are not limited to:

(a) outreach methods and strategies;

(b) client and community assessment;

(c) effective communication;

(d) culturally-based communication and care;

(e) health education for behavior change;

(f) support, advocacy and coordination of care for clients;

(g) application of public health concepts and approaches;

(h) community capacity building; and

(i) writing and technical communication skills.

"Practice as a community health worker", use by a community health worker of the education, training and experience in the community health worker core competencies to effectively provide services to the communities and populations he serves through 1 or more of the roles of the community health worker.

Section 260. An application for certification as a community health worker shall be made on forms approved by the board, signed under the penalties of perjury by the person certifying the information contained therein and accompanied by the required fee. The fee for certification shall be determined by the secretary of administration and finance pursuant to section 3B of chapter 7. An applicant for certification as a community health worker shall furnish satisfactory proof that he is at least 18 years old, is of good moral character and has met all the education, training and experience requirements and qualifications as established by the board. Each certificate holder shall carry board-issued documentation of such certification, which shall be presented upon request in connection with practice as a certified community health worker.

Each certificate issued by the board shall be valid for 2 years and, if its holder desires to continue to use the title "certified community health worker" or to represent himself in any other way that he is so certified by the board, shall be timely renewed in accordance with procedures established by the board. Each renewal application submitted to the board shall be accompanied by a fee as determined by the secretary of administration and finance pursuant to section 3B of chapter 7.

Nothing in this section shall be construed as requiring reimbursement by the public employee plans in chapter 32A, an insurance company under chapter 175, a non-profit hospital corporation service plan as defined in chapter 176A, non-profit medical service plans under chapter 176B or a health maintenance organizations under chapter 176G.

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Section 261. The title "certified community health worker" shall only be used by individuals who have met the requirements and qualifications for certification as a community health worker as established by the board and have been duly certified by the board. The use by any person not so certified of any words, letters, abbreviations or insignia indicating or implying a person holds such certification shall be in violation of this section for which the board may issue a cease and desist order and seek additional appropriate legal remedies.

Nothing in this section shall permit a certified community health worker to engage in or perform any act or service for which a license issued by a professional licensing board is required. Nothing in this section shall be construed to prevent or restrict the practice, service or activities of any person licensed, certified, or registered in the commonwealth under any laws other than board of certification of community health worker laws from engaging in activities within the scope of practice of the profession or occupation for which he is licensed, if he does not represent to the public, directly or indirectly, that he is certified under section 260 and does not use any name, title or designation indicating that the person is certified under said section 260.

Section 262. No person filing a complaint alleging a violation of law or of the regulations of the board, reporting information pursuant to such laws or regulations or assisting the board at its request in any manner in discharging its duties and functions shall be liable in any cause of action arising out of the board's receipt of such information or assistance, if the person making the complaint, or reporting or providing such information or assistance, does so in good faith and without malice.

SECTION 4. This act shall take effect on January 1, 2012.

Approved, August 31, 2010.

**Chapter 323. AN ACT AUTHORIZING THE PLACEMENT OF A CERTAIN
QUESTION ON THE BALLOT TO BE USED AT THE 2010
BIENNIAL STATE ELECTION IN THE CITY OF GARDNER.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the state secretary to place a certain local question on the state ballot, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 6D of chapter 40 of the General Laws as to the time and manner of voting on the question, the state secretary shall cause to be placed on the official ballot to be used in the city of Gardner at the biennial state election to be held in the year 2010 the following question:

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Shall the city of Gardner vote to accept the provisions of section 6C of chapter 40 of the General Laws, which authorize cities and towns to appropriate money for the removal of snow and ice from private ways therein open to public use?

YES.	
NO.	

SECTION 2. If a majority of the votes in answer to the question is in the affirmative, then section 1 authorizing the city of Gardner to remove snow and ice from private ways shall thereupon take full effect in the city of Gardner, but not otherwise.

Approved, September 1, 2010.

Chapter 324. AN ACT ESTABLISHING A SICK LEAVE BANK FOR COLLEEN ROBICHAUD, AN EMPLOYEE OF THE REGISTRY OF MOTOR VEHICLES.

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 registry 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:

Notwithstanding any general or special law, or rule or regulation to the contrary, the registry of motor vehicles shall establish a sick leave bank for Colleen Robichaud, an employee of the Fall River branch of the registry of motor vehicles. Any employee of the registry may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Colleen Robichaud. Whenever Colleen Robichaud terminates employment with the registry or requests to dissolve the sick leave bank, any remaining time in the sick leave bank time 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, September 1, 2010.

Chapter 325. AN ACT RELATIVE TO PROPERTY TAXES IN THE TOWN OF CARVER.

Be it enacted, etc., as follows:

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SECTION 1. Notwithstanding section 58 of chapter 59 of the General Laws, or any other general or special law to the contrary, the town of Carver may allow a taxpayer who paid at least twice the preliminary tax bill issued on November 21, 2008, plus 2½ per cent as allowed under section 21C of said chapter 59 by the due date of the preliminary tax bill, December 22, 2008, and who is otherwise ineligible for a discount under said section 58 of said chapter 59, to receive a 3 per cent discount on the amount paid.

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

Approved, September 1, 2010.

Chapter 326. AN ACT RELATIVE TO THE COMPOSITION OF THE LICENSING BOARD FOR THE CITY OF PITTSFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 4 of chapter 138 of the General Laws relative to the number of members that may be appointed to a municipal licensing board to the contrary, the licensing board of the city of Pittsfield shall consist of 5 members to be appointed by the mayor, subject to confirmation by the city council. Each member shall be appointed to serve for a term of 3 years and until his successor is chosen and qualified.

SECTION 2. On the effective date of this act, the mayor, subject to confirmation by the city council, shall appoint 2 persons to serve as members of the licensing board, 1 of whom shall serve for a term of 1 year and 1 of whom shall serve for a term of 2 years. Upon the expiration of such initial 1- and 2-year terms appointed pursuant to this section, successor appointees shall serve for a term of 3 years.

SECTION 3. Those persons serving as members of the licensing board on the effective date of this act shall continue to serve as members thereof for a period of 3 years or until the expiration of their term, whichever period is shorter.

Approved, September 1, 2010.

Chapter 327. AN ACT RELATIVE TO THE SECURITY OF VITAL RECORDS AND VERIFICATION OF IDENTITY.

Be it enacted, etc., as follows:

SECTION 1. Section 15 of chapter 46 of the General Laws is hereby repealed.

SECTION 2. Chapter 46 is hereby amended by striking out section 16, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 16. The state registrar shall prepare and furnish forms of uniform size to the clerks, boards of health, physicians, hospitals, the chief medical examiner, funeral directors, probate and district courts and others involved in the preparation and registration of vital records and shall provide them with any necessary instructions and explanations as to use of such forms. All forms shall have security features that deter alteration, counterfeiting, duplication or simulation of vital records and shall meet applicable federal and state standards established for this purpose. All forms and other materials that are used for preparation of vital records but are not supplied by the state registrar shall be approved by the state registrar. All forms used for permanent records shall meet standards established by the state registrar, which standards shall be no less stringent than the current standards of the supervisor of public records and the state archivist for materials, devices and preservation.

SECTION 3. Said chapter 46 is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. Records transmitted by the town clerk under section 12 and sections 17 to 17D, inclusive, shall be written in legible hand, typewritten, printed using an electronic format approved by the state registrar or printed using the centralized, automated database operated by the state registrar pursuant to section 32. All forms and formats shall have the prior approval of the state registrar and shall meet state standards for uniformity, security, materials, devices and preservation.

SECTION 4. Section 19C of said chapter 46, as so appearing, is hereby amended by striking out, in line 1, the words “commissioner of public health” and inserting in place thereof the following words:- state registrar.

SECTION 5. Said section 19C of said chapter 46, as so appearing, is hereby further amended by striking out, in line 3, the words “in his department”.

SECTION 6. Section 30 of said chapter 46, as so appearing, is hereby amended by striking out, in line 5, the words “secretary of state” and inserting in place thereof the following words:- state registrar.

SECTION 7. Said chapter 46 is hereby further amended by adding the following 3 sections:-

Section 32. When a clerk at the registry or a town clerk has reasonable cause to believe that a vital record may have been falsely made, altered, forged, counterfeited or procured through fraud or misrepresentation or improper use of the signature or facsimile of the signature or signature stamp of a town clerk or the state registrar, the clerk of the registry shall not issue a certified copy of the record or make the record available for examination but shall retain the record and related evidence and notify the state registrar.

When the state registrar has reasonable cause to believe that a vital record may have been falsely made, altered, forged, counterfeited or procured through fraud or misrepresentation or improper use of the signature or facsimile of the signature or signature

stamp of a town clerk or the state registrar, the state registrar shall: (i) take reasonable administrative action to prevent and control fraud or improper use of the record, including instructions to all vital records clerks who have custody of the record to limit, restrict or stop issuing certified copies or making the record available for examination notwithstanding any general or special laws to the contrary; and (ii) notify appropriate law enforcement authorities.

Section 33. The state registrar shall establish, maintain and operate a centralized, automated database for the system of vital records and statistics, subject to appropriation. The state registrar shall make such automated database available to town clerks who shall use it to (i) record all births and deaths by city or town of occurrence and all marriages by city or town that issued the license; and (ii) issue certified copies of vital records.

All certified copies issued from the database shall be identical in size and format and shall have security features that deter alteration, counterfeiting, duplication or simulation of vital records and shall meet applicable federal and state standards established for this purpose. When issuing certified copies, the state registrar and town clerks shall comply with all applicable restrictions of state and federal law. The fee for a certified copy of a vital record issued by a town clerk from the database shall be uniform throughout the commonwealth, irrespective of where the record was originally recorded.

The database shall have the capacity for authorized users to enter information required for: (i) standard certificates of live birth and as required by the commissioner for administrative, research and statistical purposes under section 24B of chapter 111; (ii) acknowledgments of paternity; (iii) standard certificates of death; and (iv) fetal death reports. The database shall have the capacity for the chief medical examiner to enter information required for a medical examiner's certificate of death and for licensed health professionals and licensed funeral directors to enter information required for standard certificates of death. The database shall also have the capacity for courts in the commonwealth to enter information required for amendment of birth records following adjudications of paternity under chapter 209C and adoptions under chapter 210. The database shall have the capacity to enter, verify and hold electronic signatures.

Town clerks shall be responsible for the maintenance and preservation of original paper records until such time as originals are transferred to the state registrar. The state registrar shall be responsible for maintenance and preservation of original paper records until such time as bound volumes of original birth, marriage and death records are transferred to the state archivist.

Section 34. The state registrar may enter into agreements with state and federal agencies administering public health and welfare programs, registrars of motor vehicles, passport agencies or the National Association for Public Health Statistics and Information Systems to verify the existence of a Massachusetts birth, marriage or death record as an alternative to issuance of a certified copy of the record either to streamline administration of programs and services or to minimize the potential for identity theft and fraud associated with birth and marriage records, drivers' licenses, state identification cards and passports.

Approved, September 1, 2010.

Chapter 328. AN ACT AUTHORIZING THE TRANSFER OF LOCATION OF A CERTAIN LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES IN THE TOWN OF WESTBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 1 of chapter 373 of the acts of 1998, the town of Westborough may authorize the transfer of the license for the sale of all alcoholic beverages to be drunk on the premises which is currently held by Mandarin Westborough, Inc. under said section 1 of said chapter 373 to a new location at 132 Turnpike road in said town.

(b) Notwithstanding subsection (a) or any other general or special law or rule or regulation to the contrary, the licensing authority of the town of Westborough shall not approve the transfer of the license described in said subsection (a) 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.

(c) If the license described in subsection (a) 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, September 1, 2010.

Chapter 329. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH 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. (a) 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 not to be drunk on the premises under section 15 of said chapter 138 to Sunshine Convenience Food Store, Inc. located at 65 East Main street in said town. The license shall be subject to all of said chapter 138 except said section 17.

(b) 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.

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(c) 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.

(d) Upon issuance of the license authorized in this act, Sunshine Convenience Food Store, Inc. shall return to the licensing authority the license for the sale of wines and malt beverages it currently holds.

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

Approved, September 1, 2010.

Chapter 330. AN ACT PLACING A CERTAIN QUESTION ON THE BALLOT TO BE USED AT THE NOVEMBER 2010 BIENNIAL STATE ELECTION IN THE TOWN OF PEPPERELL RELATIVE TO THE SALE OF ALCOHOLIC BEVERAGES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 11 of chapter 138 of the General Laws, the state secretary shall cause to be placed on the official ballot to be used in the town of Pepperell at the biennial state election to be held in November in the year 2010 the following question:

Shall licenses be granted in this town for the sale of all alcoholic beverages (whiskey, rum, gin, malt beverages, wines and all other alcoholic beverages) to be drunk on the premises of restaurants?

Yes _____ No _____.

If a majority of the votes cast in answer to that question is in the affirmative, the town of Pepperell may grant licenses for the sale of all alcoholic beverages to be drunk on the premises of restaurants. The licenses shall be subject to said chapter 138.

(b) The town counsel of the town of Pepperell 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, September 1, 2010.

Chapter 331. AN ACT RELATIVE TO THE CHARTER OF THE CITY KNOWN AS THE TOWN OF FRANKLIN.

Be it enacted, etc., as follows:

SECTION 1. Section 2-1-4 of the home rule charter of the city known as the town of Franklin which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws is hereby amended by striking out the word “first” and inserting in place thereof the following word:- second.

SECTION 2. Said charter is hereby further amended by striking out sections 2-3-1 and 2-3-2 and inserting in place thereof the following section:-

2-3-1 At the first council meeting following each regular town election, the council shall choose from its membership a chairman, vice-chairman and clerk, each of whom shall serve for a 1-year term. The council may reorganize itself at any time during the year by a 2/3 vote of its membership. The chairman shall preside at meetings of the council and shall perform such other duties as provided by this charter, by by-law or by council vote. The vice-chairman shall act as chairman during the absence or disability of the chairman. The clerk shall ensure that proper notice of all council meetings is provided to its members and to the public, that all votes of the council are recorded and that minutes of all council proceedings are kept and shall perform such other duties as may be assigned by this charter, by by-law or by vote of the council.

SECTION 3. Section 2-4-3 of said charter is hereby amended by striking out the words “for a journal” and inserting in place thereof the following word:- minutes.

SECTION 4. Said charter is hereby further amended by striking out section 2-5-1 and inserting in place thereof the following section:-

2-5-1 The town council shall meet regularly at least once each month. Special meetings may be held at any time if called by the chairman or by 4 members of the council; provided, however, that for special meeting, at least 48 hours personal notice shall be given to each council member, except in case of an emergency. All council meetings shall be conducted in accordance with the open meeting provisions of the General Laws.

SECTION 5. Section 2-6-4 of said charter is hereby amended by inserting after the word “by-law” the following words:- , resolution or other action.

SECTION 6. Section 2-6-5 of said charter is hereby amended by striking out the word “journal” and inserting in place thereof the following word:- minutes.

SECTION 7. Clause (a) of section 3-1-1 of said charter is hereby amended by inserting after the word “for” the following word:- concurrent.

SECTION 8. Said charter is hereby further amended by striking out section 3-1-2 and inserting in place thereof the following section:-

3-1-2 The following officers of the town shall be elected at large for 4-year terms: (a) town clerk; and (b) 3 constables.

SECTION 9. Section 3-3-2 of said charter is hereby amended by striking out the words “, Town treasurer-collector”.

SECTION 10. Section 4-2-1 of said charter is hereby amended by inserting after the word “chief” the following words:- executive and.

SECTION 11. Said charter is hereby further amended by striking out section 4-2-2 and inserting in place thereof the following section:-

4-2-2 The administrator shall not hold any other elective or appointive town office, but may be appointed by the council to serve on committees, both standing and ad hoc. The administrator shall devote full-time to the duties of the office and shall not engage in any other business or occupation without the advance written authorization of the council.

SECTION 12. Section 4-2-3 of said charter is hereby amended by striking out clauses (g) and (h) and inserting in place thereof the following 2 clauses:- (g) be responsible for all aspects of the personnel system, (h) serve as chief procurement officer;

SECTION 13. Said charter is hereby further amended by striking out section 4-2-5 and inserting in place thereof the following section:-

4-2-5 Subject to ratification by the town council, the administrator may appoint, on the basis of merit and fitness alone: (a) a fire chief, a police chief, a director of public works, a town comptroller, a town counsel, a library director, and 3 registrars of voters; (b) 5 members of a board of library trustees, 9 members of a council on aging, 7 members of a conservation commission, 7 members of an historic commission and 3 members of a zoning board of appeals, the members of which shall serve for 3-year overlapping terms within their respective board, council or commission; (c) 5 members of a housing authority, 4 of whom shall serve for 5-year overlapping terms and 1 of whom shall be appointed under the authority of the commonwealth; and (d) members of such other boards, commissions and committees as are authorized by the General Laws, this charter or by-laws and for whom appointment is not otherwise provided.

SECTION 14. Said charter is hereby further amended by inserting after section 4-2-5 the following section:-

4-2-6 Subject to ratification by the town council, the town administrator shall also appoint, on the basis of merit and fitness alone, a treasurer-collector.

SECTION 15. Said charter is hereby further amended by striking out section 4-4-1 and inserting in place thereof the following 2 sections:-

4-4-1 The town administrator may designate a qualified person to serve as acting town administrator and to perform the duties of the office for up to 21 days on account of the temporary absence or unavailability of the town administrator.

4-4-2 The town council may designate a qualified person to serve as acting town administrator and to perform the duties of the office during the period of any vacancy caused by the administrator's absence or unavailability for more than 21 days or because of the illness, suspension, removal or resignation of the town administrator. The appointment shall be for not more than 180 days, but such appointment may be extended for 2 additional 90-day periods by vote of the council.

SECTION 16. Section 6-2-1 of said charter is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- A finance committee of 9 members shall be appointed by the town council for staggered 3-year terms.

SECTION 17. The third sentence of said section 6-2-1 of said charter is hereby amended by striking out the word “Accountant” and inserting in place thereof the following word:- comptroller.

SECTION 18. Said charter is hereby further amended by striking out section 6-2-2 and inserting in place thereof the following section:-

6-2-2 For its initial appointment of a finance committee, the town council shall appoint 3 members for 3-year terms, 3 members for 2-year terms and 3 members for 1-year terms and thereafter the town council shall annually appoint 3 members for 3-year terms. Vacancies on the finance committee shall be filled promptly by the council for the unexpired term.

SECTION 19. Said charter is hereby further amended by striking out section 6-5-1 and inserting in place thereof the following section:-

6-5-1 The proposed budget shall provide a complete financial plan for all town funds and activities, including the proposed school department budget for the ensuing year.

Except for the school budget or as may be required by law, the proposed budget shall be in such form as the town administrator deems desirable.

SECTION 20. Said charter is hereby further amended by striking out section 6-5-2 and inserting in place thereof the following section:-

6-5-2 In submitting the proposed budget, the town administrator shall utilize modern fiscal principals so as to afford maximum information and financial control. The budget shall detail all estimated revenue from the property tax levy and other sources and all proposed expenditures, including debt service for the previous, current and ensuing years, and shall indicate separately proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, purpose and position, together with proposed financing methods.

SECTION 21. The first sentence of section 6-6-1 of said charter is hereby amended by striking out the word “proposed” and inserting in place thereof the following words:- town administrator’s proposed.

SECTION 22. Said charter is hereby further amended by striking out section 6-7-1 and inserting in place thereof the following section:-

6-7-1 The town administrator shall submit to the town council and file copies with the finance committee a 5-year capital improvements program which shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next 6 fiscal years, together with supporting data; (c) cost estimates, methods of financing and recommended time schedules; and (d) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

SECTION 23. Section 7-4-1 of said charter is hereby amended by striking out the words “a journal of” and inserting in place thereof the following words:- minutes of its.

SECTION 24. Said charter is hereby further amended by striking out sections 7-7-1

to 7-7-5, inclusive.

SECTION 25. Said charter is hereby further amended by striking out section 8-1-1.

SECTION 26. The incumbent holding the office of treasurer-collector on the effective date of this act shall continue to serve until the expiration of his elected term of office or until his resignation, whichever occurs first. Thereafter, the position of treasurer-collector shall be filled by appointment as provided in section 4-2-6 of the charter of the city known as the town of Franklin.

SECTION 27. The state secretary shall cause the following 2 questions to be placed on the official ballot to be used in the city known as the town of Franklin at the biennial state election to be held on November 2, 2010:

“Shall sections 1 to 7, inclusive, sections 10 to 13, inclusive, and sections 15 to 25, inclusive, of an act passed by the General Court in the year 2010 entitled ‘An Act Relative to the Charter of the City known as the Town of Franklin’, be accepted?”

“Shall the Town Treasurer-Collector be appointed, as provided in Sections 8, 9, 14 and 26 of that act, rather than elected?”

SECTION 28. Sections 1 to 7, inclusive, sections 10 to 13, inclusive, and sections 15 to 25, inclusive, shall take effect upon acceptance by a majority of the voters of the town voting in the affirmative on the first ballot question specified in section 27, but not otherwise.

SECTION 29. Sections 8, 9, 14, and 26 shall take effect upon acceptance by a majority of the voters of the town voting in the affirmative on the second ballot question specified in section 27, but not otherwise.

SECTION 30. Section 27 shall take effect upon its passage.

Approved, September 3, 2010.

Chapter 332. AN ACT AUTHORIZING THE CITY OF EVERETT TO CREATE AN INSPECTIONAL SERVICES DEPARTMENT IN THE CITY OF EVERETT.

Be it enacted, etc., as follows:

SECTION 1. (a) There is hereby established in the city of Everett a department of inspectional services, which shall be responsible for the coordination and management of the inspection-related activities of the city assigned by this act. The department of inspectional services shall be responsible for and shall perform the following functions:

(1) coordination of all inspection functions carried out by an officer or employee who falls within the scope of this act;

(2) maintenance in a central place of all records relating to inspections;

(3) coordination of enforcement actions for violations of the General Laws, state building code, city ordinance including, but not limited to chapter 13A, rules or regulations which are subject to enforcement by an officer or employee of the city;

(4) the rendering of advice, assistance and guidance to all city offices and agencies in any matter relating to city inspection services; and

(5) the rendering of advice, assistance and guidance to all members of the public relating to city inspection services and the development of user friendly systems for the convenience of the public.

(b) The department of inspectional services shall be available to consumers to assist them in implementing the intent of this act;

(c) All inspections performed by or under the authority of the building inspector, board of health, inspector of gas piping and gas appliances, plumbing inspector, zoning enforcement officer or any other local inspection as may be authorized shall be coordinated through the department of inspectional services.

(d) The department of inspectional services shall be headed by a director of inspectional services, who shall have the following specific powers and duties:

(1) to establish a full and complete inventory of all inspection services performed by any officer of the city that falls within the scope of this act;

(2) to establish common files, by property address, which shall be accessible to all persons performing inspection services for the city, containing recordings of all inspections performed by any city officer or employee; and

(3) to provide common services for all inspection related personnel and a centralized location for consumers of city inspection services. The director of inspectional services shall also be available to said consumers in order to assist them in implementing the intent of this act.

(e) The director of inspectional services shall assure quality control by:

(1) expediting the issuance or denial of all permits;

(2) establishing a service manual within 90 days of appointment; and

(3) performing such other duties and responsibilities as may be established by city ordinance.

(f) The department of inspectional services shall consist of the following divisions:

(1) the division of building inspection and maintenance, which shall be responsible for the enforcement of the state building code pertaining to buildings and other structures and for enforcement of related ordinances in the Revised Ordinances of the city of Everett, including, but not limited to the zoning ordinance;

(2) the division of plumbing, which shall be responsible for the enforcement of the state building code applicable to plumbing and for enforcement of related ordinances in the Revised Ordinances of the city of Everett;

(3) the division of gas fittings and gas appliances, which shall be responsible for the enforcement of the state building code applicable to gas fittings and gas appliances and for enforcement of related ordinances in the Revised Ordinances of the city of Everett;

(4) the division of electrical inspections and maintenance, which shall be responsible for the enforcement of the state building code applicable to electrical wires and electrical fixtures and shall be responsible for: the ordinary maintenance of electrical wires and fixtures in city buildings and other structures including all city recreational facilities; the operation

and maintenance of the electrical components of the traffic regulatory signals and devices and fire alarm signals and devices; and the enforcement of related ordinances in the Revised Ordinances of the city of Everett;

(5) the division of health and sanitation, which shall be responsible for: enforcement of all provisions of the state sanitary code promulgated by the department of public health of the commonwealth which are subject to enforcement by cities and towns; adoption from time to time of additional regulations as are necessary or desirable to protect the public health of the residents of Everett; and enforcement of all regulations so promulgated;

(6) the division of code enforcement, which shall be responsible for enforcement of chapter 13A of the city of Everett Revised Ordinances; and

(7) the board of appeals shall, for administrative and communication purposes only, be considered to be within the department of inspectional services.

Nothing in this act shall be construed to give the director of inspectional services the authority to direct the activities of any multiple member body when that body is exercising its official duties.

SECTION 2. This act shall not affect the civil service status of any of the positions within the divisions of the department of inspectional services.

SECTION 3. The mayor of the city of Everett shall appoint a director of inspectional services who shall be the executive and administrative head of the department subject to confirmation by the board of aldermen. The term of office shall be for 3 years without any tenure and shall not be extended, without reappointment, beyond said 3-year term. The director shall possess all the necessary qualifications, experience and certification required for an inspector of buildings or building commissioner under chapter 143 of the General Laws.

SECTION 4. The mayor of the city of Everett may remove the director of the department of inspectional services from office before the term of appointment has expired.

SECTION 5. The appointment of a director of inspectional services shall satisfy the requirement of chapter 143 of the General Laws as to the appointment of an inspector of buildings or building commissioner.

SECTION 6. Any agency performing an inspection function outside of the scope of this act shall continue to perform said function.

SECTION 7. All books, papers, documents, equipment, land and any other property which is in the custody and control of any agency or department affected by this consolidation shall be transferred by the agency or department to the inspectional services department. All contracts in force shall be continued in force by the department of inspectional services until they expire or are otherwise cancelled. Any judicial proceedings in which any department affected by this consolidation is a party, shall not be affected by the consolidation, but the inspectional services department shall stand in the place of this former department.

SECTION 8. This act shall take effect upon its passage.

Approved, September 3, 2010.

Chapter 333. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHRISTOPHER LEMOING, AN EMPLOYEE OF THE PLYMOUTH COUNTY SHERIFF'S DEPARTMENT.

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 Plymouth county sheriff's department, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the Plymouth county sheriff's department shall establish a sick leave bank for Christopher Lemoing, an employee of the sheriff's 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 Lemoing. 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 Lemoing 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 3, 2010.

Chapter 334. AN ACT AUTHORIZING THE CITY OF WORCESTER TO ESTABLISH A PILOT PROGRAM FOR ENFORCEMENT AGAINST ILLEGAL DUMPING.

Be it enacted, etc., as follows:

SECTION 1. There shall be a pilot program in the city of Worcester for the enforcement against illegal dumping within the city limits and to determine the effectiveness of establishing its own fines and other penalties for illegal dumping and to collect those fines and penalties.

SECTION 2. Notwithstanding any general or special law or rule or regulation to the contrary, it shall be unlawful for any person in the city of Worcester, directly or indirectly, to dump, place, throw, deposit or discharge any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash or other material

of any kind on any way, public or private, appearing on the official map of the city of Worcester, or within 20 yards thereof or on any land owned or controlled by the city.

SECTION 3. Notwithstanding any general or special law or rule or regulation to the contrary, it shall be unlawful for any person owning, in whole or in part, directly or indirectly, any real property, including ownership of any right to pass and repass on a private way in the city of Worcester upon which any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash or other material of any kind has been dumped, placed, thrown, deposited or discharged to fail to remove such material within 7 calendar days of receipt of a written notice from a police officer, code inspector or other officer or employee of the city of Worcester duly authorized by ordinance or order of the city manager to remove and lawfully dispose of such material.

.SECTION 4. The city of Worcester may enforce section 2 by prosecuting criminal or civil actions in the housing court, superior court or the central district court of Worcester county and may enforce section 3 by prosecuting civil actions in those courts. No action commenced as a criminal action shall be converted to a civil enforcement action except with the consent of the city.

SECTION 5. A person convicted of a violation of section 2 shall be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment in the house of correction for not more than 7 days or by both such fine and imprisonment.

SECTION 6. A person found responsible in a civil action for a violation of section 2 or 3 shall be required to pay a civil penalty of 3 times the amount, up to a maximum of \$5,000, estimated or actually paid by the city to remove the dumped material from the property. The court may also issue other orders and injunctions to remedy the circumstances of each case.

SECTION 7. All fines and penalties collected for violations of this act shall be paid to the city of Worcester. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a Disposal Enforcement Fund into which all such payments shall be deposited. The city treasurer may invest funds in the fund in the manner authorized by sections 55 and 55B of said chapter 44 and any interest earned on the fund shall be credited to and become part of the account. The city shall appropriate and expend amounts from the account to finance the enforcement of this act, removing improperly deposited material from the property subject to this act and financing programs and personnel involved in the collection and lawful disposal of unwanted household goods generated by residents of the city.

SECTION 8. This act shall take effect upon its passage.

Approved, September 9, 2010.

Chapter 335. AN ACT RELATIVE TO SOUTH HADLEY TOWN MEETING MEMBERS.

Be it enacted, etc., as follows:

SECTION 1. The third paragraph of section 3 of chapter 45 of the acts of 1933, is hereby amended by striking out the first sentence, as appearing in section 2 of chapter 661 of the acts of 1987.

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

Approved, September 15, 2010.

Chapter 336. AN ACT EXEMPTING CERTAIN CLERICAL POSITIONS IN THE TOWN OF BILLERICA FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. Clerical positions in the department of public works, the fire department, the board of appeals and the building department of the town of Billerica shall be exempt from chapter 31 of the General Laws.

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

Approved, September 15, 2010.

Chapter 337. AN ACT AUTHORIZING THE TOWN OF MILFORD 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 or any other general or special law to the contrary, the licensing authority of the town of Milford may grant a license for the sale of all alcoholic beverages not to be drunk on the premises to Paul J. Moffi for the premises located at 134 South Main street in the town of Milford under section 15 of said chapter 138. The license shall be subject to all of said chapter 138, except said section 17.

The licensing authority shall not approve the transfer of the license to any other 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 act is cancelled, revoked or no longer in use, it shall

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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, Paul J. Moffi shall return to the licensing authority the license he currently holds for the sale of wines and malt beverages not to be drunk on the premises.

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

Approved, September 15, 2010.

Chapter 338. AN ACT AUTHORIZING THE TOWN OF MILFORD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Milford may grant an additional license for the sale of wines and malt beverages not to be drunk on the premises to Tyco, Inc. located at 102 Central street in the town of Milford under section 15 of said chapter 138. The license shall be subject to all of said chapter 138, except said section 17.

The licensing authority shall not approve the transfer of the license to any other 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 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, September 15, 2010.

Chapter 339. AN ACT ESTABLISHING THE CALEB CHASE GIFT ACCOUNT FOR THE TOWN OF HARWICH.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, the town of Harwich, may design and designate a place on its municipal real estate tax bills whereby taxpayers of the

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town of Harwich may voluntarily check off, donate and pledge an amount not less than \$1 or such other designated amount which shall increase the amount otherwise due, and the donation and pledged amount shall be deposited in the Caleb Chase Gift Account to be used for the support of the poor.

Any amounts donated to the Caleb Chase Gift Account shall be deposited into a special account in the general treasury of the town and shall be in the custody of the town treasurer. The treasurer shall invest the funds at the direction of the Caleb Chase Trust Fund Committee, subject to the same provisions and limitations of the General Laws as applicable to trust fund investments. The Caleb Chase Gift Account, together with the interest earned thereon, shall be used for the purpose specified in this act without further appropriation.

Gift Account funds shall only be expended in accordance with the terms identified in the Caleb Chase Gift Account and by board of selectmen policy. The board of selectmen shall adopt rules and regulations to carry out this act and to identify the receipts of such aid. The town accountant shall provide an annual financial report of the activities of the Caleb Chase Gift Account to the board of selectmen.

Approved, September 15, 2010.

Chapter 340. AN ACT AUTHORIZING THE TOWN OF DRACUT TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Dracut may grant a license for the sale of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138 to Muddy River Coffee and Convenience, Inc. located at 197 Merrimack avenue in the town of Dracut. 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 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.

Approved, September 15, 2010.

Chapter 341. AN ACT EXEMPTING THE DEPUTY CHIEF OF POLICE IN THE TOWN OF SHARON FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of deputy chief of police in the town of Sharon shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of an incumbent holding the position of deputy chief of police in the town of Sharon on the effective date of this act.

SECTION 3. The board of selectmen may appoint the deputy chief of police; provided, however, that the person so appointed shall serve at the pleasure of the board of selectmen, shall be afforded an opportunity for a hearing prior to removal, and shall receive a written statement of the reasons for the removal.

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

Approved, September 21, 2010.

Chapter 342. AN ACT EXEMPTING ALL EMPLOYEES OF THE DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF ACUSHNET FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. All positions in the department of public works in the town of Acushnet shall not be subject to chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of any person who is an employee of the department of public works in the town on the effective date of this act.

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

Approved, September 24, 2010.

Chapter 343. AN ACT ESTABLISHING A SICK LEAVE BANK FOR EDWARD A. DRISCOLL, 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 of the commonwealth shall establish a sick leave bank for Edward A. Driscoll, an employee of the office of the commissioner of probation. 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 Edward A. Driscoll. Whenever Edward A. Driscoll 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, September 24, 2010.

Chapter 344. AN ACT RELATIVE TO THE CERTIFICATION OF HULL PUBLIC LIBRARY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to authorize the issuance of a temporary certification of compliance to the Hull public library by the board of the library commissioners upon satisfaction of certain requirements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the board of library commissioners shall grant temporary certification to the town of Hull if: (i) the board is provided a preliminary report showing the Hull public library in compliance with the minimum hours of service and the materials expenditure requirements set forth in section 19B of chapter 78 of the General Laws during fiscal year 2010; and (ii) upon a showing to the board that the library has met the municipal appropriation requirement in said section 19B of said chapter 78, or is likely to qualify for a waiver thereof, in the 2011 state aid to public libraries program. A temporary certification issued pursuant to this act shall entitle the Hull public library and all Hull library card holders to all the benefits of a full certification issued pursuant to said chapter 78.

SECTION 2. The board of library commissioners shall issue a temporary certification to the Hull public library at its first meeting following the satisfaction of the requirements of section 1; provided, however, that notwithstanding the issuance of any temporary certification pursuant to this act, the town of Hull shall apply for full certification for aid by submitting such reports and applications as are required under said chapter 78.

Approved, September 24, 2010.

Chapter 345. AN ACT AUTHORIZING THE CITY OF NORTH ADAMS TO CONTINUE THE EMPLOYMENT OF PUBLIC SAFETY COMMISSIONER E. JOHN MOROCCO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, E. John Morocco, commissioner of public safety for the city of North Adams, may continue to serve in that position until September 17, 2012, notwithstanding that he has attained the maximum age for that position as required by law. The appointing authority may, at its own expense, require that E. John Morocco be examined by an impartial physician to determine that he is mentally and physically capable of performing the duties of that position. No further deductions shall be made from the regular compensation of E. John Morocco under chapter 32 of the General Laws for any service performed subsequent to September 17, 2010, and, upon his retirement, E. John Morocco shall receive a superannuation retirement allowance equal to that to which he would have been entitled had he retired on September 17, 2010.

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

Approved, September 24, 2010.

Chapter 346. AN ACT RELATIVE TO CLASS A CONTROLLED SUBSTANCES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith that all forms of the controlled substance ketamine are classified as a Class A substance, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

Section 31 of chapter 94C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 85, the words "Ketamine Hydrochloride" and inserting in place thereof the following word:- Ketamine.

Approved, September 30, 2010.

Chapter 347. AN ACT ESTABLISHING A SICK LEAVE BANK FOR HOLLY ANN BEAUMIER, AN EMPLOYEE OF THE OFFICE OF MEDICAID AND ESTABLISHING A SICK LEAVE BANK FOR JOHN S. BAIN, AN EMPLOYEE OF THE UNIVERSITY OF MASSACHUSETTS AT LOWELL.

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

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is to establish forthwith a sick leave bank for Holly Ann Beaumier, an employee of the office of Medicaid and to establish a sick leave bank for John S. Bain, an employee of the University of Massachusetts at Lowell, therefore 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 office of Medicaid shall establish a sick leave bank for Holly Ann Beaumier, an employee of the office. Any employee of the office may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Holly Ann Beaumier. Whenever Holly Ann Beaumier 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. 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.

SECTION 2. Notwithstanding any general or special law, rule or regulation to the contrary, the University of Massachusetts at Lowell shall establish a sick leave bank for John S. Bain, an employee of the university. Any employee of the university may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by John S. Bain. Whenever John S. Bain terminates employment with the university 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 university.

Approved, September 30, 2010.

**Chapter 348. AN ACT AUTHORIZING THE TOWN OF CLINTON 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 Clinton may grant an additional license for the sale of all alcoholic beverages to be drunk on the premises to ERCOLI, Inc., located at 27 High Street in the town of Clinton under section 12 of said chapter 138. Said license shall be subject to all of said chapter 138 except said section 17.

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The local alcohol licensing authority shall not approve the transfer of said license to any other location. Said license may be granted by the local alcohol licensing authority at the same location if an applicant for said license files with said authority a letter in writing from the department of revenue indicating that said license is in good standing with said department and that any and all applicable taxes have been paid.

If a license granted under this act 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 local alcohol licensing authority. The local alcohol licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this section.

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

Approved, October 6, 2010.

Chapter 349. AN ACT AUTHORIZING THE TOWN OF MILTON TO PROVIDE CERTAIN ACCIDENTAL DISABILITY RETIREMENT AND MEDICAL BENEFITS TO ANTONIO PICKENS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary and in order to promote the public good, the retirement board of the town of Milton, shall retire Antonio Pickens, a firefighter employed by the town of Milton who, while responding to a minor motor vehicle accident sustained injuries likely to result in his death. The annual amount of pension payable to Antonio Pickens under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in the town at the grade held by him at the time of his retirement; provided, however, that (1) after he has attained the maximum age for this group, his retirement shall be reduced to the appropriate rate for an accidental disability retirement, treating his retirement years as creditable service for determining the amount of his benefits and (2) the retirement allowances payable to him after he has attained the maximum age for his group shall be increased in the manner provided to all retirees of the town under chapter 32 of the General Laws.

SECTION 2. Before taking action under authority of this act, the retirement board of the town of Milton shall request the state public employee retirement administration commission, hereinafter referred to as PERAC, to appoint a medical panel composed of 3 physicians who shall examine Antonio Pickens or, if a majority of the retirement board shall agree, forego such examination and review the existing medical records and other relevant information concerning Antonio Pickens. The retirement board of the town of Milton shall

approve a pension for Antonio Pickens upon receipt of a report from such medical panel which concludes that Antonio Pickens is physically incapacitated for further duty as a firefighter, that the incapacity is likely to be permanent and that the injuries are likely to result in his premature death. The retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation. Upon the retirement of Antonio Pickens, the retirement board of the town of Milton shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of the town. Upon the approval of the pension provided for herein and notwithstanding any general or special law to the contrary, including, but not limited to, section 8 of chapter 32 of the General Laws, Antonio Pickens shall not be subject to examination or to re-examination by a medical panel or other physician to determine his eligibility or continued eligibility for accidental disability retirement benefits as provided in this section or in said section 8 of said chapter 32.

SECTION 3. Upon the death of Antonio Pickens before the maximum age for retirement for his group, if his wife at the time of the incident survives him, and as long as she remains unmarried, the town of Milton shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death and \$687.96 annually adjusted for a cost-of-living adjustment for each child of Antonio Pickens for the time that the child is either under 18 years of age or totally physically or mentally incapacitated from working, or over 18 years of age, but under age 22, if a full-time student. Upon the death of Antonio Pickens after the maximum age for retirement for his group, his wife if at the time of the incident survives him, shall be entitled to the same benefits as other surviving spouses under chapter 32, as shall their children. In the event of the death of Antonio Pickens, and if his wife at the time of his death does not survive him, the allowance shall be paid to the legal guardian for the benefit of any surviving unmarried children, as defined in this section.

SECTION 4. (a) Antonio Pickens shall be eligible for health insurance through the town of Milton on the same basis as all other retirees and shall be responsible for the retirees' share of all premiums. Following his retirement, the town of Milton shall pay for necessary and reasonable medical expenses for him due to injuries for which he was retired.

(b) Medical care shall first be provided through the health insurance provided to retired town of Milton employees under chapters 32B and 150E of the General Laws.

(c) The town of Milton shall pay to the health care providers all co-payments required by the health insurance policy under which the firefighter is insured. The town of Milton shall pay to the health care providers all deductibles required by the health insurance policy under which the firefighter is insured. The town of Milton shall pay to the health care providers the fees and other expenses for authorized services the cost of which exceed applicable benefits limits, but the payment of which is denied solely because of the applicable benefits limit.

(d) Payments made under this section shall meet all other eligibility requirements of the health insurance; provided, however, that Antonio Pickens shall not be required to change health care providers; and provided further, that any changes made by him in health care providers and referrals from current health care providers to health care providers who have not rendered care to him for injury for which he was retired, shall comply with subsection (b).

SECTION 5. Antonio Pickens shall not have his retirement allowance subject to modification as a result of earnings from alternative employment; provided, however, that he shall be required to submit earnings reports to PERAC under section 91A of chapter 32 of the General Laws. Antonio Pickens shall be subject to the limitation of earnings formula as set forth in said section 91A of said chapter 32, with the ability to earn the amount described in said section 91A of said chapter 32 plus an additional \$5,000.00. If he earns in excess of these allowable amounts, PERAC shall inform him of the excess amount earned and the amount owed by him to the retirement board of the town of Milton. PERAC shall, in its discretion, require repayment of that amount to the retirement board or may withhold amounts as it deems appropriate from future retirement allowance payments until the amounts owed to the retirement board have been paid in full.

SECTION 6. The retirement allowances payable pursuant to this act shall remain subject to all other provisions of chapter 32 of the General Laws as if they had been granted as accidental disability retirements in the normal course of events under said chapter 32, except to the extent that said chapter 32 conflicts with this act.

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

Approved, October 6, 2010.

Chapter 350. AN ACT RELATIVE TO TIME-SHARE OWNERSHIP.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 183B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition of "Exchange program" the following 2 definitions:-

"Forfeiture", full termination of any and all rights at law or in equity of a time-share owner, and of the heirs, executors, administrators, successors or assigns of the time-share owner in or arising out of the ownership of a time-share estate or a time-share license, including all rights of redemption or any other rights to cure.

"Forfeiture proceedings", shall include the process of terminating or foreclosing the rights of a time-share owner, or exercising the rights of a secured party, under a mortgage, trust deed or other security instrument which encumbers a time-share pursuant to section 29A, or the process of foreclosing a lien for assessments on a time-share pursuant to section

29 or section 29B, or both.

SECTION 2. Said section 2 of said chapter 183B, as so appearing, is hereby further amended by inserting after the definition of “Purchaser” the following 2 definitions:-

“Recorded”, recorded or filed in the registry of deeds or land registration office for the county or registry district wherein the property is located.

“Registry of deeds”, the registry of deeds or land registration office for the county or registry district wherein the property is located.

SECTION 3. Said section 2 of said chapter 183B, as so appearing, is hereby further amended by striking out the definition of “Time-share instrument” and inserting in place thereof the following definition:-

“Time-share instrument”, 1 or more documents, by whatever name denominated, creating or governing time-shares including, without limitation, a declaration or plan establishing a time-share regime, articles of organization and by-laws of a time-share association, rules and regulations, offering materials, sales documents, and instruments of conveyance or transfer.

SECTION 4. Subsection (a) of section 20 of said chapter 183B, as so appearing, is hereby amended by striking out clause (8) and inserting in place thereof the following clause:-

(8) (i) impose charges for late payment of assessments; (ii) after notice and an opportunity to be heard, levy reasonable fines for violations of the time-share instrument, by-laws, or rules and regulations of the association; and (iii) assess reasonable attorney’s fees and collection agency fees incurred by the association in collection of such assessments and fines and the institution of forfeiture proceedings.

SECTION 5. Said chapter 183B is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. (a) A person who has a duty to make assessments for time-share expenses shall have a lien on a time-share for any assessment levied against that time-share or fines imposed against its owner from the time the assessment or fine becomes due. In the case of either a time-share estate or a time-share license, the lien shall be enforced pursuant to section 29B. Unless the time-share instrument otherwise provides, fees, charges, late charges, fines, interest, collection agency fees and reasonable attorney’s fees charged pursuant to clauses (8) and (9) of subsection (a) of section 20 shall be enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment thereof becomes due.

(b) A lien created under this section shall be prior to all other liens and encumbrances on a time-share except: (i) liens and encumbrances recorded before the recording of the time-share instrument; (ii) mortgages or security interests on the time-share recorded before the due date of the assessment or the due date of the first installment payable on the assessment; (iii) liens for real estate taxes and other governmental assessments or charges against the time-share; and (iv) liens for unpaid taxes of the owner collectible pursuant to

chapter 62C, and liens for unpaid child support obligations of the owner collectible pursuant to chapter 119A, provided that liens for such taxes or child support obligations were recorded before the due date of the assessment or the due date of the first installment payable on the assessment. This subsection shall not affect the priority of mechanics' or materialmen's liens. Liens on a time share unit, arising under this section or otherwise, shall not be subject to chapter 188.

(c) The lien created under this section shall be automatic as a matter of law, but a claim or notice of lien may be recorded in the applicable registry of deeds for a time-share estate or as required in the controlling time-share instruments for a time-share. A lien shall be dissolved upon the issuance and recording of a statement by the association pursuant to subsection (e) showing no assessment to be due and owing.

(d) This section shall not prohibit actions to recover sums for which subsection (a) creates a lien or precludes an association from recourse by any contractual or other remedy permitted by law.

(e) The lien created under this section shall include costs, including collection agency fees, reasonable attorneys' fees and all forfeiture costs incurred by the association. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share owner, purchaser, mortgagee or a closing attorney or settlement agent, upon written request, a statement recordable in form setting forth the amount of unpaid assessments currently levied against the owner's time-share and may charge a reasonable fee for the preparation of such statement. The statement shall be furnished within 10 business days after the receipt of the request. Any time-share owner, purchaser, mortgagee, or a closing attorney or settlement agent, who is a recipient of the statement shall be entitled to rely on the contents thereof, and whoever furnished the statement may collect from such recipient only those sums of money that are set forth therein from the recipient; provided, however, that the recipient pays any amounts stated as due and owing and any amounts which subsequently may become due and owing within 60 days of the date of the statement, including collection charges, late fees, interest and additional assessments as stated therein.

(f) No time-share owner shall be exempt from liability for contribution toward the time-share liability expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of the time-share or otherwise; and no time-share owner shall be entitled to an offset, deduction or waiver of time-share liability expenses or other charges levied or lawfully assessed by the association.

SECTION 6. Said chapter 183B is hereby further amended by inserting after section 29 the following 2 sections:-

Section 29A. The rights of a time-share owner shall be subject to forfeiture in accordance with clauses (a) to (g), inclusive, for breach of condition of any mortgage, which for the purpose of this section shall include any security instrument including, but not limited to, a mortgage, trust deed or other similar instrument encumbering a time-share.

(a) Upon default, and after all applicable cure periods have expired, the holder of a mortgage shall provide written notice of default to the time-share owner at the last known address thereof by certified and first class mail and provide a reasonable opportunity to cure of not less than 90 days from the date of the mailing of the notice letter.

(b) Prior to offering a time-share for sale for breach of condition of a mortgage, the holder thereof shall attempt in good faith and with reasonable precaution which, for the purpose of this section shall not require separate proceedings under section 57 of the acts of 1943, to determine whether any person subject to forfeiture proceedings under this section is entitled to protection under the Service members Civil Relief Act of 2003, 50 U.S.C. App. Sec. 517, hereinafter referred to as "SCRA".

(c) Nothing herein contained shall prevent a holder of a mortgage from seeking a determination under section 57 of the acts of 1943 that a time-share owner is not entitled to benefits under SCRA or, if a time-share owner is entitled to the benefits under SCRA, a determination of said time-share owner's rights under SCRA.

(d) With respect to forfeiture proceedings based upon breach of condition of a security instrument encumbering a time-share license, the holder thereof shall have the option to; (i) foreclose in the manner prescribed in the time-share instrument or, if not prescribed, in accordance with this section; or (ii) to sell, by public or private sale, conducted in accordance with Part 6 of Article 9 of chapter 106.

(e) If, after expiration of the 90-day period, the time-share owner has not cured the default in the manner prescribed and the holder of the mortgage has determined in good faith and with reasonable precaution that the time-share owner is not entitled to protection under SCRA, the holder of the mortgage shall conduct a public auction sale under the following conditions:

(1)(i) notice of such sale shall be published once in a public newspaper with a general circulation in the town or county in which the time-share property is situated and not less than 30 days before the date of the sale, calculated by excluding the date of publication of the first notice and the date of sale;

(ii) at least 30 days prior to the date of sale, a written notice of the time, date and place of the auction shall be mailed, by certified mail and by first class mail to the last known address of the time-share owner of record and to the last known address of all parties having a lien or other interest of record in the time-share estate junior to the mortgage that is the subject of forfeiture proceeding;

(iii) such notice shall contain: the name of the time-share owner and the original mortgagee; the date, book and page or document number of the mortgage; the date, time and place of the sale; a general description of the time-share; and the terms of the sale; provided, however, that if more than 1 time-share is to be included in the sale, all such time-shares may be combined into 1 notice of sale, with 1 property description being given as set forth in clause (iv); and

(iv) notice of sale pursuant to this section shall be printed in substantially the following form:

SALE OF TIME-SHARE ESTATE UNDER M.G.L. C. 183B, SECTION 29A.

By virtue of M.G.L. c. 183B, Section 29A and in execution of the Power of Sale contained in a certain Mortgage (or Mortgages, if more than one) on the time-share estate (or estates, if more than one) given by the time-share owner (or owners, if more than one) set forth below for breach of the conditions of said Mortgage and for the purpose of foreclosing, the same will be sold at Public Auction commencing at _____ on _____, 20__ at _____, Massachusetts, being all and singular the premises described in said Mortgage. (For each Mortgage, list name and address of the timeshare owner and the original Mortgagee, a general description of the time-share estate and the date and book and page number or document number of the Mortgage).

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale, and the times(s) for payment of the balance or the whole as the case may be. The time share estates, if more than one, may be sold in individual lots or as a group.) Other terms to be announced at the sale.

Signed _____

Holder of security instrument, or counsel; and

(v) the printed notice required under clause (iv) published in accordance with this section, together with such other or further notice, if any, shall be deemed a sufficient notice of the sale and the time-share shall be deemed to have been sold, and the instrument conveying the time-share from the foreclosing entity shall transfer the time-share subject to, and with the benefit of, all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments and security instruments recorded prior to the mortgage that is the subject of forfeiture proceedings, whether or not reference to such restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments or security instruments is made in the instrument of conveyance; provided, however, that no purchaser at such sale shall be bound to complete the purchase if there are encumbrances, other than those included in the notice of sale, which are not stated at the sale and included in the foreclosing entity's contract with the purchaser; and, provided further, that no such notice of sale shall be held to be invalid by reason of any error or irregularity which is neither substantial nor misleading.

(i) unless the notice of sale otherwise provides, the sale shall take place on the time-share property.

(ii) the sale shall be by public auction, conducted by a Massachusetts licensed auctioneer and, at the discretion of the auctioneer, the auctioneer may dispense with the reading of the names of the time-share owners (if there is more than one), the description of

time-share (if there is more than one) and the recording information (if there is more than one instrument).

(iii) all rights of redemption of the time-share owner shall be extinguished upon the sale of a time-share pursuant to this section;

(iv) the association, its manager, the holder of the mortgage, and any time-share owner may bid at the sale and the successful buyer at such sale shall take title to the time-share free and clear of any and all outstanding obligations of the prior time-share owner to the association, except that if the buyer intends to use the time-share during the same fiscal year of the association in which the time-share was purchased, the buyer shall be obligated to pay the assessment for that year;

(v) upon closing, the holder of the mortgage shall provide the buyer with:

(A) a deed or other appropriate instrument transferring the rights to the time-share;

(B) an affidavit of sale attesting to compliance with all requirements of the forfeiture proceedings pursuant to this section and that the holder has attempted in good faith and with reasonable precaution, to determine whether any person subject to forfeiture proceedings under this section is entitled to protection under the SCRA; and

(C) a resale certificate as required by section 42, if requested by the buyer.

(vi) the buyer shall record the deed or other instrument and the affidavit of sale with the appropriate registry of deeds not more than the later of 90 days after the sale date or 90 days after receipt of the deed from the holder of the mortgage and upon such recording, the buyer shall be deemed to be a bona fide purchaser of such time-share and shall not be subject to claims by the prior owner thereof that the forfeiture proceedings under this section are invalid under SCRA; and

(vii) within 30 days after the closing and delivery of the deed or other instrument and affidavit of sale, the holder of the mortgage shall mail a notice detailing the results of the sale to the last known address of the former time-share owner and all parties which held a junior interest to that of such holder.

(f) In the event of a breach of the conditions of a mortgage on a time-share granted prior to the effective date of this section, the holder of the mortgage may conduct forfeiture proceedings of the interest of the time-share owner in the time-share under this section; provided, however, that if, at the same time the holder gives written notice of default to the time-share owner as provided in clause (a), the holder also gives written notice to the time-share owner stating that unless the time-share owner objects in writing to the non-judicial forfeiture within the 90-day period required by said clause (a), the holder will proceed to institute forfeiture proceedings pursuant to this section. The holder shall explain in the notice that the time-share owner has the right to a judicial foreclosure conducted pursuant to chapter 244 if the owner asserts the objection within the specified time period and shall include with the notice an objection form together with an envelope addressed to the holder. Failure of a time-share owner to object in a timely manner as required by this clause shall be deemed a waiver of the owner's right to a foreclosure pursuant to chapter 244,

which may include judicial foreclosure in a court action.

(g) In the case of a mortgage in which the term or maturity date of the mortgage is stated, section 33 of chapter 260 prohibiting the exercise of a power of sale, entry, possession or commencement of foreclosure proceedings after 5 years from the expiration of the term or maturity date shall not apply to forfeiture proceedings on mortgages for which an extension of the mortgage or acknowledgement or affidavit that the mortgage is not satisfied pursuant to sections 33 and 34 of chapter 260 has been recorded. For the purposes of this clause, completion of forfeiture proceedings shall be deemed to have occurred upon the recording of the deed and affidavit referenced in subclause (vi) of paragraph (2) of subsection (e).

Section 29B. The rights of a time-share owner shall be subject to forfeiture in accordance with clauses (a) to (d), inclusive, for non-payment of assessments.

(a) Upon default in payment of assessments, and after all applicable cure periods have expired, the association shall provide written notice of default in payment of assessments to the time-share owner at the last known address thereof by certified and first class mail and shall provide a reasonable opportunity to cure of not less than 90 days from the date of the mailing of the notice letter.

(b) Prior to offering a time-share for sale for nonpayment of assessments, the association shall attempt in good faith and with reasonable precaution, to determine whether any person subject to forfeiture proceedings under this section is entitled to protection under the Service members Civil Relief Act of 2003, 50 U.S.C. App. Sec. 517, hereinafter "SCRA", in the same manner as set forth in clauses (b) and (c) of section 29A.

(c) With respect to forfeiture proceedings based upon nonpayment of assessments by the owner of a time-share license, the person or entity entitled to receive such payments shall have the option to: (i) foreclose in the manner prescribed in the time-share instrument or, if not prescribed, in accordance with this section; or (ii) sell by public or private sale, conducted in accordance with Part 6 of Article 9 of chapter 106 of the General Laws.

(d) If, after the expiration of the 90-day period, the time-share owner has not cured the default in the manner prescribed and the association has determined in good faith and with reasonable precaution that the time-share owner is not entitled to protection under SCRA, the association shall conduct a public auction sale under the following conditions:

(1)(i) notice of such sale shall be published once in a public newspaper with a general circulation in the town or county in which the time-share property is situated not less than 30 days before the date of the sale, calculated by excluding the date of publication of the first notice and the date of sale;

(ii) at least 30 days prior to the date of sale, a written notice of the time, date and place of the auction shall be mailed, by certified mail and first class mail, to the last known address of the time-share owner of record, and to the last known address of all parties having a lien or other interest of record in the time-share estate or time-share license that is junior

to the assessment lien and to any party holding a first mortgage or first security interest of record on the time-share estate or time-share license.

(iii) the notice shall contain the name of the time-share owner, the book and page or document number of the deed or other instrument evidencing such time-share owner's fee interest, lease or license, as applicable, the date, time and place of the sale, a general description of the time-share, and the terms of the sale. If more than 1 time-share is to be included in the sale, all such time-shares may be combined into 1 notice of sale, with 1 property description being given as set forth herein below;

(iv) the notice of forfeiture proceedings with respect to a lien for nonpayment of assessments on a time-share estate shall be printed in substantially the following form:

NOTICE OF SALE OF TIME-SHARE ESTATE OR ESTATES UNDER
M.G.L. CHAPTER 183B, SECTION 29B.

By virtue of M.G.L. c. 183B, Section 29B and the constituent instruments of the _____ (name and address of time-share property), establishing a lien pursuant to M.G.L. c. 183B, Section 29 (a) on the time-share (or time-shares, if more than one) held by the time-share owner (or owners, if more than one) listed below, the time-share (or time-shares, if more than one) will be sold at Public Auction commencing at _____ on _____, 20__ at _____, Massachusetts. (For each time-share, list name and address of the time-share owner or owners, a general description of the time-share and the book and page or document number of the deed or other instrument evidencing such time-share owner's fee interest, lease, or license, as applicable).

TERMS OF SALE: (State the deposit amount to be paid by the purchaser at the time and place of the sale, and the times(s) for payment of the balance or the whole as the case may be. The time-share estates, if more than one, may be sold in individual lots or as a group.) Other terms to be announced at the sale.

Signed _____
Lienholder, or counsel; and

(v) the printed notice required under clause (iv), published in accordance with this section, together with such other or further notice, if any, shall be deemed a sufficient notice of the sale and the time-share shall be deemed to have been sold, and the instrument conveying the time-share from the foreclosing entity shall transfer the time-share subject to, and with the benefit of, all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments and security instruments recorded prior to the recording of the notice of lien, whether or not reference to such restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments or security instruments is made in the said instrument of conveyance; provided, however, that no purchaser at such sale shall be bound to complete the purchase if encumbrances exist, other than those included in the notice of sale, which are not stated at the sale and included in the

foreclosing entity's contract with the purchaser; and provided further, no such notice of sale shall be held to be invalid by reason of any error or irregularity which is neither substantial nor misleading.

(2)(i) Unless the notice of sale otherwise provides, the sale shall take place on the time-share property;

(ii) the sale shall be by public auction, conducted by a Massachusetts licensed auctioneer and at the discretion of the auctioneer, the auctioneer may dispense with the reading of the names of the time-share owners if there is more than one, the description of time-share if there is more than one and the recording information if there is more than one instrument.

(iii) all rights of redemption of the time-share owner shall be extinguished upon the sale of a time-share pursuant to this section;

(iv) the association, its manager, and any time-share owner may bid at the sale and the successful buyer at such sale shall take title to the time-share free and clear of any and all outstanding obligations of the prior time-share owner to the association, except that if the buyer intends to use the time-share during the same fiscal year of the association in which the time-share was purchased, the buyer shall be obligated to pay the assessment for that year;

(v) upon closing, the association shall provide the buyer with:

(A) a deed or other appropriate instrument transferring the rights to the time-share;

(B) an affidavit of sale attesting to compliance with all requirements of the forfeiture proceedings pursuant to this section and that the holder has attempted in good faith and with reasonable precaution, to determine whether any person subject to forfeiture proceedings under this section is entitled to protection under the SCRA; and

(C) a resale certificate as required by section 42, if requested by the buyer.

(vi) the buyer shall record the deed or other instrument and the affidavit of sale with the appropriate registry of deeds no more than the later of 90 days after the sale date, or 90 days after the receipt of the deed from the association. Upon such recording, the buyer shall be deemed to be a bona fide purchaser of the time-share and shall not be subject to claims by the prior owner thereof that the forfeiture proceedings under this section are invalid under SCRA; and

(vii) within 30 days after the closing and delivery of the deed or other instrument and affidavit of sale, the association shall mail a notice detailing the results of the sale to the last known address of the former time-share owner and all parties which held a junior interest to that of the holder.

SECTION 7. Section 5 of chapter 254 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 4 to 6, inclusive, the words "section six of chapter one hundred and eighty-three A, or subsection (a) of section twenty-nine of chapter one hundred and eighty-three B" and inserting in place thereof the following words:- or section 6 of chapter 183A.

SECTION 8. An association, organized pursuant to subsection a of section 19 of chapter 183B of the General Laws, shall provide a summary of this act within 60 days of the effective date of this act to time-share owners. The entire contents of this legislation shall be summarized in said letter. The notice shall be provided by: (i) first class mail sent to each unit owner's address; (ii) in the notice of an annual or special meeting of the owners; (iii) by posting said notice on the website of the applicable time-share plan; or (iv) by any owner communication used by the managing entity.

SECTION 9. In the case of a mortgage in which the term or the maturity date of the mortgage is stated, section 33 of chapter 260 of the General Laws prohibiting the exercise of a power of sale, entry, possession or commencement of foreclosure proceedings after 5 years from the expiration of the term or maturity date shall not apply to forfeiture proceedings executed within 36 months of the effective date of this act pursuant to section 29A of chapter 183B of the General Laws.

Approved, October 6, 2010.

Chapter 351. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF MANSFIELD AS THE SERGEANT DOUGLAS WEDDLETON MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

Bridge No. M-03-027 spanning interstate highways route 495 and 95 in the town of Mansfield shall be designated and known as the Sergeant Douglas Weddleton Memorial Bridge, in memory of Sergeant Douglas Weddleton, who served for many years as a sergeant in the state police. The Massachusetts Department of Transportation shall erect and maintain a suitable marker bearing the designation in compliance with the standards of the department.

Approved, October 6, 2010.

Chapter 352. AN ACT DESIGNATING A CERTAIN BIKE PATH ACCESS AREA IN THE TOWN OF MILLBURY AS THE HONORABLE RICHARD J. DWINELL BLACKSTONE VALLEY MEMORIAL ACCESS AREA.

Be it enacted, etc., as follows:

The access area servicing the portion of the Blackstone Valley bike path in the town of Millbury located at North Main street shall be designated and known as the Honorable Richard J. Dwinell Blackstone Valley memorial access area in recognition of former state representative Richard J. Dwinell's public service to the commonwealth and the town of Millbury. The Massachusetts Department of Transportation shall erect and maintain suitable

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markers bearing the designation in compliance with the standards of the department.

Approved, October 7, 2010.

**Chapter 353. AN ACT DESIGNATING THE STATE TRANSPORTATION
LIBRARY AS THE GEORGE M. SANBORN LIBRARY. .**

Be it enacted, etc., as follows:

The state transportation library, located in the state transportation building at 10 Park Plaza in the city of Boston, shall be designated and known as the George M. Sanborn Transportation Library and Resource Center in memory of George M. Sanborn. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing that designation in compliance with standards of the department.

Approved, October 7, 2010.

**Chapter 354. AN ACT TO FURTHER CLARIFY THE NANTUCKET ISLANDS
LAND BANK ACT REGARDING REAL PROPERTY INTERESTS
SUBJECT TO THE LAND BANK ACT'S TRANSFER FEE.**

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 669 of the acts of 1983, as amended by chapter 370 of the acts of 2002, is hereby amended by striking out the definition of "Real property interest" and inserting in place thereof the following definition:-

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under chapter 183A of the General Laws; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less than 30 years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

SECTION 2. Section 10A of said chapter 669 is hereby repealed.

SECTION 3. The first paragraph of section 12 of said chapter 669 is hereby amended by adding the following sentence:- Any otherwise exempt transfer shall not be ex-

empt in the event that such transfer, by itself or as part of a series of transfers, was made for the primary purpose of evading the fee imposed by section 10.

SECTION 4. Paragraph (i) of said section 12 of said chapter 669, as amended by section 4 of chapter 370 of the acts of 2002, is hereby amended by striking out, in lines 5 to 10, inclusive, the words “the transferor retains a controlling interest in such corporation after such formation or (ii) with respect to a partnership or limited liability companies, the transferor retains after such formation rights to capital interests in excess of fifty percent of the capital interests within such partnership or limited liability companies or retains rights to profit interests within such partnership or limited liability companies in excess of fifty percent of the total profit interests within such partnership or limited liability companies” and inserting in place thereof the following words:- the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

SECTION 5. Said section 12 of said chapter 669 is hereby further amended by striking out paragraph (j), as appearing in section 5 of chapter 370 of the acts of 2002, and inserting in place thereof the following paragraph:-

(j) Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property, including real property interests and other property received, which is the same fraction of the total property of the transferor corporation as the fraction of the corporation’s stock owned by the transferee prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferee receives property, including real property interests and other property received, which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

SECTION 6. Said section 12 of said chapter 669 is hereby further amended by adding the following paragraph:-

(n) Transfers of minority interests in corporations, trusts, partnerships or limited liability companies which are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

SECTION 7. Section 14 of said chapter 669 is hereby amended by adding the following paragraph:-

(d) If the commission has determined that a fee is due by asserting the application of the evasion of fee doctrine described in section 12, then the transferee shall have the burden of demonstrating by clear and convincing evidence as determined by the commission that the

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transfer, or series of transfers, possessed both: (i) a valid, good faith business purpose other than avoidance of the fee set forth in section 10 and (ii) economic substance apart from the asserted fee avoidance benefit. In all such cases, the transferee shall also have the burden of demonstrating by clear and convincing evidence as determined by the commission that the asserted non-fee-avoidance business purpose is commensurate with the amount of the fee pursuant to section 10 to be thereby avoided.

Approved, October 7, 2010.

Chapter 355. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MATTHEW NORMANDEAU, AN EMPLOYEE OF THE BRISTOL COUNTY 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 Bristol county 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, rule or regulation to the contrary, the Bristol county sheriff's office shall establish a sick leave bank for Matthew Normandeau, an employee of the 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 Matthew Normandeau. Whenever Matthew Normandeau 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. Sick leave bank days shall not be used for absences unrelated to any illness or disability that necessitated the establishment of the sick leave bank as determined by the sheriff's office.

Approved, October 14, 2010.

Chapter 356. AN ACT ESTABLISHING A SICK LEAVE BANK FOR IMANI SMITH, AN EMPLOYEE OF THE DEPARTMENT OF YOUTH SERVICES.

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

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Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of youth services shall establish a sick leave bank for Imani Smith, 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 Imani Smith. Whenever Imani Smith 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, October 14, 2010.

Chapter 357. AN ACT ESTABLISHING A SICK LEAVE BANK FOR NANETTE MALTAIS, AN EMPLOYEE OF THE DEPARTMENT OF REVENUE.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law or rule or regulation to the contrary, the department of revenue shall establish a sick leave bank for Nanette Maltais, 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 Nanette Maltais. Whenever Nanette Maltais 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, October 14, 2010.

Chapter 358. AN ACT RELATIVE TO THE HOISTING AND MACHINERY LAW.

Be it enacted, etc., as follows:

SECTION 1. Chapter 146 of the General Laws is hereby amended by striking out

section 53, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 53. (a) No person shall operate derricks, cableways, machinery used for discharging cargoes, temporary elevator cars used on excavation work or used for hoisting building material, when the motive power to operate such machinery is mechanical and other than steam, unless such person holds a license or temporary permit as provided in this section. The owner or user of such hoisting machinery shall not operate, or cause to be operated, such machinery, unless the person operating it is duly licensed or possesses a temporary permit. Any operator of such hoisting machinery when it is being used exclusively for agricultural purposes shall be exempt from this section.

(b) For licensing and temporary permitting purposes, the commissioner shall classify hoisting machinery by categories, depending on size, weight, common usage, capacity, power source or such other characteristics as the commissioner may find appropriate; provided, however, that at least 1 category shall include cranes and other similar equipment and 1 category shall include excavating equipment.

The commissioner shall adopt rules and regulations under chapter 30A, embodying the classifications of hoisting machinery and establishing criteria and procedures for the issuance, denial, renewal, suspension and revocation of licenses or temporary permits to operate hoisting machinery; provided, however, that a final adjudication that there has been a violation of federal or state occupational safety and health regulations or any other rule adopted by the department, shall be cause for the denial, suspension or revocation of any license or temporary permit issued under this section. Criteria for issuance of such license shall include, but not be limited to, training and experience requirements appropriate to the categories of machinery for which the license is intended. Criteria for issuance of such temporary permit shall include, but not be limited to, training and experience requirements appropriate to the compact equipment for which the permit is intended.

(c) Notwithstanding any other provisions of this chapter, actions taken or decisions reached by the department or a representative of the department regarding the issuance, denial, renewal, revocation or suspension of a license or temporary permit to operate hoisting machinery, or appeals resulting from such an issuance, denial, renewal, revocation or suspension, shall be taken or made on the basis of the rules and regulations adopted under this section.

(d) (1) In cases where a district engineering inspector finds that the immediate suspension or revocation of a license to operate hoisting machinery is necessary for the preservation of the public health or safety, the inspector may order such suspension or revocation pending the outcome of a hearing, under the procedures set forth in the regulations promulgated and adopted under this section.

(2) In cases where a district engineering inspector or party issuing a temporary permit finds that the immediate suspension or revocation of a temporary permit to operate hoisting machinery is necessary for the preservation of the public health or safety, the inspector may

order such suspension or revocation under the procedures set forth in the regulations promulgated and adopted under this section.

(e) The following entities shall be exempt from this section: (1) a utility company which has self propelled truck mounted cranes, derricks and similar hoisting equipment which is used for the maintenance and construction of the equipment of such company; (2) a company which operates hoisting equipment specifically limited to industrial lift trucks, fork lifts, overhead cranes and other hoisting equipment, specifically authorized by the department and used exclusively on company property; and (3) any company which has equipment such as cranes, derricks and similar hoisting equipment used only on utility company property.

Such exemption shall only apply if a company has: (1) at least 1 supervisory employee on site at all times of operation who holds a license issued by the department under this section and is designated as the responsible person in charge of hoisting equipment during that period of operation; (2) an inservice training program for employees approved by the department which may be audited by the department; and (3) company licenses issued to each trained and certified employee which shall contain a picture of the licensee, a list of the specific hoisting equipment the licensee has been qualified to operate and the signature of the supervisor who holds a department license.

Any other company which has equipment such as cranes, derricks and similar hoisting equipment used only upon utility company property shall also be exempt from this section; provided, however, that the company has complied with all of the requirements of the preceding paragraph.

SECTION 2. Said chapter 146 is hereby further amended by striking out section 54, as so appearing, and inserting in place thereof the following section:-

Section 54. A license or temporary permit to operate hoisting machinery shall be carried on the person of the operator or apprentice operator while operating such hoisting machinery. In the case of a temporary permit to operate compact hoisting equipment the operator must also carry a valid driver's license.

SECTION 3. Section 56 of said chapter 146, as so appearing, is hereby amended by adding the following sentence:- The commissioner may authorize a person or entity offering the short term rental of compact hoisting equipment to examine applicants and issue temporary permits according to regulations promulgated by the department.

SECTION 4. Section 58 of said chapter 146, as so appearing, is hereby amended by inserting after the word "examinations", in line 1, the following words:- , except examinations for temporary permits,.

SECTION 5. Said chapter 146 is hereby further amended by inserting, after section 65, the following section:-

Section 65A. Whoever desires to act as an operator of compact hoisting machinery for rent for which licensure is required under section 53, on a temporary basis, shall apply to the person or entity from which the machinery is to be rented for a temporary permit; pro-

vided, however, that the person or entity renting such machinery shall have obtained authorization to issue temporary permits from the commissioner. If the applicant meets the criteria for issuance of a temporary permit established by the commissioner under said section 53, such applicant shall then be required to pass an examination under the standards set in the regulations promulgated under said section 53. If the applicant passes the examination, the applicant shall be entitled to a temporary permit to operate hoisting machinery in the category or categories for which the applicant has applied and been examined. No temporary permit may be renewed and no person may be issued more than 1 temporary permit in any 45 day period. The commissioner may periodically review the records of any person or entity that is authorized to issue temporary permits to ensure compliance with this section and any regulation promulgated under said section 53.

Approved, October 14, 2010.

Chapter 359. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEARS 2010 AND 2011 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 years 2010 and 2011, therefore 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 sections 2, 2A, 3, 3A and 3E 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. Notwithstanding any general or special law to the contrary, appropriations made in section 2 and section 2A shall not revert and shall be available for expenditure until June 30, 2010.

SECTION 2.

OFFICE OF THE STATE COMPTROLLER
Office of the State Comptroller

1599-3384 \$4,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Department of Revenue

1232-0100	\$10,900,000
1232-0200	\$230,905

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.

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

0699-0005	For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, the state treasurer may retain and expend in fiscal years 2010 and 2011 payments received by the commonwealth from the United States Treasury for subsidies related to tax credit bonds issued by the commonwealth not to exceed \$50,000,000 for the purpose of paying interest on commonwealth long-term debt; and provided further, that the state treasurer may retain up to \$25,000,000 in premiums paid on the sales of revenue anticipation notes and expend said premium payments for the purposes of paying principal and interest on account of the revenue anticipation notes provide that this appropriation shall not expire until June 30, 2011 . . .	\$75,000,000
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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Office of the Secretary of Administration and Finance

1599-4302	For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable county sheriff's department and the National Association of Government Employees, Local 220, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that
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	the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$6,095
1599-4303 For	a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable county sheriff's department and the American Federation of State, County and Municipal Employees/AFL-CIO, Council 93, Local 1462C, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$11,551
1599-4305 For	a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable county sheriff's department and the International Brotherhood of Correctional Officers, Local 217 (Radio Technicians), and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits	

necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$18,482

1599-4307 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable county sheriff's department and the National Association of Government Employees, Local 58, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$4,681

1599-4308 For a reserve to meet the fiscal year 2011 costs of salary adjust-

ments and other economic benefits authorized by the collective bargaining agreement between the Berkshire county sheriff's department and the International Brotherhood of Correctional Officers/AFL-CIO, Local RI-297, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$64,443

1599-4309 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Berkshire county sheriff's department and the Berkshire County Sheriff's Office Employees Association, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$36,163

1599-4310	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Bristol county sheriff's department and the National Association of Government Employees, Local RI 163, Units A and C, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$39,446
1599-4313	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Bristol county sheriff's department and the National Correctional Employees Union, Unit B, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items	

	of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$12,458
1599-4314	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin county sheriff's department and the Non-Unit Employees' Association/NCEU, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$64,741
1599-4315	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin county sheriff's department and the National Correctional Employees Union, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by	

	this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$71,739
1599-4316 For	a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Hampden County National Correctional Employees Union, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$209,358
1599-4317 For	a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Non-Uniformed Correctional Officers Association, and to meet the fiscal year 2011 costs of	

salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$240,909

1599-4318 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampden county sheriff's department and the Superior Correction Officer Association, and to meet the fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; and provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$46,698

1599-4319 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff's department and the Non-Uni-

formed Correctional Officers Association, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$36,329

1599-4320 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff's department and the Superior Officers Association, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and

	means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$13,494
1599-4321	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff's department and the Sheriff's Office Treatment Association, Local 1459, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$9,713
1599-4322	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex county sheriff's department and the New England Police Benevolent Association/AFL-CIO, Local 500, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which	

otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$235,177

1599-4323 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex county sheriff's department and the Superior Officers Association, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$51,679

1599-4324 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex county sheriff's department and the Teamsters Local 122, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits

necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011

\$5,032

1599-4325 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Norfolk county sheriff's department and the National Association of Government Employees, RI-202, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended

	funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$25,026
1599-4327	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Norfolk county sheriff's department and the National Association of Government Employees, Local 296, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$28,888
1599-4333	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the National Association of Government Employees, Local 298, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may	

	transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$57,708
1599-4340	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Berkshire county sheriff's department and the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers - Communications Workers of America, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal years 2010 and 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$2,809
1599-4360	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Franklin county sheriff's department and the Franklin Captains NCEU, and to meet the fiscal year 2010 and fiscal	

year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$10,775

1599-4361 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Hampshire county sheriff's department and the Hampshire Correction Officers NCEU, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and

	means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$42,876
1599-4362	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Bristol county sheriff's department and the Bristol K-9 Unit/NCEU, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$3,469
1599-4400	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Police Officers, Local 432 (A&B Units) (Unit A06), for the Amherst campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the	

confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$34,560

1599-4401 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the University Staff Association/MTA/NEA (Unit A08), for the Amherst campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$284,512

1599-4402 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Non-Exempt Supervisors

Unit, Unit B/MTA/NEA (Unit A15), for the Amherst campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$19,667

1599-4403 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Massachusetts Society of Professors/Faculty Staff Union/MTA/NEA (Units A50 and B40), for the Amherst and Boston campuses, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these

	costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$1,368,521
1599-4404	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Professional Staff Union/MTA/NEA (Units A52 and B42), for the Amherst and Boston campuses, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$1,397,337
1599-4405	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Classified Staff Union/MTA/NEA (Units B31 and B32), for the Boston campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that	

the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$179,382

1599-4407 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Teamsters, Local 25 (Unit B33), for the Boston campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$8,574

- 1599-4409 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the American Federation of State, County and Municipal Employees, Local 507, AFL-CIO (Unit D82), for the Dartmouth campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$66,590
- 1599-4410 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Brotherhood of Police Officers, for the Dartmouth campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that

the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$14,234

1599-4411 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the American Federation of Teachers, Local 1895, AFL-CIO, Educational Services Unit (Unit D85), for the Dartmouth campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$145,171

1599-4412 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Massachusetts Society of Professors/Lowell/MTA/NEA (Unit L90), for the

Lowell campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$623,317

1599-4413 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the MTA/NEA Clerical/Technical Unit (Unit L92), for the Lowell campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house

	and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$18,571
1599-4414	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the MTA/NEA Maintenance/Trades Unit (Unit L93), for the Lowell campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$36,333
1599-4415	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the International Association of University Police Officers for the Lowell campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary	

of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$263,733

1599-4416 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Service Employees International Union, Local 888 (Unit L95), for the Lowell campus, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$369,034

1599-4419 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits au-

thorized by the collective bargaining agreement between the Board of Higher Education and the Association of Federal, State, County and Municipal Employees, Council 93, Local 1067, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$1,174,149

1599-4420 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/National Education Association Associated Professional Administrators, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items

	of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$1,967,273
1599-4421	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/National Education Association Associated Massachusetts Community Colleges Council, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$28,841
1599-4422	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/National Education Association State College Faculty, and to meet the fiscal year 2010 and fiscal year 2011	

costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011 \$1,582,420

1599-4424 For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Dartmouth AFT/MFT Faculty & Librarians, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended

	funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$622,418
1599-4425	For a reserve to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the University of Massachusetts and the Dartmouth Maintenance & Trades MFT, and to meet the fiscal year 2010 and fiscal year 2011 costs of salary adjustments and other economic benefits necessary to provide equal adjustments and benefits to employees employed in confidential positions which otherwise would be covered by this agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, that the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocations thereof for fiscal year 2010 and fiscal year 2011 amounts that are necessary to meet these costs where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert and shall be made available for expenditure until June 30, 2011	\$33,232

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
Department of Fish and Game

2300-1011	For the department which may expend revenues in an amount not to exceed \$200,000 from the administrative handling charge revenues received from electronic transactions processed through its online licensing and registration systems under chapter 61 of the acts of 2007; 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 commissioner may incur expenses and the comptroller may certify for payment the amounts not to exceed the lower of this authorization or	
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the most recent revenue estimate, as reported in the state
accounting system \$200,000

SECTION 2C.I. For the purpose of making available in fiscal year 2011 balances of appropriations which otherwise would revert on June 30, 2010, 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 the general appropriation act for fiscal year 2011; provided, that 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 the general appropriation act; 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 from the fund or funds designated for the corresponding item in said section 2 or 2A of this act or in prior appropriation acts. The sums re-appropriated in this section shall be in addition to any amounts available for said purposes.

APPEALS COURT

0322-0100 \$135,000

TRIAL COURT

0330-0300 \$9,000,000

OFFICE OF THE SECRETARY OF STATE

0521-0000 \$257,041

OFFICE OF THE STATE COMPTROLLER

Office of the State Comptroller

1599-3384 \$4,000,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1100-1560 \$579,905

Reserves

1599-4281 \$10,000

1599-4282 \$10,000

Chap. 359

1599-4283	\$10,000
1599-4284	\$10,000
1599-4302	\$6,095
1599-4303	\$11,551
1599-4307	\$4,681
1599-4308	\$64,443
1599-4309	\$36,163
1599-4316	\$209,358
1599-4317	\$240,909
1599-4318	\$46,698

Department of Revenue

1232-0100	\$10,900,000
1232-0200	\$230,905

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Office of the Secretary of Energy and Environmental Affairs

2000-1700	\$100,000
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EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Office of the Secretary of Health and Human Services

4000-1700	\$1,350,000
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Division of Medical Assistance

4000-0600	\$1,788,197
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EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Office of the Secretary of Housing and Economic Development

7002-0017	\$300,000
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EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Department of Workforce Development

7003-0701	\$5,000,000
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EXECUTIVE OFFICE OF EDUCATION

Department of Early Education and Care

3000-4060	\$5,000,000
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Office of the Secretary of Education

7009-1700 \$250,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary of Public Safety and Security

8000-1700 \$160,000

State Police

8100-0000 \$5,223,089

Department of Corrections

8900-0001 \$7,086,698

SECTION 2C.II. For the purpose of making available in fiscal year 2011 balances of retained revenue and intragovernmental chargeback authorizations which otherwise would revert on June 30, 2010, the unexpended balances of the authorizations listed below, not to exceed the amount specified below for each item, are hereby re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2B of the general appropriation act for fiscal year 2011; provided, that for items which do not appear in section 2 or 2B of the general appropriation act, the amounts in this section are re-authorized for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts and section 2B of any other appropriation act. Amounts in this section are re-authorized from the fund or funds designated for the corresponding item in said section 2 or 2B of the general appropriation act; however, for items which do not appear in said section 2 or 2B of the general appropriation act, the amounts in this section are re-authorized from the fund or funds designated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts and section 2B of any other appropriation act. The sums re-authorized in this section shall be in addition to any amounts available for those purposes.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Fish and Game

2300-1011 \$200,000

To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2011, the sums set forth in section 3 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, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 3.

JUDICIARY

Suffolk District Attorney

0340-0100 \$151,884

Middlesex District Attorney

0340-0200 \$130,386

Eastern District Attorney

0340-0300 \$80,110

Worcester District Attorney

0340-0400 \$84,664

Hampden District Attorney

0340-0500 \$76,230

Hampshire/Franklin District Attorney

0340-0600 \$47,464

Norfolk District Attorney

0340-0700 \$78,100

Plymouth District Attorney

0340-0800 \$67,746

Bristol District Attorney

0340-0900 \$70,486

Cape and Islands District Attorney

0340-1000 \$34,454

Berkshire District Attorney

0340-1100 \$33,550

DISTRICT ATTORNEYS' ASSOCIATION

0340-2100 \$490,470

0340-8908 \$38,534

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Department of Revenue

1201-0100 \$1,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Executive Office of Health and Human Services

4000-0500 \$27,624,511
4000-0700 \$194,791,454
4000-0950 \$79,190,264
4000-0990 \$500,000
4000-1405 \$27,501,735

Department of Public Health

4510-0616 \$528,223
Commonwealth Substance Abuse Treatment
and Prevention Fund 100%
4513-1020 \$2,000,000
4590-0250 \$326,958

OFFICE OF CHILDREN, YOUTH AND FAMILY SERVICES
Department of Children and Families

4800-0015 \$483,561
4800-0025 \$168,718

OFFICE OF DISABILITIES AND COMMUNITY SERVICES
OFFICE OF HEALTH SERVICES
Department of Mental Health

5095-0015 \$6,426,590

Department of Developmental Services

5911-1003 \$2,500,000
5920-2000 \$11,285,254
5920-2010 \$4,469,447
5920-2025 \$8,000,000
5920-3000 \$1,516,886

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT
Department of Housing and Community Development

7004-0101 \$22,000,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY
Department of Correction

8900-0001 \$14,000,000

EXECUTIVE OFFICE OF ELDER AFFAIRS
Office of the Secretary

9110-1630 \$3,970,268
9110-1633 \$1,426,550

SECTION 3A. 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, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

JUDICIARY
Trial Court

0330-0312 For the office of the Trial Court for losses in revenue associated
with Civil Motor Vehicle Infraction fees \$300,000

Department of Revenue

1201-0130 For the department of revenue which may expend for the operation of the department not more than \$22,730,000 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 2007, 2008, 2009 and 2010 \$22,730,000

1750-0102 For the human resources division which may expend not more than \$2,031,977 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 service examination, notwithstanding clause (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary; provided further, that the human resources division may also expend revenues collected for implementation of the health and physical fitness standards program established pursuant to sections 61A and the wellness program established pursuant to section 61B of chapter 31 of the General Laws and those programs in chapter 32 of the General Laws; provided further, 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; 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; and provided further, that the division shall report to the house and senate committees on ways and means by February 1, 2011, on the projected costs of the program for fiscal year 2011 \$2,031,977

Reserves

1599-1759 For a reserve account for the costs of providing safe and clean water to residents in the town of Stow who are serviced by Assabet Water Company \$100,000

Department of Public Health

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 programs \$157,000

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 diagnose prescription drugs \$93,000

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Department of Workforce Development

7003-0703 For the purposes of re-training of employees displaced due to the closure of dog and horse racetrack operations \$2,000,000
Workforce Training Fund 100.000%

SECTION 4. The first sentence of clause (8) of subsection (a) of section 172 of chapter 6 of the General Laws, as appearing in section 21 of chapter 256 of the acts of 2010, is hereby amended by striking out the word “energy” and inserting in place thereof the following words:- cable and the department of public utilities.

SECTION 5. The second sentence of said clause (8) of said subsection (a) of said section 172 of said chapter 6, as so appearing, is hereby amended by striking out the word “utilities” and inserting in place thereof the following words:- telecommunications and cable and the department of public utilities.

SECTION 6. Clause (25) of said subsection (a) of said section 172 of said chapter 6, as so appearing, is hereby amended by striking out the words “social services” and inserting in place thereof the following words:- children and families.

SECTION 7. Clause (5) of subsection (b) of section 14C of chapter 7 of the General Laws, as appearing in section 8 of chapter 131 of the acts of 2010, is hereby amended by striking out the figure “88” and inserting in place thereof the following figure:- 89.

SECTION 8. Section 61 of chapter 10 of the General Laws is hereby amended by striking out the figure “2010”, inserted by section 10 of chapter 120 of the acts of 2009, and inserting in place thereof the following figure:- 2011.

SECTION 9. Section 6A of chapter 18B of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The commissioner shall appoint a foster care review director who shall establish an independent foster care review unit within the department. The director shall appoint, subject to the approval of the commissioner, the members of the unit who shall be employees of the department, shall devote their full time exclusively to case reviews and shall convene and conduct administrative case reviews of the status of each child in the care of the department and young adults who remain under the responsibility of the department pursuant to subsection (f) of section 23 of chapter 119, at least once every 6 months. The reviews shall be performed by panels consisting of 1 member of the unit and 2 other persons, at least 1 of whom shall not be an employee of the department and represent to the maximum extent feasible the various socioeconomic, racial and ethnic groups served by the panel. No panel member shall be the social worker with direct case responsibility for the child or young adult whose case is being reviewed or the immediate supervisor of the social worker. Such reviews shall be held at convenient locations throughout the commonwealth and shall be chaired by the member of the panel from the unit. Panel members shall have sufficient experience or training to enable them to make recommendations.

SECTION 10. Said section 6A of said chapter 18B, as so appearing, is hereby further amended by inserting after the word “agent”, in line 29, the following words:- , or live permanently with kin or another permanent planned living arrangement.

SECTION 11. Section 4 of chapter 21L of the General Laws, is hereby amended by striking out subsection (f), as amended by section 3 of chapter 101 of the acts of 2009, and inserting in place thereof the following subsection:-

(f) Whoever owns or operates a tank vessel carrying 6,000 or more barrels of oil from which oil is spilled into Buzzards Bay and who: (i) fails to provide notice under subsection (a) of section 9 of chapter 21M; or (ii) if such vessel was unaccompanied by a tugboat escort, provides notice under said subsection (a) of said section 9 of said chapter 21M, but fails to request a state pilot under subsection (b) of said section 9 of said chapter 21M; and (iii) violates this chapter shall be assessed triple the penalties provided in this section.

SECTION 12. The first sentence of section 1 of chapter 23A of the General Laws, as appearing in section 13 of chapter 240 of the acts of 2010, is hereby amended by inserting after the words “director of” the following words:- the Massachusetts office of.

SECTION 13. The first sentence of subsection (d) of section 13A of said chapter 23A of the General Laws, as appearing in section 32 of chapter 240 of the acts of 2010, is hereby amended by striking out the word “bi-annually” and inserting in place thereof the following word:- biennially.

SECTION 14. Subparagraph (b) of paragraph 5 of section 30 of chapter 63 of the General Laws, as amended by section 120 of chapter 240 of the acts of 2010, is hereby amended by striking out the last paragraph and inserting in place thereof the following para-

graph:-

Losses sustained in any taxable year prior to January 1, 2010, may be carried forward for not more than 5 years and may not be carried back. Losses sustained in any taxable year beginning on or after January 1, 2010, may be carried forward for not more than 20 years and may not be carried back.

SECTION 15. The definition of “Police chief” in section 1 of chapter 90C of the General Laws, as amended by section 74 of chapter 189 of the acts of 2010, is hereby further amended by inserting after the words “the chairman of the Massachusetts Department of Transportation” the following words:- , or the director of environmental law enforcement within the executive office of energy and environmental affairs.

SECTION 16. The first paragraph of paragraph (4) of subsection (A) of section 3 of said chapter 90C, as amended by section 57 of chapter 131 of the acts of 2010, is hereby further amended by adding the following words:- ; provided, however, that the registrar may retain from the court filing fees an amount not greater than \$200,000 for fiscal year 2011 for information technology associated with the implementation of this section; and provided, further that the registrar may retain an amount not greater than \$100,000 annually for personnel costs associated with the processing of those filing fees.

SECTION 17. Chapter 111 of the General Laws is hereby amended by inserting after section 5A the following section:-

Section 5A½. (a) There is hereby established and set up on the books of the commonwealth a separate trust fund to be known as the Emergency Stockpile Trust Fund to effectively facilitate emergency management and pandemic preparedness in accordance with section 5A. The fund shall consist of monies collected under this section and any income derived from the investing of amounts credited to the fund. The department shall accept monies from municipalities, counties, healthcare facilities and other entities to participate in federal contracts under 42 U.S.C. section 247d-6b and made available to states under 42 USC section 247d-3a. The commissioner shall be the trustee of the fund.

(b) Participating municipalities, counties, and healthcare facilities shall cooperate with the department to ensure that the lowest cost prices are obtained for necessary medicines and associated supplies. The commissioner, or the commissioner’s designee, shall decide whether medicine and associated supplies are acceptable for the purposes of this section. The department shall designate an employee within the department to administer the development and execution of the fund.

(c) The department shall oversee the distribution of the funds and shall ensure that the distribution complies with the commonwealth’s emergency management plan. All monies deposited in the fund shall be expended on behalf of the contributing municipalities, counties or healthcare facilities for the purchase of health care products and supplies needed for the purposes set forth in the commonwealth’s comprehensive emergency management plan and made available under contracts accessible to the commonwealth under 42 USC section 247d-3a and to support any reasonable and necessary administrative costs incurred

by the department in managing the purchase of such products and supplies or otherwise overseeing the distribution of monies deposited into the fund. All monies deposited into the fund shall be expended exclusively for the purposes set forth in this section.

SECTION 18. Section 21 of chapter 119 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following definition:- “Young adult”, a person between the ages of 18 and 22.

SECTION 19. Section 23 of said chapter 119 is hereby amended by striking out subsection (f), as so appearing, and inserting in place thereof the following subsection:-

(f) The department shall offer to continue its responsibility to any young adult who is under the custody, care, or responsibility of the department including, but not limited to, those persons who meet any of the criteria set forth in 42 USC § 675(8)(B)(iv): (i) for the purposes of specific educational or rehabilitative programs, or (ii) to promote and support that person in fully developing and fulfilling that person's potential to be a participating citizen of the commonwealth under conditions agreed upon by both the department and that person. The department's continued responsibility for such persons is contingent upon the express written consent of the person or their guardian unless: (i) before reaching the age of 18, the person had an intellectual disability and was declared mentally incompetent under clause (3) of subsection (a) while under the responsibility of the department; or (ii) the person is under the responsibility of the department pursuant to section 5-305 of chapter 190B. The purposes and conditions of such responsibility may be reviewed and revised or terminated by either the person or the department; provided, however, that within 90 days before the termination of such responsibility, the department shall provide the person with assistance and support in developing a transition plan which fulfills the requirements of 42 USC § 675(5)(H). If after termination the person requests that the department renew its responsibility therefor, the department shall make every reasonable attempt to provide a program of support which is acceptable to the person and which permits the department to renew its responsibility; provided, however, that the department may require the person to meet 1 of the criteria set forth in 42 USC § 675(8)(B)(iv). If the department renews its responsibility, all other provisions of this subsection shall apply. The department shall report annually to the child advocate, the senate and house chairs of the joint committee on children, families and persons with disabilities and the chairs of the senate and house committees on ways and means on the number of persons it serves and declines to serve under this subsection.

SECTION 20. Section 29 of said chapter 119, as so appearing, is hereby amended by striking out the first 2 paragraphs and inserting in place thereof the following 2 paragraphs:-

The following persons shall have and shall be informed of the right to counsel, and the court shall appoint counsel for all such persons if the person is not able to retain counsel: (i) an adult who is under the responsibility of the department under clause (1) of subsection (a) of section 23; (ii) a child who is before the court under clauses (1) and (3) of said subsection (a) of said section 23, sections 24 to 27, inclusive, or section 29B; (iii) a child in

a custody proceeding where the department or a licensed placement agency is a party; and (iv) any young adult to whom subsection (f) of section 23 applies.

Whenever the department or a licensed child placement agency is a party to child custody proceedings, the parent, guardian or custodian of the child, or a parent or guardian of an adult who is the responsibility of the department under clause (3) of subsection (a) of section 23: (i) shall have and be informed of the right to counsel at all such hearings, including proceedings under sections 5-201, 5-204 or 5-206 of chapter 190B, and that the court shall appoint counsel if the parent, guardian or custodian is financially unable to retain counsel; and (ii) shall have and be informed of the right to a service plan or case plan for the child and the child's family, or an adult who is the responsibility of the department under clause (3) of subsection (a) of section 23, which complies with applicable state and federal laws and regulations for these plans. Any young adult to whom subsection (f) of section 23 applies is also entitled to such service plan or case plan. The probate and family court and the juvenile court departments of the trial court shall establish procedures for: (i) notifying the parent, guardian or custodian of these rights; and (ii) appointing counsel for an indigent parent, guardian or custodian within 14 days of a licensed child placement agency filing or appearing as a party in any such action. The department or agency shall provide a copy of the service or case plan to the parent, guardian or custodian of the child or of an adult who is the responsibility of the department under clause (3) of subsection (a) of section 23, or to an adult who is the responsibility of the department under clause (3) of subsection (a) of section 23 or section 5-305 of chapter 190B, or any young adult to whom subsection (f) of section 23 applies and to the attorneys for all parties appearing in the proceeding within 45 days of the department or agency filing an appearance in such proceeding. Thereafter, any party may have the original or changed plan introduced as evidence, and with the consent of all parties the plan shall be filed with the court. Notwithstanding this section, the court may make such temporary orders as may be necessary to protect the adult who is under the responsibility of the department under clause (3) of subsection (a) of section 23 or the child and society.

SECTION 21. Said chapter 119 is hereby further amended by striking out section 29B, as so appearing, and inserting in place thereof the following section:-

Section 29B. (a) Except as provided in subsection (d), within 12 months of the original commitment, grant of custody or transfer of responsibility of a child to the department by a court of competent jurisdiction and not less than every 12 months thereafter while the child remains in the care of the department, the committing court shall conduct a permanency hearing, in accordance with rules established by the chief justice for administration and management, to determine and periodically review thereafter the permanency plan for the child. The plan shall address whether and, if applicable, when: (i) the child will be returned to the parent; (ii) the child will be placed for adoption and the steps the department will take to free the child for adoption; (iii) the child will be referred for legal guardianship; (iv) the child will be placed in permanent care with relatives; or (v) the child

will be placed in another permanent planned living arrangement. The department shall file a permanency plan prior to a permanency hearing that shall address the above placement alternatives. The court shall consult with the child in an age-appropriate manner about the permanency plan developed for the child.

(b) The committing court shall continue to hold annual permanency hearings as described in subsection (a) for young adults to whom subsection (f) of section 23 applies. The young adult shall be entitled to counsel under section 29.

(c) If a child or a young adult is not to be returned to the child or young adult's parents, the permanency plan shall consider in-state and out-of-state placement options. In the case of a child placed in foster care outside the state in which the home of the parents of the child is located or a young adult in an out-of-state placement, the permanency plan shall also address whether the out-of-state placement continues to be appropriate and in the best interests of the child or young adult. In the case of a child who has attained age 16 or any young adult, the permanency plan shall also address the services needed to assist the child or young adult in making the transition from foster care to independent living; provided, however, that the court shall consult with the child or young adult in an age-appropriate manner about the permanency plan. If a person in the custody of or under the responsibility of the department has attained the age of 17 years and 9 months, the permanency plan shall also address the status of and the topics of the transition plan required under 42 USC § 675(5)(H); provided, however, that the court shall retain jurisdiction until it finds, after a hearing at which the person is present unless the person chooses otherwise, that a satisfactory transition plan has been provided for the person.

(d) In conducting a permanency hearing, the court may make any appropriate order as may be in the child or the young adult's best interests including, but not limited to, orders with respect to care or custody. At the same time, the court shall consider the provisions of section 29C, and shall make the written certification and determinations required by said section 29C. The health and safety of the child or young adult shall be of paramount, but not exclusive, concern.

The permanency hearing for a child or young adult shall be held within 30 days of a hearing at which a court determines that reasonable efforts to preserve and reunify families are not required pursuant to section 29C. The court may, however, make such determination at the time of the permanency hearing.

If continuation of reasonable efforts to return a child or young adult safely to the child or young adult's parent or guardian are found to be inconsistent with the permanency plan for the child or young adult or if reasonable efforts are not required pursuant to section 29C, or in the case of any young adult to whom subsection (f) of section 23 applies, the department shall make reasonable efforts to place the child or young adult in a timely manner in accordance with the permanency plan including, if appropriate, through an interstate placement, and to complete whatever steps are necessary to finalize the permanent placement of the child or young adult. In subsequent permanency hearings held on behalf of the child

or young adult, the court shall determine whether the department has made such efforts in accordance with section 29C.

(e) A child, parent of a child, guardian, young adult, or the department may appeal to the appeals court from the determination or order of the trial court. The claim of appeal shall be filed in the office of the clerk or register of the trial court within 30 days following the court's determination or order. Thereafter, the appeal shall be governed by the Massachusetts Rules of Appellate Procedure. The scope of appellate review shall be limited to abuse of judicial discretion.

SECTION 22. Section 29C of said chapter 119, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

If a young adult continues under the responsibility of the department pursuant to subsection (f) of section 23, the committing court shall continue to annually determine whether the department or the department's agent has made reasonable efforts to achieve the permanent plan approved by the court under section 29B.

SECTION 23. Section 20B of chapter 148 of the General Laws, as amended by section 2 of chapter 160 of the acts of 2010, is hereby further amended by striking out the final paragraph and inserting in place thereof the following paragraph:-

The marshal shall not issue or renew a certificate of competency and shall suspend a certificate of competency of any person who is the subject of a restraining order issued pursuant to chapter 209A while that order is in effect.

SECTION 24. Section 7 of chapter 150E of the General Laws is hereby amended by inserting after the word "Massachusetts", in lines 8 and 22, as appearing in the 2008 Official Edition, the following words:- , the chief justice for administration and management.

SECTION 25. Section 138 of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 39 and 40 and in lines 57 and 58, the words "owned or operated by a customer which is" and inserting in place thereof, in each instance, the following word:- of.

SECTION 26. Said section 138 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 48, the words "if a customer is" and inserting in place thereof the following words:- for a Class III net metering facility of.

SECTION 27. Said section 138 of said chapter 164, as so appearing, is hereby further amended by inserting after the definition of "Net metering" the following definition:-

"Net metering facility of a municipality or other governmental entity", a Class II or III net metering facility: (1) that is owned or operated by a municipality or other governmental entity; or (2) of which the municipality or other governmental entity is assigned 100 per cent of the output.

SECTION 28. Section 139 of said chapter 164, as so appearing, is hereby amended by striking out in lines 9, 11 and 13 and 14, the words "wind or solar".

SECTION 29. Subsection (f) of said section 139 of said chapter 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof

the following 3 sentences:- The aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity shall not exceed 1 per cent of the distribution company's peak load. The aggregate net metering capacity of net metering facilities of a municipality or other governmental entity shall not exceed 2 per cent of the distribution company's peak load. The maximum amount of generating capacity eligible for net metering by a municipality or other governmental entity shall be 10 megawatts.

SECTION 30. Said section 139 of said chapter 164, as so appearing, is hereby further amended by inserting after the word "section", in line 74, the following words:- , including adoption of a system that provides proposed net metering facilities of a municipality or other governmental entity an assurance of net metering eligibility at the time the facilities meet criteria established by the department. Nothing in this subsection shall limit the department's authority to adopt rules and regulations relating to other proposed net metering facilities.

SECTION 31. Chapter 176D of the General Laws is hereby amended by inserting after section 3B the following section:-

Section 3C. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Ambulance service provider", a person or entity licensed by the department of public health under section 6 of chapter 111C to establish or maintain an ambulance service.

"Ambulance services", 1 or more of the services that an ambulance service provider may render under its ambulance service license.

"Insurance policy or contract", a contract of insurance, motor vehicle insurance, indemnity, medical or hospital service, dental or optometric, suretyship or annuity issued, proposed for issuance or intended for issuance by any insurer.

"Insured", an individual entitled to ambulance services benefits under an insurance policy or contract.

"Insurer", a person as defined in section 1 of chapter 176D; any health maintenance organization as defined in section 1 of chapter 176G; a nonprofit hospital service corporation organized under chapter 176A; any organization as defined in section 1 of chapter 176I that participates in a preferred provider arrangement as defined in said section 1 of said chapter 176I; any carrier offering a small group health insurance plan under chapter 176J; any company as defined in section 1 of chapter 175; any employee benefit trust; any self-insurance plan, and any company certified under section 34A of chapter 90 and authorized to issue a policy of motor vehicle liability insurance under section 113A of chapter 175 that provides insurance for the expense of medical coverage.

(b) Notwithstanding any general or special law to the contrary, in any instance in which an ambulance service provider provides an ambulance service to an insured but is not an ambulance service provider under contract to the insurer maintaining or providing the insured's insurance policy or contract, the insurer maintaining or providing such insurance policy or contract shall pay the ambulance service provider directly and promptly for the ambulance service rendered to the insured. Such payment shall be made to the ambulance

service provider notwithstanding that the insured's insurance policy or contract contains a prohibition against the insured assigning benefits thereunder so long as the insured executes an assignment of benefits to the ambulance service provider and such payment shall be made to the ambulance service provider in the event an insured is either incapable or unable as a practical matter to execute an assignment of benefits under an insurance policy or contract pursuant to which an assignment of benefits is not prohibited, or in connection with an insurance policy or contract that contains a prohibition against any such assignment of benefits. An ambulance service provider shall not be considered to have been paid for an ambulance service rendered to an insured if the insurer makes payment for the ambulance service to the insured. An ambulance service provider shall have a right of action against an insurer that fails to make a payment to it pursuant to this subsection.

SECTION 31A. The fourth sentence of subsection (c) of section 6 of chapter 176J of the General Laws, as amended by section 29 of chapter 288 of the acts of 2010, is hereby further amended by striking out the words "Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4" and inserting in place thereof the following words:- Any rates of reimbursement included in the rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

SECTION 31B. Clause (i) of subsection (d) of said section 6 of said chapter 176J, as appearing in section 31 of said chapter 288 is hereby amended by striking out the word "presumptively".

SECTION 32. The second sentence of subsection (b) of section 12 of said chapter 176J, as appearing in section 34 of said chapter 288 is hereby amended by striking out the words ", for each approved group purchasing cooperative, in the aggregate, shall not exceed 85,0000" and inserting in place thereof the following words:- for all approved group purchasing cooperatives, in the aggregate, shall not exceed 85,000.

SECTION 33. Section 102C of chapter 266 of the General Laws, as appearing in section 6 of chapter 160 of the acts of 2010, is hereby amended by striking out the words "or secrets" and inserting in place thereof the following words:- , secretes or.

SECTION 34. The fourth paragraph of section 15 of chapter 701 of the acts of 1960, as most recently amended by section 159 of chapter 240 of the acts of 2010, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- No contract shall be awarded by the authority for construction work or for the purchase of equipment supplies or materials whether for repairs or original construction, the estimated cost of which amounts to \$25,000 or more, except in cases of special emergency involving the health, convenience or safety of the people using the facilities of the authority unless proposals for the same have been invited by advertisements in at least 1 newspaper circulating in each of the towns of Falmouth, Nantucket and Barnstable, the city of New Bedford and the county of Dukes county, once a week for at least 2 consecutive weeks, the

last publication to be at least 1 week before the time specified for the opening of said proposals.

SECTION 35. Subsection (a) of section 4 of chapter 614 of the acts of 1968, as most recently amended by section 161 of chapter 240 of the acts of 2010, is hereby further amended by striking out the third sentence.

SECTION 36. Chapter 324 of the acts of 1987, is hereby amended by striking out section 8, as most recently amended by chapter 131 of the acts of 2010, and inserting in place thereof the following section:-

Section 8. Section 6 shall take effect on September 30, 2010.

SECTION 37. Item 6001-0884 of section 2C of chapter 303 of the acts of 2008, as amended by section 37 of chapter 26 of the acts of 2009, is hereby further amended by adding the following words:- ; and provided further, that the amounts specified in this item for a particular project may be adjusted to facilitate other projects relating to rail improvement under said chapter 161C.

SECTION 37A. Item 0699-0015 of section 2 of chapter 27 of the acts of 2009 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary or other provisions of this item, the comptroller may charge the payments authorized in this item to the appropriate budgetary or other fund subject to a plan which the comptroller shall file 10 days in advance with the house and senate committees on ways and means; and provided further, that the comptroller shall transfer from this item to the Government Land Bank Fund an amount equal to the amount by which debt service charged to the fund exceeds revenue deposited to the fund.

SECTION 38. The first sentence of subsection (c) of section 119 of chapter 27 is hereby amended by striking out the figure “\$399,000,000” and inserting in place thereof the following figure:- \$534,000,000.

SECTION 39. Said subsection (c) of said section 119 of said chapter 27 is hereby further amended by adding the following paragraph:-

The secretary of health and human services shall make payments from the Medical Assistance Trust Fund established in section 2QQQ of chapter 29 of the General Laws, totaling an amount not to exceed \$135,000,000 to privately owned acute hospitals in the commonwealth for purposes of transitional relief. Such transitional relief payments shall be in addition to payments from the Medical Assistance Trust Fund made pursuant to supplemental payment agreements entered into between the executive office of health and human services and hospitals designated by the commonwealth as Essential MassHealth Hospitals and Public Service Hospitals. Transitional relief payments shall be subject to approval by the Centers for Medicare and Medicaid Services of the amendment to the MassHealth Section 1115 Demonstration as submitted by the commonwealth on March 1, 2010, and in accordance with the methodology approved therein. Such payments may be made only pursuant to written certification to the comptroller and the house and senate committees on ways and means by the secretary of administration and finance that sufficient

state revenue is available to fund the non-federal share for such payments, consistent with the requirement for a balanced budget. The transfer authorization from this section shall expire on June 30, 2011.

SECTION 40. Section 1 of chapter 59 of the acts of 2009 is hereby amended by striking out the definition of “TDC committee” and inserting in place thereof the following definition:-

“TDC committee”, the Templeton Developmental Center Visioning 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 the selectmen's designee who shall serve as chairperson, 1 of whom shall be a member of the Templeton planning board or the board's 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; 1 representative of the employees of the Templeton Development Center; and 1 representative of the legal guardians of the clients currently housed at Templeton Developmental Center; provided, however, that the members, other than the members who are 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.

SECTION 41. Said chapter 59 is hereby further amended by inserting after section 2 the following section:-

Section 2A. The TDC committee shall evaluate and make recommendations to the commissioner on the use of the TDC site including, but not limited to, the continued use of the site as a state facility or other alternative uses for the TDC site. The TDC committee shall inform the town's governing authority and the local community periodically of its proposals and decisions relevant to the use of the TDC site.

SECTION 42. Item 1599-4337 of section 2A of chapter 120 of the acts of 2010 is hereby amended by striking out the words “Correction Officers New England Police Benevolent Association/AFL-CIO, Local 275” and inserting in place thereof the following words:- NAGE 06, Local RI-255.

SECTION 43. Item 0321-1520 of section 2 of chapter 131 of the acts of 2010 is hereby amended by striking out the figure “\$1,000,000” and inserting in place thereof the following figure:- \$2,000,000.

SECTION 44. Item 0699-0015 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

General Fund	52.00%
Commonwealth Transportation Fund	48.00%

SECTION 45. Item 1100-1100 of said section 2 of said chapter 131 is hereby amended by striking out the words “and the administration of the fiscal affairs division”.

SECTION 46. Item 1201-0100 of said section 2 of said chapter 131 is hereby amended by striking out the word “funds”, the second time it appears, and inserting in place thereof the following figure:- \$1,000,000.

SECTION 47. Said section 2 of said chapter 131 is hereby further amended by striking out item 1599-1977 and inserting in place thereof the following item:-
1599-1977 For contract assistance and other payments to the Massachusetts
Development Finance Agency for payment of debt service
and related obligations in connection with bonds issued by the
agency under chapter 293 of the acts of 2006 and chapter 303
of the acts of 2008 \$ 1,393,338

SECTION 48. Item 1775-0100 of said section 2 of said chapter 131 is hereby amended by inserting after the words “808 CMR 1.06(4); provided further, that” the following words:- upon the receipt of said written certification by the secretary of administration and finance.

SECTION 49. Item 2000-0100 of said section 2 of said chapter 131 is hereby amended by striking out the words “may engage in a program of collaborative research with academic institutions that apply satellite and other technologies in an innovative manner to an existing methodological model previously used in other fisheries to assess the biomass of groundfish in the region managed by the New England Fishery Management Council; provided further, that the executive office may” and inserting in place thereof the following words:- shall engage in a program of collaborative research with academic institutions that apply satellite and other technologies in an innovative manner to an existing methodological model previously used in other fisheries to assess the biomass of groundfish in the region managed by the New England Fishery Management Council; provided further, that the executive office shall.

SECTION 50. Item 2310-0200 of said section 2 of said chapter 131 is hereby amended by adding the following words:-
Inland Fisheries and Game Fund 100%

SECTION 51. Item 4000-0600 of said section 2 of said chapter 131 is hereby amended by inserting after the word “consortia” the following words:- ; provided further, that the secretary of health and human services shall issue a report to the house and senate committees on ways and means not later than December 1, 2010, relative to the implementation of the preadmission counseling and assessment program including, but not limited to, expenditures for the program.

SECTION 51A. Item 4000-0640 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; and provided further, that notwithstanding any general or special law to the contrary, contingent upon receipt of not less than \$27,200,000 in TANF contingency funds authorized by Title IV, section 403(b) of the Social Security Act, the division shall establish nursing facility supplemental Medicaid rates and that a sum of \$27,200,000 shall be distributed as supplemental nursing facility Medicaid rates for fiscal

year 2011.

SECTION 52. Item 4000-0600 of said section 2 of said chapter 131 is hereby amended by striking out the words:- “section 159” and inserting in place thereof the following words:- the last clause of item 4000-0640.

SECTION 53. Item 4403-2000 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, 90 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and 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; provided further, that the report shall state exactly which components of the current benefit package shall be altered and the department’s assessment of the effects of such benefit or eligibility changes upon recipient families and the number of families affected by the benefit changes; provided further, that the report shall outline all steps that the department has taken to avoid or mitigate any such benefit changes; provided further, the report shall detail the savings realized by any such changes to benefits or eligibility; and provided further, that no benefit changes shall take effect before January 17, 2011.

SECTION 54. Item 4408-1000 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; provided further, that notwithstanding any general or special law to the contrary, 90 days before promulgating any eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and 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; provided further, that the report shall state exactly which components of the current benefit package shall be altered and the department’s assessment of the effects of such benefit or eligibility changes upon recipient families and the number of families affected by the benefit changes; provided further, that the report shall outline all steps that the department has taken to avoid or mitigate any such benefit changes; provided further, that the report shall detail the savings realized by any such changes to benefits or eligibility; and provided further that no benefit changes shall take effect before January 17, 2011.

SECTION 55. Item 4512-0200 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

Substance Abuse Prevention and Treatment
Fund 100%

SECTION 56. Item 4512-0202 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

Substance Abuse Prevention and Treatment
Fund 100%

SECTION 57. Item 4513-1020 of said section 2 of said chapter 131 is hereby amended by inserting after the words “eligible criteria” the following words:- ; provided fur-

ther, that the department of public health, in consultation with the division of medical assistance and the division of health care finance and policy, shall develop and implement a contracting and payment methodology for early intervention services including intensive specialty services for Medicaid-eligible children with intensive service needs; provided further, that early intervention services shall be provided in compliance with applicable early intervention operational standards; and provided further, that the department shall implement the methodology by December 1, 2010 and shall provide written notification to the house and senate committees on ways and means 30 days prior to such implementation.

SECTION 57A. Item 4590-0250 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; and provided further, that funds shall be expended for a program to address the needs of children under the age of 18 with Type 1 or Type 2 diabetes in underserved areas.

SECTION 58. Said item 4590-0250 of said section 2 of said chapter 131 is hereby further amended by adding the following words:-

Substance Abuse Prevention and Treatment
Fund 100%

SECTION 59. Item 7004-0101 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; 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, 90 days before promulgating any such eligibility or benefit changes, the undersecretary shall file with the house and senate committees on ways and means and the clerks of the senate and house of representatives a determination by the secretary 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 in fiscal year 2011, no such determination and report shall be filed prior to December 5, 2010; provided further, that all expenditures from 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 in this item.

SECTION 60. Item 7007-0900 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

Massachusetts Tourism Fund 100%

SECTION 61. Item 7007-0901 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

Massachusetts Tourism Fund 100%

SECTION 62. Item 7007-1000 of said section 2 of said chapter 131 is hereby amended by adding the following words:-

Massachusetts Tourism Fund 100%

SECTION 63. Item 7077-0023 of said section 2 of said chapter 131 is hereby amended by striking out the words “the resident veterinary tuition remission plan submitted January 9, 1988” and inserting in place thereof the following words:- a resident veterinary tuition remission plan as approved by the commissioner of higher education.

SECTION 64. Item 8900-0001 of said section 2 of said chapter 131 is hereby amended by inserting at the end thereof the following language:- and provided further, that the department shall expend not less than \$1,000,000 for jail diversion programs in conjunction with the department of public health.

NO SECTION 65 TO 88.

SECTION 89. Item 1000-0005 of section 2B of said chapter 131 is hereby amended by striking out the figure “\$750,000” and inserting in place thereof the following figure:- \$850,000.

SECTION 90. Section 2D of said chapter 131 is hereby amended by inserting after item 0840-4620 the following item:-

Massachusetts Developmental Disabilities Council.

1100-1703 For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities Act; provided, that in order to qualify for the grant, this account shall be exempt from the first \$290,000 of fringe benefit and indirect cost charges pursuant to section 6B of chapter 29 of the General Laws \$3,280,078

SECTION 91. Said section 2D of said chapter 131 is hereby further amended by inserting after item 1201-0412 the following item:-

Disabled Persons Protection Commission.

1107-2509 For the purposes of a federally funded grant entitled, Disabled Persons Protection Commission, Multi-Disciplinary Responses to Crime \$200,000

SECTION 92. Section 2E of said chapter 131 is hereby amended by striking out item 1595-1068 and inserting in place thereof the following item:-

1595-1068 For an operating transfer to the MassHealth provider payment account in the Medical Assistance Trust Fund established in section 2QQQ of chapter 29 of the General Laws, notwithstanding the requirement that transfers be completed no later than June 30, 2011 in the introductory paragraph of this section; provided, that these funds shall be expended only for services provided during state or federal fiscal year 2011, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund shall be expended on pay-

ments described in the section 1115 demonstration waiver for services provided during state fiscal year 2011, or payments described in the state plan for services provided during federal fiscal year 2011; provided further, that 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; provided further, that any increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2011 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; provided further, that the secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the joint committee on health care financing of any increases in payments within 15 days; provided further, that the secretary of health and human services shall make a payment of up to \$247,605,130 from the Medical Assistance Trust Fund to the Cambridge Public Health Commission for dates of service in state and federal fiscal year 2011, only after the Cambridge Public Health Commission transfers up to \$95,105,130 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; and provided further, that the secretary of health and human services shall make payments from the Medical Assistance Trust Fund totaling an amount not to exceed \$135,000,000 to privately owned acute hospitals in the commonwealth for purposes of transitional relief. Such transitional relief payments shall be in addition to payments from the Medical Assistance Trust Fund made pursuant to supplemental payment agreements entered into between the executive office of health and human services and hospitals designated by the commonwealth as Essential MassHealth Hospitals and Public Service Hospitals. Transitional relief payments shall be subject to approval by the Centers for Med-

icare and Medicaid Services of the amendment to the MassHealth Section 1115 Demonstration as submitted by the commonwealth on March 1, 2010, and in accordance with the methodology approved therein. Such payments may be made only pursuant to written certification to the comptroller and the house and senate committees on ways and means by the secretary of administration and finance that sufficient state revenue is available to fund the non-federal share for such payments, consistent with the requirement for a balanced budget. Payments and transfers from this appropriation in fiscal year 2011 may also be used for fiscal year 2010 hospital payments \$686,737,746

SECTION 93. Item 1595-5819 of said section 2E of said chapter 131 is hereby amended by inserting after the words “proposed transfer” the following words:- ; and provided further, that 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 are not needed to support the costs of the commonwealth care and Commonwealth Care Bridge subsidized health insurance programs in fiscal year 2011, the secretary of administration and finance shall notify the comptroller and the house and senate committees on ways and means of this determination and the comptroller shall transfer such amounts from the Commonwealth Care Trust Fund back to the General Fund.

SECTION 94. Section 133 of said chapter 131 is hereby amended by adding the following paragraph:-

Not later than January 1, 2011 and quarterly thereafter, the executive office shall submit a report detailing progress implementing this program to the secretary of administration and finance, the joint committee on health care financing, the joint committee on public health and the house and senate committees on ways and means.

SECTION 95. Said chapter 131 is hereby further amended by striking out section 136 and inserting in place thereof the following section:-

Section 136. (a) Notwithstanding any general or special law to the contrary and except as provided in subsection (b), for fiscal year 2011, the definition of “eligible individual” in section 3 of chapter 118H of the General Laws shall not include a person who is not eligible to receive federally-funded benefits under sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended,.

(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 health insurance connector authority may, in their discretion and subject only to the terms and conditions in this subsection, establish or designate a health insurance plan in which a person who is not eligible to receive federally-funded benefits under said sections

401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, but who is an eligible individual pursuant to said section 3 of said chapter 118H may enroll for the period including July 1, 2010 to June 30, 2011, inclusive. The plan may be contracted for selectively from the health plans that contracted in fiscal year 2010 to provide insurance coverage to commonwealth care or MassHealth enrollees. 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 may, in their discretion and subject only to the terms and conditions in this subsection, make payments from the Commonwealth Care Trust Fund established in section 2000 of chapter 29 of the General Laws to operate the plan using resources in the trust fund. Total state expenditures for providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed resources available in the trust fund not required to fund coverage of commonwealth care; provided that this shall not result in a reduction of services to commonwealth care enrollees. To the extent that 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 for 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 2011 will exceed funds in the trust fund that are available for this program, 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, reauthorize or designate a health insurance plan under this section, the secretary of administration and finance may direct the comptroller to transfer up to \$20,000,000 from the Commonwealth Care Trust Fund to the General Fund for the cost of health care services.

SECTION 96. Said chapter 131 is hereby further amended by striking out section 149 and inserting in place thereof the following section:-

Section 149. Notwithstanding any general or special law to the contrary, when the comptroller disposes of the consolidated net surplus for fiscal year 2011 under subsection (a) of section 5C of chapter 29 of the General Laws, the comptroller shall not carry forward 0.5 per cent of the total revenue from taxes in fiscal year 2011 unless the secretary of administration of finance provides written notice that there are sufficient funds available to make all or a portion of the 0.5 per cent carry forward.

SECTION 97. Section 149 of chapter 131 of the acts of 2010 is hereby repealed.

SECTION 98. Section 187 of said chapter 131 is hereby repealed.

SECTION 99. Section 165 of chapter 240 of the acts of 2010 is hereby repealed.

SECTION 100. Section 196 of said chapter 240 is hereby amended by striking out the words “and 186” and inserting in place thereof the following words:- , 186 and 187.

SECTION 101. Section 197 of said chapter 240 is hereby amended by striking out the words “and 126” and inserting in place thereof the following words:- , 126 and 129.

SECTION 102. Chapter 256 of the acts of 2010 is hereby amended by striking out section 145 and inserting in place thereof the following section:-

Section 145. Sections 2 to 7, inclusive, 12, 16 to 19, inclusive, 21 to 26, inclusive, 28, 30 to 37, inclusive, 56, 62, 65, 66, 105, 106, 119, 122 and 128 to 133, inclusive shall take effect on May 4, 2012.

SECTION 103. Chapter 288 of the acts of 2010 is hereby amended by inserting after section 32 the following section:-

Section 32A. Said chapter 176J is hereby further amended by striking out section 11, inserted by section 32, and inserting in place thereof the following section:-

Section 11. (a) A carrier that offers a health benefit plan that: (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer to all eligible individuals and small businesses in at least 1 geographic area at least 1 plan with either a reduced or selective network of providers or a plan in which providers are tiered and member cost sharing is based on the tier placement of the provider.

The base premium for the reduced or selective or tiered network plan shall be at least 12 per cent lower than the base premium of the carrier’s most actuarially similar plan with the carrier’s non-selective or non-tiered network of providers. The savings may be achieved by means including, but not limited to: (i) the exclusion of providers with similar or lower quality based on the standard quality measure set with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G; or (ii) increased member cost-sharing for members who utilize providers for non-emergency services with similar or lower quality based on the standard quality measure set and with higher health status adjusted total medical expenses or relative prices, as determined under section 6 of chapter 118G.

(b) A tiered network plan shall only include variations in member cost-sharing between provider tiers which are reasonable in relation to the premium charged and ensure adequate access to covered services. Carriers shall tier providers based on quality performance as measured by the standard quality measure set and by cost performance as measured by health status adjusted total medical expenses and relative prices. Where applicable quality measures are not available, tiering may be based solely on health status adjusted total medical expenses or relative prices or both.

The commissioner shall promulgate regulations requiring the uniform reporting of

tiering information, including, but not limited to requiring, at least 90 days before the proposed effective date of any tiered network plan or any modification in the tiering methodology for any existing tiered network plan, the reporting of a detailed description of the methodology used for tiering providers, including: the statistical basis for tiering; a list of providers to be tiered at each member cost-sharing level; a description of how the methodology and resulting tiers will be communicated to each network provider, eligible individuals and small groups; and a description of the appeals process a provider may pursue to challenge the assigned tier level.

(c) The commissioner shall determine network adequacy for a tiered network plan based on the availability of sufficient network providers in the carrier's overall network of providers.

(d) The commissioner shall determine network adequacy for a selective network plan based on the availability of sufficient network providers in the carrier's selective network.

(e) In determining network adequacy under this section the commissioner of insurance may take into consideration factors such as the location of providers participating in the plan and employers or members that enroll in the plan, the range of services provided by providers in the plan and plan benefits that recognize and provide for extraordinary medical needs of members that may not be adequately dealt with by the providers within the plan network.

(f) Carriers may: (i) reclassify provider tiers; and (ii) determine provider participation in selective and tiered plans no more than once per calendar year except that carriers may reclassify providers from a higher cost tier to a lower cost tier or add providers to a selective network at any time. If the carrier reclassifies provider tiers or providers participating in a selective plan during the course of an account year, the carrier shall provide affected members of the account with information regarding the plan changes at least 30 days before the changes take effect. Carriers shall provide information on their websites about any tiered or selective plan, including but not limited to, the providers participating in the plan, the selection criteria for those providers and where applicable, the tier in which each provider is classified.

(g) The division of insurance shall report annually on utilization trends of eligible employers and eligible individuals enrolled in plans offered under this section. The report shall include the number of members enrolled by plan type, aggregate demographic, geographic information on all members and the average direct premium claims incurred, as defined in section 6, for selective and tiered network products compared to non-selective and non-tiered products."

SECTION 104. Section 33 of said chapter 288 is hereby repealed.

NO SECTION 105.

SECTION 106. Section 50 of said chapter 288 is hereby amended by striking out the words "October 1, 2010" and inserting in place thereof the following words:- January 1, 2011.

SECTION 107. Section 51 of said chapter 288 is hereby amended by striking out the words “October 1, 2010” and inserting in place thereof the following words:- January 1, 2011.

SECTION 108. Section 52 of said chapter 288 is hereby amended by striking out the words “October 1, 2010” and inserting in place thereof the following words:- January 1, 2011.

SECTION 109. Section 53 of said chapter 288 is hereby amended by striking out the words “October 1, 2010” and inserting in place thereof the following words:- January 1, 2011.

SECTION 110. The first paragraph of section 54 of said chapter 288 is hereby amended by striking out the words “December 31, 2010” and inserting in place thereof the following words:- April 1, 2011.

SECTION 111. The second paragraph of said section 54 of said chapter 288 is hereby amended by striking out the words “November 1, 2010” and inserting in place thereof the following words:- January 1, 2011.

SECTION 112. Said second paragraph of said section 54 of said chapter 288 is hereby further amended by striking out the words “, who shall serve as the chair” and inserting in place thereof the following words:- and the commissioner of the department of public health or the commissioner’s designee, who shall serve as co-chairs.

SECTION 113. Said second paragraph of said section 54 of said chapter 288 is hereby further amended by adding the following 2 sentences:- Members of the committee shall be appointed for terms of 2 years and shall serve until the term is completed or until a successor is appointed. Members shall be eligible to be reappointed and shall serve without compensation.

SECTION 114. Section 58 of said chapter 288 is hereby amended by striking out the word “Medicaid” and inserting in place thereof the following word:- Medical.

SECTION 115. Section 60 of said chapter 288 is hereby amended by inserting after the words “public health” the following words:- , the commissioner of health care finance and policy.

SECTION 116. Section 61 of said chapter 288 is hereby amended by striking out the words “December 31, 2010” and inserting in place thereof the following words:- April 1, 2011.

SECTION 117. Section 64 of said chapter 288 is hereby amended by striking out the words “January 1, 2011” and inserting in place thereof the following words:- April 1, 2011.

SECTION 118. Subsection (e) of section 67 of said chapter 288 is hereby amended by striking out the words “February 1, 2011” and inserting in place thereof the following words:- April 1, 2011.

SECTION 119. Said chapter 288 is hereby further amended by striking out section 68 and inserting in place thereof the following section:-

Section 68. Sections 1, 2, 3, 10, 11, 12, 13, 18 to 25, inclusive, 28, 29, 34, 36, 39, 41, 43, 46, 47, 48, 49, 51, 60, 61, and 65 shall take effect on October 1, 2010.

SECTION 120. Said section 68 of said chapter 288 is hereby further amended by inserting after the figure “39” the following figure:- , 41.

SECTION 121. Section 71 of said chapter 288 is hereby amended by striking out the figure “, 41”.

SECTION 122. Section 73 of said chapter 288 is hereby amended by inserting after the figure “40” the following:- and 66.

SECTION 123. Said chapter 288 is hereby further amended by adding the following 3 sections:-

Section 74. Section 26 shall take effect on December 1, 2010.

Section 75. Section 7 shall take effect on April 1, 2011.

Section 76. Sections 27 and 32A shall take effect on January 1, 2012.

SECTION 124. Notwithstanding any general or special law to the contrary, the provision in the last sentence of subsection (k) of section 14G of chapter 151A of the General Laws requiring the Medical Security Trust Fund to be in balance by the close of each fiscal year shall not apply for the fiscal years ending June 30, 2010 and June 30, 2011; provided, however, that the division of unemployment assistance shall notify the house and senate committees on ways and means at least 45 days prior to any changes to unemployment health insurance contributions or benefits.

SECTION 125. Notwithstanding chapter 151A of the General Laws or any other general or special law to the contrary, the division of unemployment assistance may determine whether an individual who meets the requirements of section 4002(g)(1) of the Supplemental Appropriations Act of 2008, as amended, shall be paid emergency unemployment compensation or regular compensation under said chapter 151A for a week of unemployment by applying the provisions of Section 4002(g)(2)(A) of said act.

SECTION 126. Notwithstanding any general or special law to the contrary and within 30 days after the effective date of this section, the comptroller shall transfer \$953,742 from the General Fund to the Head Injury Treatment Services Trust Fund established in section 59 of chapter 10 of the General Laws. Transferred funds shall only be expended from the Head Injury Treatment Services Trust Fund and shall not be transferred to other funds.

SECTION 127. The special commission established by chapter 7 of the resolves of 2008 is hereby revived and continued. The commission shall report to the general court the results of its investigation and study and its recommendations, if any, by filing the same with the clerks of the senate and house of representatives on or before June 27, 2012.

SECTION 128. Notwithstanding chapter 29C of the General Laws, section 16 of chapter 275 of the acts of 1989, or any other general or special law to the contrary, to provide an adequate supply of safe drinking water, the water pollution abatement trust created under said chapter 29C may make loans associated with betterments to eligible borrowers pursuant

to section 18 of said chapter 29C for costs of water wells and treatment and storage facilities and distribution pipes associated therewith, and may apply to such purposes amounts appropriated to the trust under paragraph (a) of said section 16 of said chapter 275 and any investment earnings thereon and any receipts on loans made with such amounts. Any water wells, treatment and storage facilities, and distribution pipes shall constitute drinking water projects for the purposes of said chapter 29C; provided that no application for funding under this section shall be granted after June 30, 2011; and provided further that all applications for funds for the drilling of a water well and acquisition or installation of associated treatment and storage facilities and distribution pipes shall be subject to section 127B½ of chapter 111 of the General Laws.

NO SECTION 129.

SECTION 130. Notwithstanding any general or special law to the contrary, the executive office of health and human services shall submit a report not later than January 1, 2011 to the secretary of administration and finance, the joint committee on health care financing, the joint committee on public health and the house and senate committees on ways and means detailing any observed and projected impact of the prescription monitoring program administered by the department of public health on MassHealth service utilization and expenditures in fiscal years 2011, 2012 and 2013.

SECTION 131. Notwithstanding any general or special law to the contrary, any unexpended funds appropriated in item 1000-0001 of section 2 of chapter 27 of the acts of 2009 shall not revert and shall be made available for expenditure until June 30, 2011 to pay for any additional costs associated with the single statewide audit for fiscal year 2010 or to implement section 14C of chapter 7 of the General Laws.

SECTION 132. (a) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students at the Lowell campus and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Lowell campus to retain all tuition paid by students who are not residents of the commonwealth. The regulations shall ensure that no resident of the commonwealth shall be denied admission to any campus as a result of the tuition retention program.

(b) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students at the Dartmouth campus and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Dartmouth campus to retain all tuition paid by students who are not residents of the commonwealth. The regulations shall ensure that no resident of the commonwealth shall be denied admission to any campus as a result of the tuition retention program.

(c) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students at the Boston campus and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Boston campus

to retain all tuition paid by students who are not residents of the commonwealth. The regulations shall ensure that no resident of the commonwealth shall be denied admission to any campus as a result of the tuition retention program.

(d) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the president of the university shall retain all tuition for out-of-state students at the Worcester campus and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Worcester campus to retain all tuition paid by students who are not residents of the commonwealth. The regulations shall ensure that no resident of the commonwealth shall be denied admission to any campus as a result of the tuition retention program.

(e) All out-of-state tuition and fees received by the board of trustees at Bridgewater State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(f) All out-of-state tuition and fees received by the board of trustees at Fitchburg State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(g) All out-of-state tuition and fees received by the board of trustees at Framingham State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(h) All out-of-state tuition and fees received by the board of trustees at Salem State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(i) All out-of-state tuition and fees received by the board of trustees at Westfield State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(j) All out-of-state tuition and fees received by the board of trustees at Worcester State University shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(k) All out-of-state tuition and fees received by the board of trustees at Berkshire Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(l) All out-of-state tuition and fees received by the board of trustees at Bristol Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(m) All out-of-state tuition and fees received by the board of trustees at Bunker Hill Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(n) All out-of-state tuition and fees received by the board of trustees at Cape Cod Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(o) All out-of-state tuition and fees received by the board of trustees at Greenfield Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(p) All out-of-state tuition and fees received by the board of trustees at Holyoke Community College shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(q) All out-of-state tuition and fees received by the board of trustees at Massachusetts Bay Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(r) All out-of-state tuition and fees received by the board of trustees at Massasoit Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(s) All out-of-state tuition and fees received by the board of trustees at Middlesex Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(t) All out-of-state tuition and fees received by the board of trustees at Mount Wachusett Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(u) All out-of-state tuition and fees received by the board of trustees at North Shore Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall

be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(v) All out-of-state tuition and fees received by the board of trustees at Northern Essex Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(w) All out-of-state tuition and fees received by the board of trustees at Quinsigamond Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(x) All out-of-state tuition and fees received by the board of trustees at Roxbury Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(y) All out-of-state tuition and fees received by the board of trustees at Springfield Technical Community College shall be retained by the board of trustees of that institution in a revolving trust fund and shall be expended as the board may direct. The board shall ensure that no resident of the commonwealth shall be denied admission to the college as a result of the tuition retention program. Any balance in the trust fund at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(z) Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the respective boards of trustees for the University of Massachusetts at Lowell, University of Massachusetts at Dartmouth, University of Massachusetts at Boston, University of Massachusetts at Worcester, Bridgewater State University, Fitchburg State University, Framingham State University, Salem State University, Westfield State University, Worcester State University, Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College,

Massasoit Community College, Middlesex Community College, Mount Wachusett Community College, North Shore Community College, Northern Essex Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College, as a direct result of the implementation of this section.

(aa) The respective boards of trustees for the University of Massachusetts at Lowell, University of Massachusetts at Dartmouth, University of Massachusetts at Boston, University of Massachusetts at Worcester, Bridgewater State University, Fitchburg State University, Framingham State University, Salem State University, Westfield State University, Worcester State University, Berkshire Community College, Bristol Community College, Bunker Hill Community College, Cape Cod Community College, Greenfield Community College, Holyoke Community College, Massachusetts Bay Community College, Massasoit Community College, Middlesex Community College, Mount Wachusett Community College, North Shore Community College, Northern Essex Community College, Quinsigamond Community College, Roxbury Community College and Springfield Technical Community College shall each issue a report on the progress of this initiative no later than February 1 of each year to the house and senate chairs of the joint committee on higher education, the chairs of the house and senate committees on ways and means and the executive office of administration and finance. The report shall include the number of out-of-state students attending the school, the amount of tuition revenue retained under the program and any programs or initiatives funded with the retained revenue.

SECTION 132A. Not later than 30 days after the effective date of this act, the secretary of administration and finance shall certify to the house and senate committees on ways and means the amount of revenue necessary to support the levels of spending attributable to this act, the potential impact on other budget accounts that will result from the passage of this act and the potential need for further appropriations for accounts receiving funds in this act.

SECTION 132B. Not later than 30 days after the effective date of this act, the department of correction shall produce a report detailing the uses of funds expended under item 8900-0001 of section 2C.I., and identifying the cause of any deficiencies addressed by such expenditures specific to each facility where a deficiency has occurred. The report shall also indicate the potential for additional deficiencies as well as the potential need for reductions in service, the release of inmates or the closure of any facility in the current fiscal year.

SECTION 133. Sections 9, 10 and 18 to 22, inclusive shall also apply to persons who, as of January 3, 2011, have attained the age of 18 and have not yet reached the age of 22, are, on January 3, 2011, under the responsibility of the department, and are eligible, or were eligible, on their eighteenth birthday, under section 472 of Title IV(E) of the Social Security Act, 42 U.S.C. § 672 for foster care maintenance payments. The court which last exercised jurisdiction as of the person's eighteenth birthday, shall schedule a permanency hearing within the first 90 days, and conduct such hearing within 180 days, after January 3, 2011 for persons who meet the aforementioned criteria.

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SECTION 134. Sections 14, 34 and 35 shall be effective on August 5, 2010.

SECTION 135. Sections 9, 10, 18 to 22, inclusive, and 133 shall be effective on January 3, 2011.

SECTION 136. Section 35 shall take effect as of August 5, 2010.

SECTION 137. Section 132 shall be effective on July 1, 2011.

SECTION 138. Sections 119 to 123, inclusive, shall take effect as of August 10, 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 Section 31.

The remainder of the bill was approved by the Governor on October 15, 2010 at eleven o'clock and forty-four minutes, A.M.

Chapter 360. AN ACT PROVIDING FOR A SEWERAGE SYSTEM IN THE TOWN OF FOXBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. The town of Foxborough through its board of water and sewer commissioners established in section 3 of chapter 46 of the acts of 1986 may lay out, construct, maintain and operate, a sewerage system for a part or all of its territory, as may be from time to time defined and established by adoption by town meeting of 1 by-law as 1 or more designated sewer districts with such capacity limitations, connections, pumping stations, treatment plants and other works, as may be allocated in such by-laws to such sewer districts in the town of Foxborough as required for a system of wastewater collection, conveyance, treatment or disposal facilities and such connections and other works as may be required for a sewerage system, in accordance with plans made for and accepted and adopted by the town. No other sewers shall be constructed on any public roads or ways of the town of Foxborough which are not within a designated sewer district and which are not under the control of the town through its board of water and sewer commissioners; provided, however, that this provision may be waived by vote of the board of water and sewer commissioners. The board of water and sewer commissioners shall have all of the rights and powers granted to it under said section 3 of said chapter 46 of the General Laws that are not in conflict with this act.

SECTION 2. The care and superintendence of the operation and maintenance of the sewerage system and all facilities subsequently built shall be placed under the supervision of the board of water and sewer commissioners who shall have and exercise all the powers, privileges and authority given to water and sewer commissioners under chapter 40N of the

General Laws. The board of water and sewer commissioners may establish rules and regulations pursuant to said chapter 40N for the connecting of estates and buildings with those facilities and for the selection of materials to be used in those connections and for the inspection of the construction, maintenance, alteration and use of all such connections entering into its sewers, and may impose penalties, not exceeding \$300, for each violation of any rule or regulation promulgated by the board. No such rules or regulation shall take effect until it has been published at least once a week for 4 successive weeks in a newspaper published in said town. Once such rules and regulations take effect all owners of estates and buildings within the territory covered by the sewer districts, subject to capacity and subject to such rules and regulations, may connect to the sewerage system; provided however such owners shall, at their own expense, construct such proper connections between such estates and buildings, and the town's sewerage system as shall take proper care of all such sewage and waste as may be produced upon their premises, in such manner as shall meet the approval of the board of water and sewer commissioners of the town and shall maintain the connections in proper working order and condition, under the supervision and to the satisfaction of the board.

SECTION 3. Notwithstanding any general or special provision of law to the contrary, owners of land not within the sewer districts defined and established pursuant to section 1 shall not be permitted to connect to the town's sewerage system except as authorized in this act. The territory covered by the sewer districts may be amended from time to time by the town through its board of water and sewer commissioners after a public hearing conducted to consider such amendments, upon approval of the department of environmental protection if otherwise required by law and upon enactment by town meeting of by-laws defining or establishing any new or expanded sewer districts. If the board votes not to amend the territory of a sewer district, the amendment may be enacted in a form of a by-law upon a two-thirds vote of town meeting. Any by-law adopted pursuant to this act may include authorization for the board of water and sewer commissioners to add to the sewer districts without the necessity of a town meeting vote, properties located within "needs areas" as defined by Foxborough's Comprehensive Wastewater Management Plan, April 2001 (CWSRF#584), or any equivalent successor revision or amendment thereto as may be approved by the board and the department of environmental protection.

SECTION 4. Notwithstanding any general or special law to the contrary, the town through its board of water and sewer commissioners may at any time permit extensions, new connections or increases in flow to the sewerage system, subject to capacity, to serve municipal buildings or public restrooms or other public service uses as defined by the town; provided, however, that such uses may include, but shall not be limited to, affordable housing constructed pursuant to chapters 40B and 40R of the General Laws, without thereby creating any entitlement on the part of any person to connect to such sewer system, and subject to capacity, in order of application, may permit or if in the public interest, may require, extensions, new connections or new flow to the sewerage system within the sewer districts.

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SECTION 5. Chapter 46 of the acts of 1986, chapter 144 of the acts of 1985, chapter 346 of the acts of 1989 and the General Laws, insofar they do not conflict with this act shall apply to the town of Foxborough in carrying out this act.

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

Approved, October 18, 2010.

Chapter 361. AN ACT AUTHORIZING THE TOWN OF MILFORD TO ISSUE 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 or any other general or special law to the contrary, the licensing authority of the town of Milford may grant an additional license for the sale of wines and malt beverages to be drunk on the premises to Tanglewood Drive, LLC located at 70 Sumner street in the town of Milford under section 12 of said chapter 138. The license may be granted, notwithstanding the fact that Tanglewood Drive, LLC is also the holder of a license under section 15 of chapter 138 authorizing the sale of wines and malt beverages not to be drunk on the premises. In all other respects the license shall be subject to 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 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, October 21, 2010.

Chapter 362. AN ACT RELATIVE TO AN ENTERPRISE FUND IN THE TOWN OF ABINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 53F1/2 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Abington may transfer a sum of

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money not to exceed \$131,000 in fiscal year 2010 or fiscal year 2011 from the Strawberry Valley Golf Course Enterprise Fund to the Stabilization Fund.

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

Approved, October 21, 2010.

Chapter 363. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MERIDYTH L. REITH, AN EMPLOYEE OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

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 environmental protection, therefore 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 environmental protection shall establish a sick leave bank for Meridyth L. Reith, 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 Meridyth L. Reith. Whenever Meridyth L. Reith 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, October 29, 2010.

Chapter 364. AN ACT RELATIVE TO AN INTERMUNICIPAL AGREEMENT BETWEEN THE TOWNS OF PROVINCETOWN AND TRURO.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or the charter of the town of Provincetown to the contrary, whenever there exists an intermunicipal agreement between the town of Provincetown and the town of Truro for the provision of water to the residents of Truro, this act shall be applicable, but not otherwise.

SECTION 2. When the water and sewer board of the town of Provincetown is exercising the powers of a water board, 1 such member shall, at the discretion of the board of selectmen of the town of Provincetown, be designated by said board as an alternate mem-

ber, and 3 additional members, who shall be registered voters of the town of Truro, shall be appointed by the board of selectmen of the town of Truro for a total of 7 members and 1 alternate member.

SECTION 3. The 3 members appointed by the board of selectmen of the town of Truro shall serve for terms of 3 years; provided, however, that initially 1 such member shall be appointed for a 3-year term, 1 for a 2-year term, and 1 for a 1-year term.

SECTION 4. Except as otherwise provided in this act, chapter 3 and section 10-2 of the Provincetown town charter shall be applicable to the appointment, service and removal of the members appointed by the board of selectmen of the town of Truro. With regard to the provision of notice of appointment, filling of vacancies and removals of members appointed by the board of selectmen of the town of Truro in accordance with section 2 of this act, references in the town charter to the “appointing authority” shall be applicable to the board of selectmen of the town of Truro.

SECTION 5. Notice of appointment of a member appointed by the board of selectmen of the town of Truro under section 2 shall be filed with the town clerk of the town of Provincetown. Any such member shall, before entering upon the member’s official duties, be sworn to the faithful performance thereof by either the town clerk or the moderator of the town of Provincetown. For purposes of section 109 of chapter 41 of the General Laws, the resignation of such member shall be filed with the town clerk of the town of Provincetown, at which time the resignation shall become effective, or at a later time as may be specified in the resignation. The town clerk of the town of Provincetown shall forthwith provide notice of the same to the town clerk of the town of Truro.

SECTION 6. When the water and sewer board of the town of Provincetown is exercising the powers of a water board, and appointments have been made by the board of selectmen of the town of Truro in accordance with section 2, a quorum of the water and sewer board shall be 4 members.

SECTION 7. For purposes of chapter 268A of the General Laws, the members of the water and sewer board appointed by the board of selectmen of the town of Provincetown under section 2 shall be considered special municipal employees of the towns of Provincetown and Truro.

SECTION 8. Upon the expiration or termination of an intermunicipal agreement between the towns of Provincetown and Truro under section 1, the terms of the 3 members of the water and sewer board appointed by the board of selectmen of the town of Truro under section 2 shall immediately terminate.

SECTION 9. This act shall take effect upon its passage.

Approved, October 29, 2010.

Chapter 365. AN ACT AUTHORIZING THE TOWN OF WENHAM TO GRANT A LICENSE FOR THE SALE OF WINES AND MALT BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 381 of the acts of 2006 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. Notwithstanding sections 15 and 17 of chapter 138 of the General Laws, the licensing authority of the town of Wenham may grant 1 license for the sale at retail of wines and malt beverages not to be drunk on the premises under section 15 of said chapter 138. The retail premises on which the beverages are to be sold shall not exceed 200 square feet and the beverages shall only be sold on Mondays through Saturdays from 11:00 A.M. to 6:00 P.M. The license shall be subject to said chapter 138. 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.

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

Approved, October 29, 2010.

Chapter 366. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BARBARA SEREDA, 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 Barbara Sereda, 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 Barbara Sereda. Whenever Barbara Sereda 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, October 29, 2010.

Chapter 367. AN ACT RELATIVE TO QUARTERLY TAX BILLING IN THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 195 of the acts of 2004 is hereby repealed.

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

Approved, November 3, 2010.

Chapter 368. AN ACT AUTHORIZING THE TOWN OF SEEKONK TO CONVERT CERTAIN SEASONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES OR FOR THE SALE OF WINES AND MALT BEVERAGES TO BE DRUNK ON THE PREMISES TO ANNUAL LICENSES FOR SUCH SALES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Da Tong, Inc., located at 1641 Fall River avenue to an annual license for the sale of all alcoholic beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. The license granted under this section shall be subject to all of said chapter 138, except said sections 17 and 17A.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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.

(c) 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 section.

SECTION 2. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Bristol County Stadium, Inc., located at 1782 Fall River avenue to an annual license for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. An annual license granted under this section shall be subject to said chapter 138, except said sections 17 and 17A.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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.

(c) 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 section.

SECTION 3. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Tito's Cantina, Inc. located at 1379 Fall River avenue to an annual license for the sale of all alcoholic beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. An annual license granted under this section shall be subject to said chapter 138, except said sections 17 and 17A. Upon conversion of the license under this section, Tito's Cantina, Inc. shall surrender any licenses for the sale of wines and malt beverages or alcoholic beverages it holds for these premises.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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.

(c) 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 section.

NO SECTION 4.

SECTION 5. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Chardonnay's, Inc. located at 393 Taunton avenue to an annual license for the sale of all alcoholic beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. An annual license granted under this section shall be subject to said chapter 138, except sections 17 and 17A. Upon conversion of the license under this section, Chardonnay's, Inc. shall surrender any licenses for the sale of wines and malt beverages or alcoholic beverages it holds for these premises.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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 any applicable taxes have been paid.

(c) 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 section.

SECTION 6. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Toti's Pizza Palace, Inc. located at 373 Taunton avenue to an annual license for the sale of all alcoholic beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. An annual license granted under this section shall be subject to said chapter 138, except said sections 17 and 17A. Upon conversion of the license under this section, Toti's Pizza Palace, Inc. shall surrender any licenses for the sale of wines and malt beverages or alcoholic beverages it holds for these premises.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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.

(c) 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 section.

SECTION 7. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the town of Seekonk may convert 1 currently-issued seasonal license for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of said chapter 138 to Eric Medeiros and Steven Medeiros d/b/a Brothers Seafood Restaurant, located at 6 Olney street to an annual license for the sale of wines and malt beverages to be drunk on the premises pursuant to said section 12 of said chapter 138. An annual license granted under this section shall be subject to said chapter 138, except said sections 17 and 17A. Upon conversion of the license under this section, Eric Medeiros and Steven Medeiros d/b/a Brothers Seafood Restaurant shall surrender any licenses for the sale of wines and malt beverages or alcoholic beverages they hold for these premises.

(b) The licensing authority of the town of Seekonk shall not approve the transfer of a license issued under this section to any other organization, corporation or 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.

(c) 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 section.

SECTION 8. This act shall take effect upon its passage.

Approved, November 11, 2010.

Chapter 369. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ELISE LACHANCE, 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 Elise Lachance, 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 Elise Lachance. Whenever Elise Lachance 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, November 11, 2010.

Chapter 370. AN ACT AUTHORIZING THE TOWN OF HUBBARDSTON TO SEND CERTAIN INFORMATION TO THE VOTERS RELATIVE TO BALLOT QUESTIONS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 21C of chapter 59 of the General Laws, section 22A of chapter 55 of the General Laws or any other general or special law to the con-

trary, the board of selectmen of the town of Hubbardston shall, at least 10 days before an election at which a binding or nonbinding question shall be submitted solely to the voters of the town, cause a notice to be printed containing: (1) the full text of the question; (2) a fair and concise summary of the question, including a 1-sentence statement prepared by the board of selectmen or town counsel describing the effect of a yes or no vote; and (3) arguments for and against the question as provided in section 2. The board of selectmen shall make the notice available by posting it: (i) on the town's official website; (ii) at each polling place in the town; (iii) at the town post office; (iv) at the town office building; and (v) subject to available funds and any other conditions that may be imposed by by-law, mailing the notice, or a statement indicating where and how the notice may be obtained, to each residence of a registered voter whose name appears on the latest active voting list in the town; provided, however, that posting of notice under this section may be revised by by-law.

SECTION 2. The board of selectmen of the town of Hubbardston shall cause to be printed and made available, in the manner provided in section 1, an argument for and against each question submitted solely to the voters of the town pursuant to any General Law including, but not limited to, section 21C of chapter 59 of the General Laws. No argument shall contain more than 250 words.

The board of selectmen, or, at its request, the town counsel shall seek written arguments from the principal proponents and opponents of each question. The board of selectmen shall designate a date by which written arguments shall be received, in a written notice to the principal proponents and opponents. The notice shall be issued at least 14 days before the date on which the written arguments shall be received.

For the purposes of this act, the principal proponents and opponents of a question shall be those persons determined by the board of selectmen to be best able to present the arguments for and against a question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first 10 signers or a majority of the first 10 signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this act, said town counsel shall prepare such argument.

All arguments filed with or prepared by the board of selectmen pursuant to this act, and the summary prepared pursuant to section 1, shall be open to public inspection at the office of the town clerk of said town.

SECTION 3. The official ballot shall include the summary and statements describing the effect of a yes or no vote as provided in clause (2) of section 1.

SECTION 4. This act shall also apply where the question presented involves a regional district of which the town of Hubbardston is a member or involves a joint undertaking by said town of Hubbardston and any one or more cities or towns.

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

Approved, November 11, 2010.

Chapter 371. AN ACT AUTHORIZING THE TOWN OF DENNIS TO BORROW IN ANTICIPATION OF REIMBURSEMENTS FROM BETTERMENTS ASSESSED.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, the town of Dennis may borrow for a term of up to 15 years in anticipation of reimbursement from betterments assessed in connection with work on private ways open to, and used by, the general public under section 1 of chapter 117 of the acts of 1997.

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

Approved, November 11, 2010.

Chapter 372. AN ACT ESTABLISHING A POSTEMPLOYMENT BENEFITS TRUST FUND IN THE TOWN OF WAYLAND.

Be it enacted, etc., as follows:

SECTION 1. There shall be in the town of Wayland a fund called the Other Post-Employment Benefits Trust Fund or OPEB Trust Fund, which shall be used to provide postemployment benefits other than pensions, as defined in Governmental Accounting Standards Board, Statements 43 and 45. The fund shall be under the supervision and management of the town administrator and finance director. The town treasurer shall be the custodian of the OPEB Trust Fund.

SECTION 2. The OPEB Trust Fund shall be credited with all amounts appropriated or otherwise made available by the town, including any earnings or interest accruing from the investment of these funds, to offset the anticipated cost of health and life insurance contributions or other benefits for retired employees, their spouses and eligible dependents and the surviving spouses and eligible dependents of deceased retirees.

SECTION 3. Amounts in the OPEB Trust Fund shall be expended only for the payment of the costs payable by the town for other postemployment benefits.

SECTION 4. The town treasurer shall invest and reinvest the funds prudently, and may, with the approval of the Health Care Security Trust board of trustees created by section

4 of chapter 29D of the General Laws and using criteria and procedures to be adopted by said board of trustees, invest such amounts in the State Retiree Benefits Trust Fund established by section 24 of chapter 32A of the General Laws. The town treasurer may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the fund and pay such expense from the fund. The OPEB Trust Fund shall be subject to the public employee retirement administration commission's triennial audit.

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

Approved, November 17, 2010.

Chapter 373. AN ACT ESTABLISHING A SICK LEAVE BANK FOR PATRICK CEURVELS, AN EMPLOYEE OF THE TRIAL COURT.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the trial court shall establish a sick leave bank for Patrick Ceurvels, a court officer in 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 Patrick Ceurvels. Whenever Patrick Ceurvels 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, November 17, 2010.

Chapter 374. AN ACT RELATIVE TO WATER COMPANY METERS.

Be it enacted, etc., as follows:

SECTION 1. Section 11 of chapter 165 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 10, the words "not more than one hundred dollars" and inserting in place thereof the following words:- triple the amount of damages sustained thereby or \$1,000, whichever is greater.

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SECTION 2. Said section 11 of said chapter 165, as so appearing, is hereby further amended by adding the following sentence:- Damages shall include the value of the water used and the cost of labor and equipment repair and replacement.

Approved, November 17, 2010.

Chapter 375. AN ACT AUTHORIZING PROPERTY TAX EXEMPTION FOR CERTAIN SMALL SHEDS AND OUTBUILDINGS IN THE TOWN OF CARVER.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, any shed or outbuilding which is 120 square feet or less in size and is located on the site of a manufactured home, as defined in section 32Q of chapter 140 of the General Laws, in the town of Carver shall be exempt from taxation under chapter 59 of the General Laws. This exemption shall only apply to sheds and outbuildings on the site of a manufactured home which is exempt from taxation pursuant to clause Thirty-sixth of section 5 of said chapter 59.

Approved, November 17, 2010.

Chapter 376. AN ACT RELATIVE TO THE POSITION OF POLICE CHIEF IN THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 97 or 97A of chapter 41 of the General Laws, or any other general or special law to the contrary, there shall be a chief of police in the town of Belmont appointed by the board of selectmen of said town who shall have and exercise all the powers and discharge all the duties conferred by law generally upon police chiefs. The chief shall appoint such police officers as the chief deems necessary, and may remove the same at any time for cause after a hearing. The chief shall have full and absolute authority in the administration of the police department, shall make all rules and regulations for its operation, shall report to the board of selectmen from time to time as the board may require, and shall annually report to the town the condition of the department with the chief's recommendations thereon. The chief shall fix the compensation of all members of the department, subject to the approval of the board of selectmen. The chief shall be in

immediate control of all town property used by the department, and of the police officers, whom the chief shall assign to their respective duties and who shall obey the chief's orders.

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

Approved, November 23, 2010.

**Chapter 377. AN ACT RELATIVE TO THE ROOM OCCUPANCY EXCISE TAX
IN THE TOWN OF PROVINCETOWN.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 178 of the acts of 1996 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. Thirty-five per cent of the excise collected under section 3A of chapter 64G of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited to the Tourism Fund established under section 1 without further appropriation.

SECTION 2. Chapter 391 of the acts of 1998 is hereby amended by striking out, in line 1, the figure "19.125" and inserting in place thereof the following figure:- 13.

SECTION 3. Twenty-five per cent of the excise collected under section 3A of chapter 64G of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010 and each fiscal year thereafter shall be credited without further appropriation to the special purpose stabilization fund for capital improvements established under section 5B of chapter 40 of the General Laws by the town pursuant to the vote under Article 9 of the April 5, 2010 special town meeting.

SECTION 4. Twenty-seven per cent of the excise collected under section 3A of chapter 64G of the General Laws by the town of Provincetown for the fiscal year beginning July 1, 2010, and each fiscal year thereafter, shall be credited to the town's General Fund.

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

Approved, November 23, 2010.

**Chapter 378. AN ACT AUTHORIZING THE TOWN OF DANVERS TO GRANT AN
ADDITIONAL LICENSE FOR THE SALE OF WINES AND MALT
BEVERAGES.**

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws or

any other general or special law to the contrary, the licensing authority of the town of Danvers may grant an additional license for the sale of wines and malt beverages not to be drunk on the premises to McKinnon's Butcher Shop – North, Inc. located at 73 Holten street in the town of Danvers under section 15 of said chapter 138. The license shall be subject to all of said chapter 138 except said section 17.

(b) 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.

(c) 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 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 23, 2010.

Chapter 379. AN ACT EXEMPTING THE POSITION OF DEPUTY CHIEF OF POLICE IN THE CITY OF SOMERVILLE FROM THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The position of deputy chief of police in the city of Somerville shall be exempt from chapter 31 of the General Laws.

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

Approved, November 23, 2010.

Chapter 380. AN ACT DESIGNATING A COURTROOM IN THE MARLBOROUGH DISTRICT COURTHOUSE AS THE JONATHAN BRANT COURTROOM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith a certain courtroom in the city of Marlborough as the Jonathan Brant Courtroom, therefore 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 courtroom presently known as "Courtroom A" in the Marlborough district court-

house shall be designated and known as the Jonathan Brant courtroom, in recognition of the Honorable Jonathan Brant for his many contributions to the judiciary, his community and the commonwealth. The division of capital asset management and maintenance shall erect suitable markers bearing the designation in compliance with the standards of the division.

Approved, December 1, 2010.

Chapter 381. AN ACT AUTHORIZING RECALL ELECTIONS IN THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. Any person who holds an elected town-wide office in the town of Belmont, except a member of the housing authority, may be recalled and removed from that office by the qualified voters of the town as provided in this act.

SECTION 2. Any 200 registered voters of the town of Belmont, at least 25 of whom shall be from each precinct, may initiate a recall petition by filing 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, within 5 business days after receiving such an affidavit, deliver to the voter first named on the affidavit a sufficient number of copies of petition blanks requesting such recall. The blanks shall be dated and addressed to the board of selectmen, shall contain the names of the first 10 signers of the affidavit, the name and office of the person sought to be recalled and the grounds for recall as stated in the affidavit and shall request the election of a successor to such office. A copy of the form of the petition shall be filed in the office of the town clerk.

SECTION 3. If within 30 days after the delivery by the town clerk of the petition forms, the petition, signed by not less than 20 per cent of the registered voters of the town, including at least 5 per cent of the registered voters from each precinct, is filed with the town clerk, the town clerk shall certify the number of signatures which are names of voters in the town and precincts, as appropriate, and if the clerk determines that it contains a sufficient number of valid signatures, the clerk shall, within 5 business days, submit the petition to the board of selectmen. The board of selectmen shall immediately deliver to the elected officer whose recall is sought written notice of the board's receipt of the petition and shall, if the officer sought to be recalled does not resign within 5 days thereafter, forthwith order a special election to be held not less than 64 nor more than 80 days after the date of the board's receipt of the petition; provided, however, that if any other town election is to occur within 100 days after the date of the submission, the board may, in its discretion postpone the holding of the recall election to the date of such other election. If a vacancy occurs in the office after a recall election has been ordered, the election shall proceed as provided in this section.

SECTION 4. Any officer sought to be recalled may be a candidate to succeed to the office and, unless the officer requests otherwise in writing, the town clerk shall place the name of such officer on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the recall election shall all be in accordance with the laws relating to elections unless otherwise provided by this act.

SECTION 5. The officer sought to be recalled shall continue to perform the duties of the office until the recall election. If the recall fails or if the incumbent is reelected and has not resigned, the incumbent shall continue in the office for the remainder of the unexpired term. If not reelected in the recall election, the officer shall be deemed removed upon the qualification of the elected successor, who shall hold office for the remainder of the unexpired term.

SECTION 6. Ballots used in a recall election in the town shall submit the following propositions in the order indicated:

For the recall of (name and title of officer whose recall is sought),

Against the recall of (name and title of officer whose recall is sought),

The names of the candidates who have been nominated to succeed to the office of the person subject to recall shall be set forth below the propositions along with such instructions as may be necessary for the voter.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate who received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes cast on the recall question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

SECTION 7. No recall petition shall be filed against an officer within 6 months after the officer takes office nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 6 months after the election at which the recall was submitted to the voters.

SECTION 8. This act shall take effect upon its passage.

Approved, December 1, 2010.

Chapter 382. AN ACT RELATIVE TO THE OTHER POST EMPLOYMENT BENEFITS TRUST FUND OF THE TOWN OF BELMONT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 97 of the acts of 2007 is hereby amended by striking out sections 2 and 3, and inserting in place thereof the following 2 sections:-

Section 2. (a) There shall be, in the town of Belmont a special trust fund to be known as the Belmont Other Post Employment Benefits Trust Fund. The Belmont treasurer shall

transfer funds to that trust fund as such funds are appropriated or those received from other sources specifically dedicated to OPEB purposes become available. The trust fund shall be irrevocable as required by GASB 43 and 45. Notwithstanding any general or special law to the contrary, the town of Belmont may appropriate funds in order to offset the anticipated cost of premium or direct payments for OPEB to be made to retired employees of the town and to any eligible surviving spouse or dependents of deceased employees of the town.

(b) Beginning in fiscal year 2008, the trust fund shall be credited with all amounts appropriated or otherwise made available by the town to meet the current and future OPEB costs payable by the town. Interest or other income earned by the trust fund shall be added to and become part of the trust fund. Except as otherwise expressly provided in this act, amounts expended from the trust fund shall be expended only for the costs payable by the town for OPEB.

(c) The Belmont contributory retirement board shall be the custodian of the trust fund and may employ an outside custodial service to hold the monies in the fund. The retirement board and the custodian shall be bonded and the bonding costs shall be paid for out of the trust fund. The Belmont contributory retirement board may invest and re-invest the monies held in the trust fund not required for current disbursement under the investment powers granted to retirement boards under paragraph (g) of subdivision (2) of section 23 of chapter 32 of the General Laws, under the regulations of the public employees retirement administration commission and with any applicable general laws. Monies held in the trust fund shall be segregated from other funds held by the Belmont retirement board and by the town. Trust fund monies shall not be subject to the claims of the town's general creditors. The trust fund shall be subject to the public employee retirement commission's triennial audit and the town's contributory retirement system annual audit.

(d) The Belmont contributory retirement board may employ any qualified bank, trust company, corporation, firm or person to provide advice on the investment of amounts held in the trust fund and may pay for the advice from amounts held in the fund. Procurement for these services shall be subject to the procurement procedures and rules followed by the Belmont contributory retirement board for services to the town's contributory retirement system.

(e) If a civil action is brought against a member of the retirement board, the defense or settlement of which action is made by an attorney employed by the retirement board, the member shall be indemnified for all expenses incurred in the defense of 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 the member's official duties; provided, however, that a member of a retirement board shall not 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. Such indemnification shall be paid from amounts held in the fund.

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Section 3. (a) The town shall engage an actuary, who shall be a member of the American Academy of Actuaries, to perform an actuarial valuation of the town's OPEB liabilities and funding schedule, as of January 1, 2006, and no less frequently than every second year thereafter. The determinations shall be made in accordance with generally accepted actuarial standards and shall conform to the requirements of GASB 43 and 45 and the actuary shall make a report of the determinations to the town meeting and include it in the town report. The report shall, without limitation, detail the demographic and economic actuarial assumptions used in making the determinations and each report after the first report shall also include an explanation of the changes, if any, in the demographic and economic actuarial assumptions employed and the reasons for the changes. The cost of the biennial actuarial evaluation shall be at the town's expense.

(b) Beginning in fiscal year 2008, payments for the purposes of meeting the town's cost of OPEB under this act may be made from the trust fund.

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

Approved, December 1, 2010.

Chapter 383. AN ACT ESTABLISHING A SICK LEAVE BANK FOR FRANCIS BEDARD, 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 Francis Bedard, 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 Francis Bedard. Whenever Francis Bedard terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, December 1, 2010.

**Chapter 384. AN ACT RELATIVE TO THE MATTAPOISETT RIVER VALLEY
WATER SUPPLY PROTECTION ADVISORY COMMITTEE.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 407 of the acts of 1983, as amended by chapter 92 of the acts of 1997, is hereby further amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. The committee may establish regulations and procedures for the assessment and collection of a fee to be paid by each town which withdraws water from the Mattapoisett river aquifer. Such fee shall be set by a two-thirds vote of the committee and shall be assessed in proportion to the quantity of water withdrawn by each town; provided, however, that such fee shall not exceed \$.02 per 100 gallons; and provided further, that a two-thirds vote of the voters of town meeting of a member community shall be required to assess or modify a fee on said member community as authorized by this section. Private water withdrawals registered or permitted under the Massachusetts Water Management Act shall be assessed at the same fee as for municipalities, except that no fee shall be assessed for either registered or permitted municipal or private water withdrawals used for the purposes of agriculture as defined by section 1A of chapter 128 of the General Laws. A bill to collect such fee shall be sent by the treasurer of the committee not later than February 15 of each year and shall be based upon the pumpage from January to December, inclusive.

SECTION 2. Said chapter 407, as so amended, is hereby further amended by adding the following section:-

Section 5. The committee may issue from time to time, by a two-thirds vote of the members of the committee present and voting, bonds and notes for the purpose of assisting a town within the Mattapoisett river valley to acquire land for protection of the aquifer and for land or easement purchases, engineering or other studies and services, public education relating to water conservation plans and programs and water supply protection; provided, however, that the last installment of any issue of such notes or bonds shall be payable not more than 30 years from the date of such issue; and provided further, that written notice of the amount of the debt and of the general purposes for which it was authorized shall be provided to the board of selectmen of each member town, comprising the committee not later than 7 days after the date on which said debt was authorized by the committee and no debt shall be incurred until the expiration of 45 days from the date said debt was authorized by the committee. If, before the expiration of such period, any member town expresses disapproval by vote of a majority of the voters present and voting on the matter at a town meeting called for the purpose of expressing such disapproval, such debt shall not be incurred. In the event of any such disapproval by a member town, the committee may prepare and authorize another proposal for the incurrence of debt which may be the same as any prior proposal and shall be subject to the requirements of this section. A member town shall not be required to hold a town meeting within such 45 day period and any failure of a member town to hold a town meeting shall not constitute disapproval of the amount of the debt authorized by the committee.

The bond or notes shall be issued in the name and upon the full faith and credit of the committee. The bonds or notes shall be signed by the chairman and the treasurer of the committee, except that the chairman by a writing bearing his signature and filed in the office of the treasurer, which writing shall be open to public inspection, may authorize the treasurer to cause to be engraved or printed on the bonds or notes a facsimile of the chairman's signature, and the facsimile signature so engraved or printed shall have the same validity and effect as the chairman's written signature, and each issue of bonds or notes shall be a separate loan.

The committee shall be exempt from chapter 44 of the General Laws; provided, however, that sections 16 to 28, inclusive, of said chapter 44 shall apply to the committee; provided further, that said section 16 of said chapter 44 relating to the countersigning of bonds and notes and section 24 of said chapter 44 relating to the countersigning and approval of notes and the certificates of the clerk relating thereto shall not apply to the committee. The maturities of each issue of bonds and notes of the committee shall be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the treasurer or, in the alternative, under a schedule providing for a more rapid amortization of principal. Any debt incurred by the committee shall not be subject to the limit of indebtedness prescribed in section 10 of said chapter 44.

Approved, December 1, 2010.

Chapter 385. AN ACT AUTHORIZING THE TOWN OF REHOBOTH 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 Rehoboth may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises to The Wine Shack LLC located at 289 Winthrop Street, in the town of Rehoboth under section 15 of said chapter 138. Said 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 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 7, 2010.

Chapter 386. AN ACT AUTHORIZING THE TOWN OF SUDBURY TO ENTER INTO LONG-TERM LEASES AND CONTRACTS FOR RENEWABLE OR ALTERNATIVE ENERGY, EQUIPMENT AND FACILITIES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 40 of the General Laws to the contrary, the town of Sudbury, by its town manager with the approval of the board of selectmen, may lease town lands or buildings for the establishment and operation of facilities to develop renewable or alternative energy for a period not to exceed 50 years.

SECTION 2. The town of Sudbury may enter into contracts for the purchase of renewable or alternative energy, equipment and facilities or the lease thereof for terms not to exceed 50 years, notwithstanding any limitation on the term of any such agreement in chapter 25A of the General Laws or any other general or special law to the contrary.

SECTION 3. Nothing in this act shall be construed to allow the town of Sudbury to sell, lease, transfer any interest in, or change the use of, any land that is subject to Art. XCVII of the Amendments to the Constitution of Massachusetts.

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

Approved, December 16, 2010.

Chapter 387. AN ACT RELATIVE TO THE TOWN OF LITTLETON ELECTRIC LIGHT DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 129C of chapter 149 of the General Laws, lineworkers employed by the town of Littleton electric light department and other qualified persons, as determined by the department, may work on live wires, electrical equipment or other energized conductors up to 25,000 volts phase-to-phase or 14,400 volts phase-to-ground directly with rubber gloves, when de-energizing is not feasible and only when following the applicable provisions of the most recent American Public Power Association Safety Manual, concerning proper safe work practices, personal protective equipment and clothing.

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

Approved, December 16, 2010.

**Chapter 388. AN ACT AUTHORIZING THE TOWN OF BELMONT TO GRANT
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. The board of selectmen of the town of Belmont may, in its discretion, grant licenses for the sale of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of not less than 60 and no more than 250 seats; provided, however, that no more than 10 such licenses shall be in effect, including those licenses issued pursuant to chapter 14 of the acts of 2004. The licenses shall be subject to chapter 138 of the General Laws.

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

Approved, December 16, 2010.

**Chapter 389. AN ACT RELATIVE TO PAYMENT OF PROPERTY TAXES IN THE
TOWN OF CARVER.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 58 of chapter 59 of the General Laws, or any other law, rule or regulation to the contrary, the town of Carver may allow a taxpayer who paid at least 4 times the first quarterly tax bill plus 2½ per cent of the prior year's total taxes assessed by August 1 or within 30 days if the tax bill was mailed later than July 1, to receive a 3 per cent discount on the amount paid, not to exceed the actual taxes assessed for the fiscal year.

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

Approved, December 16, 2010.

**Chapter 390. AN ACT RELATIVE TO THE POSITION OF APPOINTED
TREASURER-COLLECTOR IN THE TOWN OF FLORIDA.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, there shall be a treasurer-collector for the town of Florida. The treasurer-collector shall have all the powers, perform the duties and be subject to the liabilities and penalties now or hereafter conferred and imposed by law on town treasurers and town collectors of taxes. The treasurer-collector shall be appointed and may be removed by the board of selectmen of the town. The board of selectmen may establish an employment contract with the treasurer-collector for salary, fringe benefits and other conditions of employment, including, but not limited to, severance pay, reimbursement for expenses incurred in the performance of the duties of office, liability insurance, and conditions of discipline, termination, dismissal, reappointment, performance standards and leave.

SECTION 2. Notwithstanding section 1, the incumbents holding the offices of town treasurer and town collector on the effective date of this act shall continue to hold such offices and perform the duties of those offices until the expiration of the terms for which they were elected, unless they sooner vacate such offices. After the terms of the incumbent town treasurer and town collector holding such offices on the effective date of this act have both expired, or both offices are sooner vacated, the board of selectmen shall appoint a treasurer-collector. In the event an incumbent town treasurer vacates that position prior to the expiration or vacating of office by the town collector, an interim town treasurer shall be appointed to serve until the town collector shall no longer serve. In the event an incumbent town collector vacates that position prior to the expiration or vacating of office by the town treasurer, an interim town collector shall be appointed to serve until the town treasurer shall no longer serve.

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

Approved, December 16, 2010.

**Chapter 391. AN ACT AUTHORIZING THE CITY OF MELROSE TO
APPROPRIATE FUNDS FROM THE MOUNT HOOD MEMORIAL
PARK AND GOLF COURSE ENTERPRISE FUND TO PAY
CERTAIN DEBT SERVICE.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 124 of the acts of 1936, section 53F½ of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Melrose, by and through its park commission, may appropriate funds from the Mount Hood Memorial Park and Golf Course Enterprise Fund to pay debt service associated with bonds and notes issued by the city of Melrose to pay costs of acquiring interests in land for open space and recreational purposes and for constructing, reconstructing and equipping outdoor recreational facilities in the city of Melrose. The amounts appropriated from the fund

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for this purpose shall be in excess of the amounts required to pay the annual costs of operating and maintaining the Mount Hood Memorial Park and Golf Course, including the payment of any debt service associated therewith.

SECTION 2. Notwithstanding any general or special law to the contrary, the city of Melrose may issue bonds for constructing, reconstructing and equipping outdoor recreational facilities for a term of not more than 25 years.

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

Approved, December 16, 2010.

Chapter 392. AN ACT AUTHORIZING THE TOWN OF BILLERICA TO ESTABLISH A BILLERICA WATER CONSERVATION FUND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the contrary, the town of Billerica may establish a Billerica Water Conservation Fund. The purpose of the fund shall be to provide revenue for the funding of water management and conservation initiatives by the town, including the design, construction and implementation of measures to conserve water and assure the efficient operation of the town's public water supply system and to provide public education relating to water conservation plans and programs, consistent with the water conservation policy of the town of Billerica. The fund shall be maintained by the treasurer of the town and may be deposited in a suitable banking institution doing business in the commonwealth or invested by the treasurer as provided herein. Expenditures from the fund shall be made subject to appropriation initiated by the board of selectmen upon the recommendation of the director of public works and the town manager of the town and approved by the voters at a town meeting.

SECTION 2. Payments to the fund shall be made by applicants for permits to connect to the public water supply system of the town of Billerica who are constructing or erecting new or expanded buildings or otherwise developing land for industrial, commercial and residential uses. The method and amount of the payments from the applicants or developers shall be determined by a schedule of fees to be established by the board of selectmen upon recommendation by the director of public works, as provided in the water conservation policy of the town of Billerica. The schedule of fees shall provide the method for determining the amount of each payment from the applicants or developers based upon their anticipated water use for each type of proposed development.

SECTION 3. In addition to the aforementioned fees, monies may also be deposited into the fund from gifts, grants and donations received from public or private sources, from federal and state funding programs available to the town and from any other source authorized by law. Further, appropriations may be made into the fund, from time to time,

by the town of Billerica to provide additional funds for the aforesaid water conservation and management purposes.

SECTION 4. The treasurer of the town of Billerica may invest monies deposited in the fund and the interest accruing shall inure to the benefit of the fund. The fund shall be maintained in accordance with generally accepted accounting principles and shall be audited annually and the cost of each audit shall be charged to the fund.

SECTION 5. The director of public works of the town of Billerica, with the approval of the town manager, may make applications for available state and federal government grants for the design, construction, management, conservation and rehabilitation of public water supply facilities and pledge any sums of money in the fund, with the approval of the board of selectmen and the town meeting, for any matching grants for the design, construction, management, conservation and rehabilitation activities.

SECTION 6. The town accountant shall file jointly with the board of selectmen, the town manager, the treasurer, the finance committee and the bureau of accounts, a written report relative to the fund under this act. The report shall be made within 120 days after the books of account are closed for each fiscal year and shall include a financial statement relating to the operation, maintenance and expenditures made under the fund. The board of selectmen may review and comment on the report and file the review with the state auditor.

Approved, December 16, 2010.

Chapter 393. AN ACT CLARIFYING THE TERM “WAREHOUSER OR OTHER STORAGE FACILITY”

Be it enacted, etc., as follows:

Subsection (a) of section 4 of chapter 239 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- For the purposes of this section, the term “warehouser or other storage facility” shall mean a public warehouse licensed and bonded pursuant to section 1 of chapter 105, located in the commonwealth and within a 20 mile radius of the land or tenements from which the personal property is removed.

Approved, December 16, 2010..

Chapter 394. AN ACT AUTHORIZING THE TOWN OF CARVER TO DIVERT FUNDS FROM THE CONSERVATION FUND.

Be it enacted, etc., as follows:

Notwithstanding section 8C of chapter 40 of the General Laws, chapter 484 of the acts of 2002 or any other general or special law to the contrary, the town of Carver may divert from the conservation fund to the stabilization fund sums of money collected from rollback taxes from land formerly protected by chapters 61, 61A and 61B of the General Laws for a period of 5 years commencing on January 1, 2009.

Approved, December 16, 2010.

Chapter 395. AN ACT RELATIVE TO THE ESTATE OF HOMESTEAD.

Be it enacted, etc., as follows:

SECTION 1. The General Laws are hereby amended by striking out chapter 188 and inserting in place thereof the following chapter:-

CHAPTER 188 HOMESTEADS

Section 1. For the purposes of this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Automatic homestead exemption”, an exemption in the amount of \$125,000 pursuant to section 4; provided, however, that: (1) with respect to a home owned as joint tenants or as tenants by the entirety, the automatic homestead exemption shall remain whole and unallocated between the owners, provided that the owners together shall not be entitled to an automatic homestead exemption in excess of \$125,000; and (2) with respect to a home owned by multiple owners as tenants in common or as trust beneficiaries, the automatic homestead exemption shall be allocated among all owners in proportion to their respective ownership interests.

“Declared homestead exemption”, an exemption in the amount of \$500,000 created by a written declaration, executed and recorded pursuant to section 5; provided, however, that: (1) with respect to a home owned by joint tenants or tenants by the entirety who are benefited by an estate of homestead declared pursuant to section 3, the declared homestead exemption shall remain whole and unallocated, provided that the owners together shall not be entitled to a declared homestead exemption in excess of \$500,000; (2) if a home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to said section 3 shall be the product of: (i) \$500,000; and (ii) the co-tenant’s or trust beneficiary’s percentage ownership interest; (3) except as provided in clause (4), each person who owns a home and who is benefited by an estate of homestead declared pursuant to section 2 shall be entitled to the declared homestead exemption without reduction, proration or allocation among other owners of the home; and (4) separate estates of homestead may

be declared pursuant to sections 2 and 3 on the same home, and in such event: (i) if the home is owned by tenants in common or trust beneficiaries, the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 3 shall be calculated in the manner provided in clause (2), and the declared homestead exemption for each co-tenant and trust beneficiary who benefits by an estate of homestead declared pursuant to section 2 shall be calculated in the manner provided in clause (3); or (ii) if the home is owned by joint tenants or tenants by the entirety, the declared homestead exemption for the owners together shall be the sum of \$500,000 multiplied by the number of declarations recorded pursuant to section 2, plus \$250,000; provided, however, that the homestead exemption under this subclause shall remain whole and unallocated among the owners; and provided further, that no owner who declares a homestead, acting individually, shall be entitled to claim an exemption of more than \$500,000; and (5) the calculation of the amount of homestead exemption available to an owner shall not sever a joint tenancy or tenancy by the entirety.

“Disabled person”, an individual who has a medically-determinable, permanent physical or mental impairment that would meet the disability requirements for Supplemental Security Income under 42 U.S.C. 1382c(a)(3)(A) and 42 U.S.C. 1382c(a)(3)(C) as in effect at the time of recording.

“Elderly person”, an individual 62 years of age or older.

“Family” or “family members”, (1) married individuals, both of whom own a home, and any minor child; (2) a married individual who owns a home, a non-titled spouse of the married individual and any minor child; or (3) an unmarried individual who owns a home and any minor child.

“Home”, the aggregate of: (1) any of the following: (i) a single-family dwelling, including accessory structures appurtenant thereto and the land on which it is located; (ii) a 2 to 4-family dwelling, including accessory structures appurtenant thereto and the land on which it is located; (iii) a manufactured home as defined in section 32Q of chapter 140; (iv) a unit in a condominium, as those terms are defined in section 1 of chapter 183A, that is used for residential purposes; or (v) a residential cooperative housing unit established pursuant to chapters 156B, 157B, 180 or otherwise; (2) the sale proceeds as provided in clause (1) of subsection (a) of section 11; and (3) the proceeds of any policy of insurance insuring the home against fire or other casualty loss as provided in clause (2) of said subsection (a) of said section 11.

“Minor child”, a person aged 21 and under, who is the natural or adopted child of an owner or owner’s spouse entitled to the benefits of this chapter, notwithstanding any law to the contrary.

“Owner”, a natural person who is a sole owner, joint tenant, tenant by the entirety, tenant in common, life estate holder or holder of a beneficial interest in a trust.

“Principal residence”, the home where an owner, and the owner’s family if applicable, resides or intends to reside as the primary dwelling; provided, however, that no person shall hold concurrent rights in more than 1 principal residence.

“Record”, “recording” or “recorded”, the act of recording in the registry of deeds or the registry district of the land court for the county or district wherein the home lies, except that with respect to a manufactured home located on registered land, recording in the registry of deeds shall be sufficient.

Section 2. (a) The estate of homestead of each owner who is an elderly or disabled person, regardless of marital status, shall be protected under this section against attachment, seizure, execution on judgment, levy and sale for payment of debts and legacies, except as provided in subsection (b) of section 3, to the extent of the declared homestead exemption; provided, however, that the declaration of homestead for such elderly or disabled person that complies with section 5 has been recorded; and provided, further, that each owner occupies or intends to occupy the home as his principal residence.

An owner of a home who qualifies under this section shall, upon recording of an elderly or disabled person's declaration of homestead protection, be eligible for protection of such ownership interest to the extent of the declared homestead exemption as set forth in clauses (3) and (4) of the definition of “declared homestead exemption” in section 1 regardless of whether such declaration is recorded individually or jointly with another.

(b) Except as provided in the following paragraph, each elderly or disabled person's estate of homestead shall terminate upon: (i) the sale or transfer of that person's ownership interest in the home, except where the elderly or disabled person is also the transferee of all or a portion of the transferred interest; (ii) the recorded release of that person's homestead estate; (iii) the subsequent declaration of an estate of homestead on other property; (iv) the abandonment of the home as the principal residence by the person; (v) the death of the person; or (vi) with respect to a home owned in trust, the execution of a deed or recorded release by the trustees.

In the event that an owner records a declaration under this section and then conveys to or is survived by a spouse who does not have the benefit of an estate of homestead created under this section or section 3 and the spouse occupies or intends to occupy the home as the principal residence, then the spouse shall be deemed, as of the time such spouse acquired title, to have the benefit of the declaration previously recorded to the same extent as if such declaration had been recorded under section 3, until the spouse becomes eligible for and records a declaration of homestead pursuant to this section.

(c) No declaration of homestead created under this section shall terminate the existing homestead rights of a non-titled spouse or any minor children.

(d) Nothing in this section shall prohibit an elderly or disabled person from declaring or continuing a homestead pursuant to section 3, but no person shall concurrently hold rights under both this section and section 3.

Section 3. (a) An estate of homestead to the extent of the declared homestead exemption in a home may be acquired by 1 or more owners who occupy or intend to occupy the home as a principal residence. The estate of homestead shall be created by a written declaration executed and recorded in accordance with section 5. A homestead declaration

shall benefit each owner making the declaration and that owner's family members who occupy or intend to occupy the home as their principal residence. The homestead rights of non-titled family members shall consist of the right to use, occupy and enjoy the home as their principal residence.

(b) An estate of homestead shall be exempt from the laws of conveyance, descent, devise, attachment, seizure, execution on judgment, levy and sale for payment of debts or legacies except as follows:

- (1) for a sale for federal, state and local taxes, assessments, claims and liens;
- (2) for a lien on the home recorded prior to the creation of the estate of homestead;
- (3) for a mortgage on the home as provided in sections 8 and 9;
- (4) upon an order by a court that a spouse, former spouse or parent shall pay a certain amount weekly or otherwise for the support of a spouse, former spouse or minor children;
- (5) where buildings on land not owned by the owner of the estate of homestead are attached, levied upon or sold for the ground rent of the lot upon which they are situated; and
- (6) upon an execution issued from a court of competent jurisdiction to enforce its judgment based upon fraud, mistake, duress, undue influence or lack of capacity.

Section 4. In the absence of a valid declaration of homestead recorded under this chapter, an estate of homestead to the extent of the automatic homestead exemption shall exist in a home for the benefit of the owner and the owner's family members who occupy or intend to occupy the home as a principal residence. The homestead rights of non-titled family members shall consist of the right to use, occupy and enjoy the home as a principal residence. The estate shall be held subject to this chapter, except for sections 2, subsection (a) of section 3 and section 5.

In the event that spouses occupy or intend to occupy separate homes, then both estates of homestead together shall not exceed the automatic homestead exemption. The recording of a declaration of homestead under this chapter shall supersede the automatic homestead exemption provided by this section, but shall not terminate the automatic homestead exemption applicable to the period between the creation of the automatic homestead and the later recording of a declaration of homestead. If a superseding declaration of homestead on the same home is later invalidated or terminated, the estate of homestead provided in this section shall be reinstated as of the date of its original creation.

A homestead under this section may be subordinated to a subsequent new loan or line of credit; provided, however, that the new loan or line of credit: (a) is not secured by a recorded document; (b) does not exceed \$20,000; (c) is exempt from the provisions of chapter 140D; (d) is evidenced by a written agreement executed by all record owners and their non-titled spouses for the purpose of subordinating the homestead as provided herein; and (e) contains a statement in substantially the following form, in boldface type and of a minimum size of 12-point font, "I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims up to the principal amount of the loan or line of credit provided under this contract."

The subordination allowed in this paragraph shall not apply to credit card agreements or to any loan made in anticipation of a paycheck, tax refund or insurance settlement.

Section 5. (a) A declaration of homestead shall be in writing, signed and acknowledged under penalty of perjury by each owner to be benefited by the homestead, except as provided in clause (4), shall be recorded and shall comply with the following:

(1) each owner to be benefited by the homestead, and the owner's non-titled spouse, if any, shall be identified;

(2) the declaration shall state that each person named therein occupies or intends to occupy the home as their principal residence;

(3) if the home is co-owned by a married couple, whether in their names only or as co-tenants with others, and the home is the principal residence or is intended to be the principal residence of both spouses, a declaration under section 3 shall be executed by both spouses; and

(4) if the home is owned in trust, only the trustee shall execute the declaration.

(b) A declaration of homestead under section 2 shall, in addition to the requirements of subsection (a), include the following:

(1) a statement that the owner to be benefited is an elderly person or a disabled person; and

(2) with respect to a declaration of homestead benefiting a disabled person: (i) an original or certified copy of a disability award letter issued to the person by the United States Social Security Administration; or (ii) a letter signed by a physician registered with the board of registration in medicine certifying that the person meets the disability requirements stated in 42 U.S.C. 1382c(a)(3)(A) and 42 U.S.C. 1382c(a)(3)(C) as in effect at the time of recording; provided, however, that the award letter or physician's letter shall be recorded with the declaration.

(c) A declaration of homestead shall not be created within a deed or other instrument vesting title in the owner.

(d) The statement of principal residence required in clause (2) of subsection (a) shall be binding upon an identified owner, including an owner who is a beneficiary of a trust, but may be overcome by an interested third party upon presentation of clear and convincing evidence to the contrary. In the event that spouses occupy or intend to occupy separate homes and valid declarations are recorded with respect to each, then both estates of homestead together shall not exceed the declared homestead exemption.

The estate of homestead of an individual who records a declaration of homestead under section 3 and who subsequently marries shall automatically be deemed to benefit that individual's spouse. Any subsequent recording of a declaration of homestead benefiting: (i) a family member identified on a prior declaration on the same home; or (ii) the spouse of that person, without an intervening release, shall relate back to the filing date of the earliest recorded declaration, but the provisions of this chapter pursuant to which the later recorded declaration was made shall control the rights of a person identified in the later declaration.

Section 6. In a case where a complaint for divorce, separate support, guardianship or conservatorship has been filed in the probate court by or against a person entitled to the benefit of an estate of homestead, the spouse and minor children of that person may use, occupy and enjoy the homestead estate until ordered otherwise by the probate court. The recording of an order of the probate court, together with the description of the homestead estate, shall prevent a beneficiary of the homestead estate from disposing of the estate until such time as the probate court revokes the judgment.

Section 7. The estate of homestead existing at the death or divorce of a person holding a homestead under section 3 or 4 shall continue for the benefit of the surviving spouse or the former spouse and minor children who occupy or intend to occupy the home as their principal residence. The estate of homestead of the surviving spouse or former spouse and minor children shall continue notwithstanding the remarriage of the surviving or former spouse. The right, title and interest of the deceased in the home, except the estate of homestead thus continued, shall be subject to the laws relating to devise, descent and sale for the payment of debts and legacies.

Section 8. No estate of homestead shall affect a mortgage, lien or other encumbrance previously existing, except as provided in this chapter.

Section 9. An estate of homestead shall be subordinate to a mortgage encumbering the home executed by all the owners of the home. For the purposes of this chapter, a mortgage shall include an instrument granting a security interest in a manufactured home or cooperative housing unit. The subordination shall not require the signature of a spouse who is not an owner. A mortgage executed by fewer than all of the owners of a home that is subject to an estate of homestead shall be superior only to the homestead estate of the owners who are parties to the mortgage and their non-titled spouses and minor children, if any.

No statement that a homestead estate shall be subordinate to the mortgage shall be required in the mortgage instrument and nothing contained in a mortgage or any document executed in connection with the mortgage shall affect or be construed to create, modify or terminate a homestead estate, other than to subordinate it to the mortgage as aforesaid. A mortgage lender shall not require or record a release of homestead in connection with the making and recording of a mortgage.

Section 10. (a) An estate of homestead created under section 3 or 4 may be terminated by any of the following methods:

(1) a deed to a non-family member conveying the home, signed by the owner and a non-owner spouse or former spouse residing in the home as a principal residence as of the date of the deed;

(2) a recorded release of the estate of homestead, duly signed and acknowledged by the owner and a non-owner spouse or former spouse residing in the home as a principal residence as of the date of the release;

(3) the abandonment of the home as the principal residence by the owner, the owner's spouse, former spouse or minor children, except that such abandonment shall terminate only

the rights of the persons who have abandoned the home; provided, however, that no person in military service as defined in 50 U.S.C. appendix, section 511 shall be deemed to have abandoned the home due to such military service;

(4) in the case of a home the title to which is held in trust, by either: (i) the execution of a deed or a release of homestead by the trustee; or (ii) action of a beneficial owner identified in the declaration, who is not a minor child, taken in the same manner as provided in clauses (2) and (3); or

(5) the subsequent recorded declaration of an estate of homestead under section 3 on other property, except that such declaration shall terminate only the rights of the owner making such subsequent declaration and the rights of that owner's spouse and minor children who reside or intend to reside in the other property as their principal residence.

(b) No deed between spouses or former spouses or co-owners who individually or jointly hold an estate of homestead under section 3 or 4 and no deed between a trustee and a trust beneficiary or between a life tenant and a remainderman shall terminate the homestead unless each co-owner, spouse, former spouse or trust beneficiary entitled to the benefit of the homestead has executed an express release thereof pursuant to clause (2) or clause (4) of subsection (a).

(c) If a subsequent declaration on other property which terminates a homestead under clause (5) of subsection (a) is later invalidated, the prior declaration shall not be reinstated; provided, however, that the owner shall have the benefit of the provisions of section 4.

(d) Except for the subordination provided in section 9, nothing contained in a mortgage or any document executed in connection therewith shall terminate or otherwise affect a homestead estate.

(e) A deed reserving an estate of homestead shall convey, according to its terms, any title or interest in the property beyond the estate of homestead.

Section 11. (a) If a home that is subject to an estate of homestead is sold, whether voluntarily or involuntarily, taken or damaged by fire or other casualty, then the proceeds received on account of any such sale, taking or damage shall be entitled to the protection of this chapter during the following periods:

(1) in the event of a sale, whether voluntary or involuntary, or a taking, for a period ending on the date on which the person benefited by the homestead either acquires another home the person intends to occupy as a principal residence or 1 year after the date on which the sale or taking occurred, whichever first occurs; and

(2) in the event of a fire or other casualty, for a period ending on: (i) the date upon which the reconstruction or repair to the home is completed or the date on which the person benefited by the homestead acquires another home the person intends to occupy as a principal residence; or (ii) 2 years after the date of the fire or other casualty, whichever first occurs.

(b) For the purposes of this section, occupancy of a trailer, manufactured home or other temporary housing shall not establish principal residency in a reconstructed or replacement home.

Section 12. If the property of a debtor is assigned under the laws relative to insolvent debtors and debtor claims and it appears to the court wherein the insolvency proceedings are pending that the debtor is entitled to hold a part thereof as a homestead and that the property in which estate of homestead exists is of greater value than either the automatic homestead exemption or the declared homestead exemption, as applicable, the court shall cause the property to be appraised by 3 disinterested appraisers, 1 of whom shall be appointed by the insolvent debtor, 1 of whom shall be appointed by the assignee and 1 of whom shall be appointed by the court; provided, however, that if either the assignee or insolvent debtor fails to make such appointment, the court shall appoint an appraiser for the assignee or the insolvent debtor. The appraisers shall be sworn faithfully and impartially to appraise the property and shall appraise and set off an estate of homestead therein to the insolvent debtor in the manner prescribed in section 18 of chapter 236 for a judgment debtor and the residue shall vest in and be disposed of by the assignee in the same manner as property which is not exempt by law from levy on execution. The appraisers shall be entitled to the same fees, to be paid out of the estate in insolvency, as are allowed to appraisers of land seized upon execution.

Section 13. A deed, release or mortgage containing a statement of the marital status of a grantor may be relied upon by a good faith purchaser for value. As to acts undertaken in good faith reliance on such deed, release or mortgage, an affidavit executed and acknowledged by the grantor, releaser or mortgagor under penalty of perjury stating that, at the time of delivery of the deed, release or mortgage, the affiant had no spouse then entitled to claim the benefit of an existing estate of homestead, shall be conclusive proof of the nonexistence of such benefit at that time. The affidavit may be recorded in connection with the execution and delivery of a deed, release or mortgage and shall be accepted in the appropriate registry of deeds and registry district of the land court. The subsequent residency or renewal of residency in the home by a spouse of the grantor, releaser or mortgagor shall not defeat the priority of a mortgage, release or conveyance accepted in reliance on such affidavit.

Section 14. In all mortgage transactions, the closing attorney or settlement agent shall provide the mortgagor with notice of the right to declare homestead protection pursuant to this chapter, receipt of which shall be acknowledged in writing by the mortgagor. The notice shall include, but not be limited to, a summary of the differences between the automatic homestead protection and the enhanced benefits acquired by making a declaration of homestead.

SECTION 2. Chapter 236 of the General Laws is hereby amended by striking out section 18, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 18. If a judgment creditor requires an execution to be levied on property which is claimed by the debtor to be as a homestead exempt from such levy and if the officer holding such execution is of the opinion that the premises are of greater value than an amount equal to either the automatic homestead exemption or the declared homestead exem-

ption, as applicable, as defined in section 1 of chapter 188, appraisers shall be appointed to appraise the property in the manner provided by section 6. If in the judgment of the appraisers the premises are of greater value than the amount of either the automatic homestead exemption or the declared homestead exemption, as applicable, the appraisers shall set off to the judgment debtor so much of the premises, including the dwelling house, in whole or in part, as shall appear to them to be of the value of the amount of the exemption and the residue of the property shall be levied upon and disposed of in like manner as land not exempt from levy on execution; provided, however, that if the property levied on is subject to a mortgage, it may be set off or sold subject to the mortgage and to the estate of homestead in the same manner as land subject to a mortgage only.

SECTION 3. All existing estates of homestead in effect on the effective date of this act shall continue in full force and effect notwithstanding the repeal of any law under which they were created and shall be governed by this act, notwithstanding their failure to comply with the execution requirements of section 5 of chapter 188 of the General Laws, as appearing in section 1 of this act.

Approved, December 16, 2010.

Chapter 396. AN ACT CHANGING THE BOUNDARY LINE BETWEEN CHARLEMONT AND HAWLEY.

Be it enacted, etc., as follows:

The following described line shall be the boundary line between the towns of Charlemont and Hawley:

Beginning at a granite bound marking the existing town corner of the towns of Buckland, Charlemont and Hawley, the bound having a coordinate value of north 3,050,558 and east 297,223 (approx), thence N79° 4' 22" W for twenty six thousand, three hundred and three (26,303) feet to a cairn of stones hereby designated Charlemont-Hawley 1 (CH1), having a coordinate value of north 3,055,544 and east 271,397 (approx). Thence N74° 00' 29" W for six thousand, nine hundred and fifty one (6,951) feet to a granite bound marking the existing town corner of the towns of Charlemont, Hawley and Savoy, the bound having a coordinate value of north 3,057,459 and east 264,715 (approx).

All coordinate values contained in this act are expressed in United States survey feet and are found on the North American Datum of 1983-2007, Massachusetts Mainland Zone.

Approved, December 16, 2010.

Chapter 397. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LARAINÉ NASIF, 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 Laraine Nasif, 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 Laraine Nasif. 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 Laraine Nasif 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 18, 2010.

Chapter 398. AN ACT AUTHORIZING THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE TOWN OF WHITMAN.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Whitman may appoint, as it deems necessary, retired police officers of the town as special police officers for the purpose of performing police details or any police duties arising therefrom or during the course of police detail work, whether or not related to the detail work. The retired police officers shall have been regular Whitman police officers who retired based upon superannuation. Such retired police officers shall pass a medical examination conducted by a physician or other certified professional chosen by the town, to determine whether such officers are capable of performing the essential duties of special police officers, and the cost thereof shall be borne by the retired police officers. Each appointment shall be made conditional upon the satisfactory completion of the medical examination.

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

SECTION 3. Special police officers appointed under this act shall, when performing the duties under section 1, have the same power to make arrests and to perform other police functions as do regular police officers of the town of Whitman.

SECTION 4. Special police officers shall be appointed annually and subject to removal by the board of selectmen at any time, upon 14 days written notice. Upon request, the board of selectmen shall provide the reasons for such removal in writing.

SECTION 5. Special police officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements of the board of selectmen and the chief of police in the town of Whitman, including restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms qualifications and licensing and requirements regarding uniforms and equipment, with all costs of compliance to be incurred by the special police officers. Special police officers appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 6. Special police officers appointed under this act shall be sworn before the town clerk who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 to an incapacitated special police officer shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working details, or averaged over such lesser period of time for any officer designated as special police officers less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving a town is increased from 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided herein to special police officers, shall terminate at such higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.

SECTION 8. An appointment as a special police officer under this act shall allow, but not entitle, any individual appointed as such to assignment to any details, excluding any regular overtime shift fills.

SECTION 9. Retired police officers of the town of Whitman, serving as special police officers under this act, shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

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

Approved, December 18, 2010.

Chapter 399. AN ACT PROVIDING EQUITY FOR SCHOOL PRINCIPALS.

Be it enacted, etc., as follows:

The second paragraph of section 41 of chapter 71 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- School principals, by whatever title their position may be known, shall not be represented in collective bargaining, but each principal, upon the written request of the principal, shall meet and discuss the terms and conditions of the principal's employment in the principal's school district with the district's superintendent or the superintendent's designee, at a time to be determined by the superintendent and may be represented by an attorney or other representative.

Approved, December 18, 2010.

Chapter 400. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MEGHAN SAVAGE, AN EMPLOYEE OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of children and families shall establish a sick leave bank for Meghan Savage, 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 Meghan Savage. Whenever Meghan Savage terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, December 21, 2010.

Chapter 401. AN ACT ESTABLISHING A SICK LEAVE BANK FOR CHERYL A. COLE, 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,

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therefore 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 Cheryl A. Cole, 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 Cheryl A. Cole. Whenever Cheryl A. Cole 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. 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.

Approved, December 21, 2010.

Chapter 402. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MAURICE JANDREAU, 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 Maurice Jandreau, an employee of the 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 Maurice Jandreau. Whenever Maurice Jandreau 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, December 21, 2010.

Chapter 403. AN ACT ESTABLISHING A SICK LEAVE BANK FOR TANYA ROBIDEAU, 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 Tanya Robideau, 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 Tanya Robideau. Whenever Tanya Robideau terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, December 30, 2010.

Chapter 404. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BRIAN C. LINEHAN, 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 Brian C. Linehan, 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 Brian C. Linehan. 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 Brian C. Linehan 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 30, 2010.

**Chapter 405. AN ACT VALIDATING CERTAIN PROCEEDINGS OF THE
PATHFINDER REGIONAL VOCATIONAL-TECHNICAL HIGH
SCHOOL DISTRICT.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to allow forthwith the town of Oakham to join the Pathfinder regional vocational-technical high school district, therefore 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 603 CMR 41.03 or any general or special law to the contrary, the department of elementary and secondary education shall allow the town of Oakham to become a member of the Pathfinder regional vocational-technical high school district in accordance with the vote taken by the town of Oakham on October 29, 2009 and the members of the regional school district as follows: on November 9, 2009 by the town of Palmer; November 18, 2009 by the town of Monson; November 23, 2009 by the town of Ware; December 17, 2009 by the town of New Braintree; February 24, 2010 by the town of Hardwick; April 26, 2010 by the town of Granby; May 10, 2010 by the town of Belchertown; and June 8, 2010 by the town of Warren.

SECTION 1A. Chapter 70 funding allocated in section 3 of chapter 131 of the acts of 2010 shall be transferred to the Pathfinder regional vocational-technical high school district for any Oakham student attending a school in the Pathfinder regional vocational-technical high school district in school year 2011.

SECTION 2. This act shall take effect as of July 1, 2010.

Approved, December 30, 2010.

**Chapter 406. AN ACT AUTHORIZING THE LEASE AND CONSTRUCTION OF
IMPROVEMENTS TO THE NORTH BRANCH LIBRARY AND EAST
BRANCH LIBRARY BUILDINGS IN THE TOWN OF
WATERTOWN.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city known as the town of Watertown with the approval of town council, may enter into 1 or more leases for all or a portion of the properties known as the North Branch Library and the East Branch Library; provided, however, that any such lease shall be awarded pursuant to section 16 of chapter 30B of the General Laws and shall be made on such terms and conditions, including the length of the term thereof, as shall be determined by the town manager to be in the best interests of the town.

SECTION 2. A lessee selected pursuant to this act shall be solely responsible for the cost of all construction, reconstruction, alteration, remodeling, repair and maintenance of the North Branch Library and the East Branch Library buildings and grounds, collectively referred to herein as improvements, including the cost of any design services relative thereto. The design and construction of any such improvements shall be subject to the prior approval of the town of Watertown and shall be exempt from the General Laws related to the construction, reconstruction, alteration, remodeling, repair and maintenance of improvements to public property, including sections 38A½ to 38O, inclusive, of chapter 7 of the General Laws, section 39M of chapter 30 of the General Laws, chapter 30B of the General Laws, section 44A to 44H, inclusive, of chapter 149 of the General Laws and chapter 149A of the General Laws. Sections 26 to 27H, inclusive, of said chapter 149 shall apply to any contracts entered into by the lessee for the construction of such improvements.

SECTION 3. Prior to the construction of any improvements pursuant to this act, the lessee shall provide the town of Watertown with a performance and labor and materials payment bond in the amount of 100 per cent of the value of the improvements to be constructed and with certificates of insurance evidencing the existence of such coverage as the town manager shall determine to be in the best interests of the town.

SECTION 4. All improvements constructed pursuant to this act shall become and shall remain the property of the town of Watertown upon the termination of the lease or leases awarded pursuant to this act.

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

Approved, December 30, 2010.

Chapter 407. AN ACT AUTHORIZING THE TOWN OF SUDBURY TO ENTER INTO AND TO EXTEND WIRELESS FACILITY CONTRACTS OR LEASES FOR PERIODS IN EXCESS OF 20 YEARS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 3 of chapter 40 of the General Laws, or any other general or special law to the contrary, the town of Sudbury, by its town manager, with the approval of the board of selectmen, may enter into long-term leases, contracts or interests in real estate with telecommunications or holding companies in excess of 20 years for the purpose of siting, establishing or renewing wireless services facilities on town land.

SECTION 2. Notwithstanding chapter 30B of the General Laws or any other general or special law to the contrary, the town of Sudbury may renew or negotiate renewal terms of existing leases, contracts or interests in real estate with telecommunications or holding companies for periods in excess of 20 years for wireless service facilities initially bid under

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said chapter 30B, without rebidding under said chapter 30B; provided, however, that the terms of the leases shall allow the town at its sole discretion, to acquire said wireless service facilities at the depreciated cost.

SECTION 3. This act shall take effect upon its passage and without further submission to a town meeting.

Approved, December 30, 2010.

**Chapter 408. AN ACT AUTHORIZING THE TOWN OF HINGHAM TO
DESIGNATE A CHECK OFF BOX ON ITS TAX BILLS.**

Be it enacted, etc., as follows:

SECTION 1. The town of Hingham may, subject to the approval of the commissioner of revenue, designate a place on its municipal tax bills or motor vehicle excise tax bills, or mail with such tax bills a separate form, whereby taxpayers of the town may voluntarily check off, donate and pledge an amount of money, which shall increase the amount otherwise due and which shall be paid over to a fund established by the town of Hingham, and known as the Hingham Veterans Council Assistance Fund for the support of Hingham veterans and dependents in need, in keeping with the purposes of the Hingham Veterans Council.

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

Approved, December 31, 2010.

**Chapter 409. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR
2011 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 2011 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 2011, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in

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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, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

ATTORNEY GENERAL
Office of the Attorney General.

0810-0007	\$50,000
0810-0045	\$190,418

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
Division of Capital Asset Management.

1102-3301	\$630,000
1102-3306	\$392,000

Office of the Secretary of Administration and Finance

1599-4704	\$4,300,000
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EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
Department of Conservation and Recreation

2810-0100	\$2,100,000
2820-0101	\$134,631

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
Division of Medical Assistance

4000-0500	\$17,343,019
4000-0600	\$11,316,486
4000-0700	\$149,069,588
4000-0950	\$49,809,579
4000-0990	\$10,278
4000-1405	\$17,342,133
4000-1420	\$13,097,171

Department of Youth Services

4200-0200	\$1,000,000
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Department of Transitional Assistance

4408-1000	\$4,300,000
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Department of Public Health

4513-0200	\$670,000
4512-0225	\$500,000
4513-1020	\$2,500,000
4513-1026	\$341,324
4513-1130	\$750,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-0101	\$16,000,000
7004-9024	\$1,100,000

Department of Business Development

7007-1000	\$500,000
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EXECUTIVE OFFICE OF ELDER AFFAIRS

Office of the Secretary of Elder Affairs

9110-1630	\$2,400,000
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LEGISLATURE

Senate

9500-0000	\$1,115,549
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House of Representatives

9600-0000	\$5,510,171
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Joint Legislative Operations

9700-0000	\$1,900,000
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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, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1599-6263 For a reserve for the purposes of eradication and control of mosquitoes to prevent the spread of eastern equine encephalitis; provided, that the secretary of administration and finance shall report on the expenditures from this account including, but not limited to, the amount spent from this account during the fiscal year, the communities where spraying occurred and the amount spent per community \$1,188,236

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
Office of the Secretary of Energy and Environmental Affairs

2000-1011 For the office of environmental law enforcement which may expend revenues in an amount not to exceed \$200,000 from the administrative handling charge revenues received from electronic transactions processed through its online licensing and registration systems; 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 office of environmental law enforcement 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 . . . \$200,000

Board of Library Commissioners

7000-9403 For the Boston public library for its role as the library of last recourse for the commonwealth; provided, that all funds expended from this item shall be transferred for use in other branch libraries \$350,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT
Department of Business Development

7007-0150 For a competitive grant program to promote the 8 regional economic development corporations, councils, and partnerships across the commonwealth \$800,000

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

8000-0004 For amounts paid by the United States to the commonwealth, as the employer, to satisfy the judgment of the United States District Court in *Regan v. United States*, 421 F.Supp.2d 319

(D. Mass 2006), and employer-match refund claims governed by that judgment; provided, that the comptroller shall transfer funds to the offices of sheriffs or of registries of deeds whose employees were at issue in that action in proportion to the employer match of payments to those affected employees in each of those offices, solely for one-time expenses of those offices; provided further, that no funds made available from this item shall be expended from object class AA, BB or CC; provided further, that each such office shall file a written report with the comptroller and the secretary of administration and finance not later than June 30 of each year funds were provided, detailing the purposes for which these funds were expended; and provided further, that the comptroller may retain funds from this item to reimburse his reasonable expenses in administering payments pursuant to, and refund claims governed by, that judgment \$3,469,927

LEGISLATURE

Senate

9510-0000 For expenses incurred by the senate related to the joint committee
on redistricting, prior appropriation continued \$750,000

House of Representatives

9610-0000 For expenses incurred by the house related to the joint committee
on redistricting, prior appropriation continued \$750,000

SECTION 2E. The sums set forth in this section are hereby appropriated for transfer from the General Fund to the trust fund named within this item unless specifically designated otherwise in this section, for the 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, 2011. Items in this section shall not be subject to allotment under section 9B of chapter 29 of the General Laws or reduction under section 9C of said chapter 29, without express authorization from the general court. Notwithstanding section 19A of said chapter 29, any transfer under this section shall be made by the comptroller in accordance with a transfer schedule to be developed for each item by the comptroller, after consulting with the appropriate agency secretary, the secretary of administration and finance and the state treasurer. The schedule for each appropriation shall provide for transfers in increments considered appropriate to meet the cash flow needs of each fund and all transfers under the schedule shall be completed not later than June 30, 2011. Not later than 7 days after the schedules receive final approval by the comptroller, they shall be reported to the house and senate committees on ways and means.

1595-5819 \$20,000,000

SECTION 3. The fifth sentence of subsection (d) of section 18B of chapter 53 of the General Laws, as appearing in section 37 of chapter 188 of the acts of 2010, is hereby amended by striking out the words “not more than” and inserting in place thereof the following words:- at least.

SECTION 4. Section 6 of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “of”, in line 637, the second time it appears, and in line 642, the following words:- energy and.

SECTION 5. Said section 6 of said chapter 62, as so appearing, is hereby further amended by inserting after the word “a”, in line 665, the following word:- refundable.

SECTION 6. Subsection (p) of said section 6 of said chapter 62, as so appearing, is hereby amended by striking out paragraphs (3) and (4) and inserting in place thereof the following 2 paragraphs:-

(3) The fair market value of a qualified donation of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A- 13(c)(3), and shall be prepared by a qualified appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For a taxpayer to qualify for the credit provided for in this subsection, the taxpayer shall, as part of the certification process, file with the secretary of energy and environmental affairs a summary of a qualified appraisal or, if requested by the secretary, the taxpayer shall submit the appraisal itself. The secretary shall transmit the summary or the qualified appraisal itself and certification to the commissioner, upon request. For purposes of determining the credit under this subsection, the fair market value of a qualified donation shall be subject to review by the commissioner under chapter 62C.

(4) If the amount of the credit allowed under this subsection exceeds the taxpayer’s tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer the entire amount of the excess.

SECTION 7. Said subsection (p) of said section 6 of said chapter 62, as so appearing, is hereby further amended by striking out paragraph (9) and inserting in place thereof the following paragraph:-

(9) The secretaries of energy and environmental affairs and administration and finance, acting jointly and in writing, shall authorize tax credits under this subsection together with section 38AA of chapter 63. The total cumulative value of the tax credits authorized pursuant to this section and said section 38AA of said chapter 63 shall not exceed \$2,000,000 annually. No credits shall be allowed under this subsection except to the extent authorized in this paragraph. The commissioner, after consulting with the secretaries concerning, among other things, the land conservation objectives of this section, shall adopt regulations governing applications for and other administration of the tax credits.

SECTION 8. The definition of “Tax credit program” in section 1 of chapter 62C of the General Laws, as appearing in section 118 of chapter 240 of the acts of 2010, is hereby

amended by striking out the words “and (xi)” and inserting in place thereof the following words:- (xi) the donated land tax credit in subsection (p) of said section 6 of said chapter 62 and section 38AA of said chapter 63; and (xii).

SECTION 9. Section 38AA of chapter 63 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “of”, in line 9, the second time it appears, and in line 14, the following words:- energy and.

SECTION 10. Said section 38AA of said chapter 63, as so appearing, is hereby further amended by striking out, in line 35, the words “the income tax” and inserting in place thereof the following words:- an excise.

SECTION 11. Said section 38AA of said chapter 63, as so appearing, is hereby further amended by inserting after the word “a”, in line 37, the following word:- refundable.

SECTION 12. Said section 38AA of said chapter 63, as so appearing, is hereby further amended by striking out subsections (c) and (d) and inserting in place thereof the following 2 subsections:-

(c) The fair market value of a qualified donation of certified land shall be substantiated by a qualified appraisal, as defined in United States Treasury Regulation section 1.170A-13(c)(3), and shall be prepared by a qualified appraiser, as defined in United States Treasury Regulation section 1.170A-13(c)(5). For a taxpayer to qualify for the credit provided for in this section, the taxpayer shall, as part of the certification process, file with the secretary of energy and environmental affairs a summary of a qualified appraisal or, if requested by the secretary, the taxpayer shall submit the appraisal itself. The secretary shall transmit the summary of or the qualified appraisal itself and certification to the commissioner of revenue, upon request. For purposes of determining the credit under this section, the fair market value of a qualified donation shall be subject to review by the commissioner under chapter 62C.

(d) If the amount of the credit allowed under this section exceeds the taxpayer’s tax liability, the commissioner of revenue shall treat the excess as an overpayment and shall pay the taxpayer the entire amount of the excess.

SECTION 13. Said section 38AA of said chapter 63, as so appearing, is hereby further amended by striking out subsection (h) and inserting in place thereof the following subsection:-

(h) The secretaries of energy and environmental affairs and administration and finance, acting jointly and in writing, shall authorize tax credits under this section together with subsection (p) of section 6 of chapter 62. The total cumulative value of the tax credits authorized pursuant to this section and said subsection (p) shall not exceed \$2,000,000 annually. No credits shall be allowed under this section except to the extent authorized in this subsection. The commissioner of revenue, after consulting with the secretaries concerning, among other things, the land conservation objectives of this section, shall adopt regulations governing applications for and other administration of the tax credits.

SECTION 14. Chapter 90 of the General Laws is hereby amended by striking out section 30, as so appearing, and inserting in place thereof the following section:-

Section 30. A proper record of all applications, certificates, licenses and other documents issued or received and maintained in the normal course of business by the registry of motor vehicles shall be kept by the registrar. The record shall be public, open to the inspection of any person during reasonable business hours, subject to applicable privacy laws and regulations. A proper record shall include the original of any document or copy of any original document that has been reproduced by the registrar or the registrar's authorized designee by electronic scan, photo-image, microfilm, microfiche process or by another reproduction process approved by the state secretary. The registrar shall maintain a record of all convictions of persons charged with violations of the laws relating to motor vehicles and, notwithstanding any general or special law to the contrary, such record shall be public, open to the inspection of any person during reasonable business hours, and subject to regulations promulgated by the registrar. The registrar may issue a certified copy of a proper record or any document contained therein, attested by the registrar or the registrar's authorized agent, or any record or document maintained in the normal course of business by the registrar, including but not limited to, a certificate of registration or a license to operate a motor vehicle which may have been lost or mutilated upon the written request of the person entitled thereto, or, where there are joint owners of a motor vehicle or trailer, the registrar may issue a certificate to each joint owner upon written request of the person entitled thereto; and such certified copy shall have the same force and effect as the original. Anyone requesting a certified copy of a license to operate a motor vehicle shall submit such evidence as to such person's identity as the registrar may require. Certified copies of such records of the registrar, attested by the registrar or the registrar's authorized agent, shall be admissible as evidence in the courts of the commonwealth to prove the facts contained therein.

The registrar may destroy applications and copies of licenses and certificates of registration issued by the registrar and all letters reporting accidents or papers relating thereto and any other documents when the registrar has determined that the storage of such documents is no longer necessary for the proper functioning of the office and the registrar has arranged for the copying and retention of any documents required by the state secretary to be maintained. The registrar may destroy or dispose of any obsolete number plates and forms which, in the registrar's opinion, are no longer of any value to the commonwealth, and may destroy examination papers or the answers given by the license applicants when the same have become of no value or when the licenses applied for have been granted. The registrar may also destroy all records of convictions of persons charged with violations of the laws relating to motor vehicles unless such convictions are final convictions under section 24, excepting those of the then current year and the 2 years next preceding.

SECTION 15. Section 19 of chapter 90D of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The registrar shall file and retain every surrendered certificate of title in accordance with section 30 of chapter 90.

SECTION 16. The fourth sentence of paragraph (B) of subsection (2) of section 44A of chapter 149 of the General Laws, as appearing in section 63 of chapter 188 of the acts of 2010, is hereby amended by striking out the words “or in” and inserting in place thereof the following word:- , in.

SECTION 17. The last sentence of the third paragraph of section 47C of chapter 175 of the General Laws, as most recently amended by section 94 of chapter 131 of the acts of 2010, is hereby further amended by inserting after the word “co-payments”, the first time it appears, the following word:- , coinsurance.

SECTION 18. The last sentence of the third paragraph of section 8B of chapter 176A of the General Laws, as most recently amended by section 95 of said chapter 131, is hereby further amended by inserting after the word “co-payments”, the first time it appears, the following word:- , coinsurance.

SECTION 19. The last sentence of the third paragraph of section 4C of chapter 176B of the General Laws, as most recently amended by section 96 of said chapter 131, is hereby further amended by inserting after the word “co-payments”, the first time it appears, the following word:- , coinsurance.

SECTION 20. The last sentence of the second paragraph of section 4 of chapter 176G of the General Laws, as most recently amended by section 97 of said chapter 131, is hereby further amended by inserting after the word “co-payments”, the first time it appears, the following word:- , coinsurance.

SECTION 21. Subsection (a) of section 3 of chapter 509 of the acts of 2008 is hereby amended by striking out the last sentence.

SECTION 22. Subsection (c) of said section 3 of said chapter 509 is hereby amended by striking out the last sentence.

SECTION 23. Section 44 of chapter 521 of the acts of 2008 is hereby amended by striking out, in line 3, the words “July 1, 2011” and inserting in place thereof the following words:- January 2, 2012.

SECTION 24. The last paragraph of section 22 of chapter 61 of the acts of 2009 is hereby amended by striking out the words “December 31, 2010” and inserting in place thereof the following words:- June 30, 2011.

SECTION 25. Item 8910-8310 of section 2 of chapter 131 of the acts of 2010 is hereby amended by striking out the figure “\$6,500,000”, each time it appears, and inserting in place thereof the following figure:- \$8,000,000.

SECTION 26. The first paragraph of section 160 of said chapter 131 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence: -The commission shall consist of 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader and 1 of whom shall be appointed by the speaker of the house, 2 members

of the senate, 1 of whom shall be appointed by the minority leader and 1 of whom shall be appointed by the president of the senate, the secretary of health and human services or a designee; the assistant secretary of the office of disabilities and community services or a designee; the commissioner of public health or a designee from the office on health and disability, the commissioner of the Massachusetts rehabilitation commission or a designee, the secretary of elder affairs or a designee, and the secretary of veterans services or a designee and 9 persons appointed by the governor. The co-chairs of the commission shall be designated by the president of the senate and the speaker of the house.

SECTION 27. The last paragraph of said section 160 of said chapter 131 is hereby amended by striking out the words “April 1, 2011” and inserting in place thereof the following words:- September 30, 2011.

SECTION 28. The last sentence of section 167 of said chapter 131 is hereby amended by striking out the word “January 30, 2011” and inserting in place thereof the following word:- June 30, 2011.

SECTION 29. Chapter 202 of the acts of 2010 is hereby amended by inserting after section 25 the following section:-

Section 25A. No person who registers a snow vehicle or recreation vehicle prior to February 1, 2011, shall be required to display the registration required by the second and third sentences of section 22 of chapter 90B of the General Laws. A person who registers a snow vehicle or recreation vehicle on or after February 1, 2011, shall display the vehicle registration required by said second and third sentences of said section 22 of said chapter 90B.

SECTION 30. Section 2A of chapter 359 of the acts of 2010 is hereby amended by striking out item 2300-1011.

SECTION 31. Said chapter 359 is hereby further amended by striking out section 126 and inserting in place thereof the following section:-

Section 126. Notwithstanding any general or special law or rule or regulation to the contrary and within 30 days after the effective date of this section, the comptroller shall transfer \$953,742 from the General Fund to the Head Injury Treatment Services Trust Fund established in section 59 of chapter 10 of the General Laws. Transferred funds shall only be expended from the Head Injury Treatment Services Trust Fund in fiscal year 2011 and shall not be transferred to other funds.

SECTION 32. The first paragraph of chapter 2 of the resolves of 2010 is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:- The special commission shall consist of 2 members of the senate, 1 of whom shall be appointed by the minority leader; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; the secretary of health and human services or a designee; the commissioner of developmental services or a designee; the commissioner of mental health or a designee; the secretary of education or a designee; the commissioner of

education or a designee; the director of housing and community development or a designee; the secretary of labor and workforce development or a designee; the commissioner of the Massachusetts rehabilitation commission or a designee; the commissioner of early education and care or a designee; the commissioner of elementary and secondary education or a designee; the commissioner of higher education or a designee; the secretary of elder affairs or a designee; the commissioner of children and families or a designee; the commissioner of public health or a designee; 1 person appointed by the secretary of education; and 14 persons to be appointed by the governor, 10 of whom shall be representatives of the statewide autism group, 2 of whom shall be representatives of the Asperger's Association of New England and 2 of whom shall be representatives of the Autism Society of America, Massachusetts chapter.

SECTION 33. The second paragraph of said chapter 2 is hereby amended by striking out the words "January 26" and inserting in place thereof the following words:- September 28.

SECTION 34. The special commission established by chapter 498 of the acts of 2008 is hereby revived and continued. The commission shall report to the general court the results of its investigation and study and its recommendations, if any, by filing the same with the clerks of the senate and house of representatives on or before November 1, 2011.

SECTION 35. Notwithstanding section 3B of chapter 7 of the General Laws or any other general or special law to the contrary, the executive office of energy and environmental affairs may collect an administrative handling charge for all electronic transactions processed through online licensing and registration systems for the sole purpose of defraying the expenses of issuing those licenses and permits. The executive office may establish accounts or other administrative mechanisms to collect and retain such charges.

SECTION 36. Notwithstanding any general or special law to the contrary, for fiscal year 2011, all transfers required by section 6A of chapter 62F of the General Laws shall be made in increments considered appropriate by the comptroller to meet the cash flow needs of the General Fund and to minimize the need for the commonwealth to issue revenue anticipation notes subject to repayment pursuant to item 0699-9100 of section 2 of chapter 131 of the acts of 2010 provided, however, that no transfer shall be made later than 180 days after the conclusion of the quarter for which the transfer is required.

SECTION 37. Notwithstanding any general or special law or rule or regulation to the contrary, the board of the Massachusetts Technology Corporation may transfer funds between the Innovation Institute Fund established in section 6A of chapter 40J of the General Laws and the Massachusetts Research Center Matching Fund established in section 4F of said chapter 40J, to be held and applied thereby in a manner consistent exclusively with the provisions of law and regulation applicable to the recipient fund.

SECTION 38. Section 37 is hereby repealed.

SECTION 39. Section 38 shall take effect on December 30, 2011.

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SECTION 40. Sections 5, 6, 7, 8, 10, 11, 12 and 13 shall be effective for tax years beginning on and after January 1, 2011.

Approved, January 3, 2011.

Chapter 410. AN ACT AUTHORIZING THE RECERTIFICATION OF THE FISCAL YEAR 2011 TAX RATE FOR THE TOWN OF LEXINGTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the recertification of a certain tax rate for the town of Lexington, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the last paragraph of section 23 of chapter 59 of the General Laws or any other general or special law to the contrary, the commissioner of revenue shall recertify the fiscal year 2011 tax rate approved on December 9, 2010 for the town of Lexington to correct tax rates that were understated due to a technical error in the submittal of valuation information with respect to values of 3 parcels governed by a tax increment financing agreement approved by the Lexington town meeting on October 17, 2007. Prior to recertification by the commissioner, the town of Lexington shall hold a public hearing pursuant to section 56 of chapter 40 of the General Laws.

SECTION 2. Notwithstanding section 57C of chapter 59 of the General Laws or any other general or special law to the contrary, if the actual fiscal year 2011 tax bills are mailed after December 31, 2010, but on or before January 31, 2011, they shall be due and payable in 2 installments, the first due and payable 30 days after the date of mailing and the second due and payable on May 1, 2011, after which dates, if unpaid, they shall become delinquent.

Approved, January 4, 2011.

Chapter 411. AN ACT VALIDATING CERTAIN PROCEEDINGS IN THE TOWN OF RUTLAND.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding section 1 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, all votes, acts and proceedings taken by the town of Rutland and all votes cast by the voters of the town of Rutland at the annual

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town meeting held on May 10, 2010, and the adjourned portion of that meeting held on May 15, 2010, and all actions taken pursuant thereto, are hereby ratified, validated and confirmed in all respects, notwithstanding any defects or omissions in posting the warrant.

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

Approved, January 5, 2011.

Chapter 412. AN ACT PROVIDING THE TERMS OF CERTAIN BONDS TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds to carry out the purposes of a certain act passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 2B of chapter 240 of the acts of 2010 is hereby amended by striking out the item number “6001-0817” and inserting in place thereof the following item number:- 6001-0816.

SECTION 2. Notwithstanding any general or special law to the contrary, the bonds that the state treasurer may issue under section 172 of chapter 240 of the acts of 2010 shall be issued for a term not to exceed 30 years. All such bonds shall be payable not later than June 30, 2045, as recommended by the governor in a message to the general court dated November 5, 2010.

Approved, January 5, 2011.

Chapter 413. AN ACT AUTHORIZING THE TOWN OF MILFORD TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Milford 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 Fun Zone Milford, LLC, located at 110 South Main street. The license shall be subject to all of said chapter 138, except said section 17.

(b) 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.

(c) 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, January 5, 2011.

Chapter 414. AN ACT CHANGING THE DATE OF THE ANNUAL TOWN MEETING IN THE TOWN OF NORTH READING.

Be it enacted, etc., as follows:

SECTION 1. Chapter 2 of the charter of the town of North Reading, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 2-4-1, as appearing in chapter 179 of the acts of 2005, and inserting in place thereof the following section:-

Section 2-4-1 The town meeting shall meet regularly on the first available Monday in June not in conflict with a religious or legal holiday to consider and adopt an annual operating and capital budget, and to act on other financial matters, as well as to consider and act upon such other business as may properly come before the meeting; and on the first available Monday in October not in conflict with a religious or legal holiday to consider and act on matters of planning, zoning, subdivision control, building codes, and all other matters of a by-law nature, as well as to consider and act upon such other business as may properly come before the meeting, including financial matters; said dates for the June and October town meetings shall be set by the board of selectmen at a public hearing held during a regularly scheduled meeting of the board annually in January.

SECTION 2. Section 2-5-1 of said chapter 2 of said charter is hereby amended by striking out the word "April" and inserting in place thereof the following word:- June.

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

Approved, January 5, 2011.

Chapter 415. AN ACT AUTHORIZING THE TOWN OF CHELMSFORD TO REGULATE THE REMOVAL OF ABOVEGROUND UTILITY POLES, OVERHEAD WIRES AND OTHER ASSOCIATED STRUCTURES AND TO REGULATE THE INSTALLATION OF UNDERGROUND WIRES AND ASSOCIATED STRUCTURES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, a utility in the town of Chelmsford, which is required to remove poles, overhead wires or associated overhead structures that the utility owns or operates in the town of Chelmsford, under section 119-3 of chapter 119 of the by-laws adopted at the Chelmsford Annual Town Meetings held on April 26, 1999 and October 20, 2008 shall file a plan, hereinafter referred to as the “Plan”, for said removal and for any related installation of underground wires and associated structures. The board of selectmen may extend the time of any required filing by a utility under this section and may review and approve any modification of the Plan filed by a utility at any time.

A utility required to file a Plan with the board of selectmen of the town of Chelmsford shall file its plan within 90 days after the effective date of this act, which plan shall be subject to review and approval by the board of selectmen. After approval of the Plan, the board of selectmen may implement the Plan in phases, as may be determined from time-to-time by the board of selectmen; provided, however, that phasing the implementation of the Plan shall not constitute an amendment of the Plan. In determining if the Plan shall be implemented in phases, the board of selectmen shall consider the following factors, among other relevant factors: the total cost of completing the work under the Plan; the amount of funds collected by the utility from its customers in the town of Chelmsford in relation to the total cost of completing the work under the Plan; and the progress the utility is making towards completing the work under the Plan. The board of selectmen shall consult with the utility; but shall have the sole discretion to determine whether to implement the Plan in phases.

The utility may charge its customers in the town of Chelmsford a surcharge, hereinafter referred to as the “Surcharge”, as provided for in section 22M of chapter 166 of the General Laws, or successor statute, to pay for the work provided for in the Plan. For calendar years beginning on or after January 1, 2011, the utility shall calculate interest on the difference between the funds charged to customers in the town of Chelmsford through the Surcharge and the payments of the utility under the Plan at a rate equivalent to the rate paid on 2-year United States Treasury notes for the preceding calendar year or a higher interest rate as may be agreed upon by the town of Chelmsford and the utility. The interest shall be compounded annually on December 31. The interest accrued by the utility shall be applied to the financing of the Plan.

On or before March 31 of each year, the utility shall prepare a detailed report to the Chelmsford board of selectmen regarding the actions taken to implement the Plan. The report shall include, but not be limited to, the following information: the number of customers

in the town of Chelmsford from whom the Surcharge was billed, including those electric distribution customers billed by competitive suppliers for the preceding calendar year; the amount of the Surcharge billed to the customers in the town of Chelmsford; the accrued interest earned as defined in the preceding paragraph; and the balance of funds in excess of or less than payments associated with the Plan as of December 31 of the preceding 12 months. The report shall also contain aggregated information on expenses for the following items: engineering and design, materials and construction, land acquisitions, taxes and public safety.

The board of selectmen may temporarily or permanently suspend the collection of the Surcharge from the utility’s customers in the town of Chelmsford if: (a) the board of selectmen gives notice of and holds a public hearing regarding consideration of such suspension; (b) the notice of the public hearing is published in a newspaper of general circulation in the town and posted on a town bulletin board and on the town’s website at least 14 days before the date of the hearing; (c) the notice of public hearing is sent by certified mail, return receipt requested, at least 14 days before the date of the hearing to the utility for which the suspension is being considered; and (d) after said hearing, the board of selectmen finds: (i) the utility has collected sufficient funds through the Surcharge from the customers in the town of Chelmsford to carry out the Plan or (ii) the utility has collected sufficient funds from its customers in the town of Chelmsford through the Surcharge to fund a phase of the Plan.

SECTION 2. This act shall take effect upon its passage.
Approved, January 5, 2011.

Chapter 416. AN ACT RELATIVE TO THE GERIATRIC AUTHORITY OF THE TOWN OF MILFORD.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 76 of the acts of 1982 is hereby amended by adding the following sentence:- The authority may do business under the name of Countryside Health Care of Milford, if considered appropriate by the authority, upon the filing of a certificate with the town clerk of the town of Milford pursuant to section 5 of chapter 110 of the General Laws.

SECTION 2. This act shall take effect upon its passage.
Approved, January 5, 2011.

Chapter 417. AN ACT AUTHORIZING A CERTAIN EMPLOYMENT CONTRACT FOR THE TOWN OF MILFORD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 108A and 108C of chapter 41 of the General Laws, and any by-law adopted thereunder, the town of Milford, acting by and through its board of selectmen, may establish an employment contract with counsel for the town upon the same terms and conditions, and subject to the same limitations as contained within section 108N of said chapter 41, applicable to other municipal employees as designated in that section.

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

Approved, January 5, 2011.

Chapter 418. AN ACT RELATIVE TO SOUTH HADLEY TOWN MEETING MEMBERS.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 2 of chapter 45 of the acts of 1933, as most recently amended by section 1 of chapter 89 of the acts of 2004, is hereby further amended by striking out the words "other than the offices designated in section 3 as town meeting members ex officiis" and inserting in place thereof the following words:- other than the officer position designated for the town moderator.

SECTION 2. Section 3 of said chapter 45, as most recently amended by section 7 of chapter 558 of the acts of 1986, is hereby further amended by striking out the first and second paragraphs.

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

Approved, January 5, 2011.

Chapter 419. AN ACT RELATIVE TO THE FINANCIAL CONDITION OF THE TOWN OF ORANGE.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding any general or special law, city charter provision or ordinance to the contrary, the town of Orange, with the approval of the commissioner of revenue, may borrow up to \$445,000.00, as approved by the town and the commissioner, to fully fund the Group Health Insurance Trust Fund for fiscal year 2011 to address the underfunding of the Fund in prior fiscal years. The commissioner may limit amounts borrowed

to amounts less than approved by the town. Notwithstanding chapter 44 of the General Laws, bonds or notes issued for the purposes of this act may be issued for terms of not more than 5 years and shall be backed by the full faith and credit of the town, and the bonds or notes may be issued as qualified bonds or notes. Indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the town under section 10 of said chapter 44 but, except as provided in this act, shall otherwise be subject to said chapter 44. Amounts raised to pay indebtedness incurred under this act shall be subject to section 21C of chapter 59 of the General Laws.

(b) The maturities of each issue of bonds or notes authorized under this act, including any refunding bonds, if approved by the town officers authorized to issue and approve these bonds or notes, and by the commissioner, may be arranged so that for each issue the amounts payable in the several years for principal and interest combined are as nearly equal as is practicable in the opinion of the officers authorized to issue and approve the bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

(c) All proceeds of bonds or notes issued pursuant to this act exclusive of any costs of preparing, issuing and marketing such bonds or notes shall be deposited in the Group Health Insurance Trust Fund for the purposes described in this act.

(d) The director of accounts in the department of revenue may establish rules and procedures as may be appropriate relative to disbursements from the Group Health Insurance Trust Fund and the reporting and accounting for those disbursements.

(e) Any residual in the Group Health Insurance Trust Fund shall be applied to repay outstanding debt issued pursuant to this act.

SECTION 2. (a) Notwithstanding any general or special law, rule or regulation to the contrary and as an alternative to the borrowing authorized in section 1, the town of Orange may capitalize not to exceed \$445,000.00 for the purpose stated in said section 1, the amortization amount, and fund the amortization amount in equal or decreasing annual installments over a period starting with fiscal year 2012 and not exceeding 5 years. For fiscal year 2012 and fully subject to section 21C of chapter 59 of the General Laws, the board of assessors of the town of Orange may, subject to the approval of the commissioner, deduct such portion of the amortization amount as the commissioner approves as consistent with this act, from the amount to be assessed under section 23 of said chapter 59. Under the conditions imposed in this act, the assessors of the town of Orange may similarly deduct such portion of the amortized amount in any year until the amortization is completed, not later than fiscal year 2017.

(b) Any residual in the Group Health Insurance Trust Fund shall be applied to the amortization amount described in this act.

SECTION 3. (a) With respect to fiscal year 2012 and any other year in which bonds, notes or an amortization amount authorized under this act remain outstanding, not later than 10 days after the adoption of the town budget, or July 1, whichever is earlier, the assessors

and the selectmen shall submit to the director a pro forma tax rate recapitulation for the following fiscal year, together with a copy of the adopted budget and such supporting revenue and expenditure information as the director may prescribe. The director of accounts in the department of revenue shall ascertain whether the town budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and other amounts required by law to be raised under section 23 of chapter 59 of the General Laws and the director shall report his findings to the town administrator and board of selectmen. If the director determines that the town budget as presented would not permit certification of the tax rate for the applicable fiscal year, the director may recommend further action to achieve a balanced budget. In such a case, a tax rate for the year shall not be approved until submission of an annual tax rate recapitulation based on the actions the town has approved or taken to achieve a balanced budget.

(b) In any year during which bonds, notes or an amortization amount authorized in this act remain outstanding, the commissioner of revenue shall not certify the annual tax rate of the town of Orange until an audit report for the preceding fiscal year has been received and accepted by the director. The audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and shall include accompanying financial statements. The audit report shall include an analysis of all revenues and expenditures associated with health care costs for the town, including employer and employee contribution requirements.

(c) In any year during which bonds, notes or an amortization amount authorized in this act remain outstanding, the town shall submit to the director quarterly reports presenting a budget to actual comparison of revenues and expenditures. The written reports shall be submitted within 30 days after the conclusion of each fiscal quarter and shall be in such form and include such information and detail as the director may prescribe.

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

(e) In any year during which bonds, notes or an amortization amount authorized in this act remain outstanding, the town shall submit to the director a balance sheet and shall have its free cash certified before setting the annual tax rate.

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

SECTION 4. No official of the town of Orange, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended in a fiscal year any sum in excess of that official's departmental or other governmental unit's appropriation duly made in accordance with the law, nor commit the town, nor cause it to be committed, to any obligation for the future payment of money in excess of that appropriation, with the exception of court judgments.

An official who intentionally violates this section shall be personally liable to the town for any amounts expended in excess of an appropriation which the town does not re-

cover from the persons to whom the amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the town under this act and to order such other relief as the court finds appropriate to prevent further violations of this section. A violation of this section shall be considered sufficient cause for removal of an official.

SECTION 5. For the purposes of this act, “official” shall mean a permanent, temporary or acting town department head, including members of the board of selectmen who recommend, authorize or approve the expenditure of funds, and “emergency” shall mean a major disaster including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected and immediate threat to the health and safety of persons or property.

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

Approved, January 5, 2011.

Chapter 420. AN ACT ESTABLISHING A SPECIAL FUND IN THE TOWN OF BRIMFIELD.

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 Brimfield a fund, to be known as the Brimfield Flea Market Fund, to which shall be credited all fees, proceeds and other receipts received by the town in conjunction with the operation of the Brimfield Flea Market. The fund may be expended by the Brimfield board of selectmen without further appropriation for the costs associated with the flea market including administrative, operating, maintenance and emergency services; provided, however, that town meeting shall annually impose a limit on expenditures from the fund and may provide that receipts remaining in the fund at the end of the fiscal year in excess of \$10,000 be returned to the general fund; provided, further, that the board of selectmen may expend, in any fiscal year, an amount not exceeding the amount equivalent to 5 per cent of the amount raised by taxation by the town in the most recent fiscal year for which a tax rate has been certified under section 23 of chapter 59 of the General Laws. The fund established by this act shall not be considered a revolving fund under section 53E½ of chapter 44 of the General Laws or be included to determine the aggregate limit of all revolving funds authorized under said section 53E½ of said chapter 44.

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

Approved, January 5, 2011.

Chapter 421. AN ACT PROVIDING FOR AN ELECTED TAX COLLECTOR IN THE TOWN OF BROOKFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law or rule or regulation to the contrary, the tax collector in the town of Brookfield shall be elected by the voters of said town for a term of 3 years commencing with the 2011 annual town election. A vacancy in the elected office shall be filled by special election and the person elected shall serve for the remainder of the unexpired term.

SECTION 2. Notwithstanding section 1, an incumbent in the office of tax collector on the effective date of this act shall continue to hold the office and perform the duties thereof until the election of a tax collector pursuant to this act.

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

Approved, January 5, 2011.

Chapter 422. AN ACT AUTHORIZING THE TOWN OF MILLBURY TO GRANT 2 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

(a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Millbury may grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises pursuant to section 12 of chapter 138 at The Shoppes at Blackstone Valley, located on route 146, 70 Worcester-Providence turnpike in said town and shown on map 44 as lot 31 and on map 61 as lot 14 of the town of Millbury assessors' maps. The licenses granted under this act shall be subject to all of said chapter 138, except said section 17.

(b) Once issued, 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 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.

(c) 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.

Approved, January 5, 2011.

Chapter 423. AN ACT RELATIVE TO THE PURCHASE OF FLAGS IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

Section 6 of chapter 2 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 7 to 10, inclusive, the words “; provided, however, that a flag shall be considered manufactured in the United States if a substantial majority of the principal components are assembled into the final product in an assembly plant in the United States”.

Approved, January 5, 2011.

Chapter 424. AN ACT RELATIVE TO A LIEN FOR ARCHITECTS, ENGINEERS, LAND SURVEYORS AND SITE PROFESSIONALS.

Be it enacted, etc., as follows:

SECTION 1. Section 2A of chapter 254 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting before the definition of “Substantial completion”, the following 2 definitions:-

“Design professional”, an architect, landscape architect, professional engineer, licensed site professional or land surveyor who is licensed or registered as such in the commonwealth, and any corporation, partnership, limited liability company, or other legal entity that is authorized under the laws of the commonwealth to practice or hold itself out as practicing any of the foregoing professions.

“Professional services”, services that are customarily and legally performed by or under the supervision or responsible control of design professionals in the course of their professional practice, including without limitation, programming, planning, surveying, site investigation, analysis, assessment, design, preparation of drawings and specifications and construction administration services.

SECTION 2. Said chapter 254, as so appearing, is hereby further amended by inserting after section 2B the following 2 sections:-

Section 2C. A design professional entering into a written contract with the owner of any interest in real property or with any person acting for, on behalf of, or with the consent of such owner, for the provision of professional services relating to the proposed or actual erection, alteration, repair or removal of a building, structure, or other improvement to real property, shall have a lien upon such real property, land, building, structure or improvement owned by the party with whom, on behalf of whom or with the consent of whom the contract was entered into, as appears of record on the date when notice of said contract is filed or recorded in the registry of deeds for the county or district where such land lies, to secure the payment of all amounts due or to become due to the design professional under such contract. Said notice shall be in substantially the following form:

Notice is hereby given that by virtue of a written contract dated _____, between _____, owner, and _____, design professional, said design professional is to furnish or has furnished professional services relating to the proposed or actual erection, alteration, repair or removal of a building, structure or other improvement on a lot of land or other interest in real property described as follows:

(INSERT DESCRIPTION)

Such design professional may file or record the notice of contract at any time after the execution of the written contract whether or not the professional services under such written contract have been commenced or completed, and whether or not the erection, alteration, repair or removal of the building, structure or other improvement to which such professional services relate has been, or is ever, commenced or completed, but not later than the earlier of: (i) 60 days after filing or recording of the notice of substantial completion under section 2A; or (ii) 90 days after such design professional or any person by, through or under him, last performed professional services.

Section 2D. Any person who furnishes professional services under a written subcontract with a design professional who is entitled to enforce a lien under section 2C and whose engagement has been approved in writing by or on behalf of the owner of the interest in land to which lien relates, may file or record in the registry of deeds for the county or district where such land lies a notice of his contract in substantially the following form:

Notice is hereby given that by virtue of a written subcontract dated _____, between _____, design professional, and _____, said _____ is to furnish or has furnished professional services relating to the proposed or actual erection, alteration, repair or removal of a building, structure or other improvement on a lot of land or other interest in real property described as follows, which services are a portion of the services furnished or to be furnished by said design professional under a written original contract with _____, owner:

(INSERT DESCRIPTION)

As of the time of this notice, an account of said subcontract is as follows:

- 1. estimated or agreed contract price: _____
- 2. approved extra or additional services: _____
- 3. payments received: _____

The regular mailing address of the subcontract party recording or filing this notice is as follows: _____.

Such notice of contract may be filed or recorded at any time after the execution of the written subcontract whether or not the professional services under such written subcontract have been commenced or completed, and whether or not the construction, alteration, repair or removal of the building, structure or other improvement to which such professional services relate has been, or is ever, commenced or completed, but not later than the earlier

of: (i) 60 days after filing or recording of the notice of substantial completion under section 2A; or (ii) 90 days after the last day a design professional who is entitled to enforce a lien under section 2 or section 2C or any person claiming by, through or under him performed professional services for the project.

Upon filing or recording a notice and giving actual notice of such filing to the owner, the person filing such notice shall have a lien upon the property, land, building, structure or improvement owned by the party who entered into the original contract as appears of record at the time of such filing, to secure the payment of all amounts due or to become due to such person under his subcontract, regardless of the amount stated in the notice of contract. Such lien shall not exceed the amount due or to become due under the original contract as of the date actual notice of filing was given to the owner as hereinabove provided.

SECTION 3. The first sentence of section 4 of said chapter 254, as so appearing, is hereby amended by inserting after the word "tools," in line 3, the following words:- , or who performs professional services.

SECTION 4. Said section 4 of said chapter 254, as so appearing, is hereby further amended by inserting after the word "tools", in line 12, the following words:- , or is to perform or has performed professional services.

SECTION 5. Said section 4 of said chapter 254, as so appearing, is hereby further amended by inserting after the word "tools", in line 38, the following words:- , or performed professional services.

SECTION 6. Said section 4 of said chapter 254, as so appearing, is hereby further amended by inserting after the word "tools", in line 52, the following words:- or professional services.

SECTION 7. Said section 4 of said chapter 254, as so appearing, is hereby further amended by striking out, in line 70, the words "subcontractor/vendor" and inserting in place thereof the following words:-subcontractor/vendor/design professional.

SECTION 8. Said section 4 of said chapter 254, as so appearing, is hereby further amended by inserting after the words "tools to", in line 72, the following words:- , or to perform professional services for.

SECTION 9. Section 5 of said chapter 254, as so appearing, is hereby amended by inserting after the word "property", in lines 2 and 3, the following words:- or for professional services relating thereto.

SECTION 10. Section 7 of said chapter 254, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) No lien under sections 2C or 2D shall avail against a mortgage duly registered or recorded prior to the filing or recording of the notice of contract if and to the extent that such lien relates to professional services performed before such mortgage was registered or recorded. If and to the extent that such lien relates to professional services performed after such mortgage was registered or recorded, such lien shall avail against such mortgage except

to the extent of the amount actually advanced or unconditionally committed prior to the filing or recording of the notice of contract.

(e) No lien under sections 2, 2C, 2D or 4 shall avail as against a purchaser, other than the owner or person acting for or on-behalf of, or with the consent of such owner who entered into the written contract on which the lien is based, whose deed or other instrument of title was duly registered or recorded prior to the filing or recording of such notices under said sections 2, 2C, 2D or 4.

SECTION 11. Section 8 of said chapter 254, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Liens under sections 2C and 2D shall be dissolved unless a like statement is filed or recorded at the appropriate registry of deeds within 30 days after the last day that a notice of contract may be filed or recorded under the applicable section.

SECTION 12. Section 11 of said chapter 254, as so appearing, is hereby amended by inserting after the word "material", in line 6, the following words:- or professional services.

SECTION 13. Section 13 of said chapter 254, as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:- The rights of an attaching creditor shall not prevail as against a lien under section 1, nor against the claim of a lienor if notice or notices of contract have been filed or recorded in the registry of deeds under sections 2, 2C, 2D or 4 prior to the recording of the attachment. An attachment recorded prior to the filing or recording of the notice of contract shall prevail against a lien, other than for personal labor, to the extent of the value of the buildings and land as they were at the time when the labor was commenced or the material furnished or professional services were commenced for which the lien is claimed and, in case of a sale under section 18, the court shall determine what proportion of the proceeds of the sale, as derived from the value of the property at such time, shall be held subject to the attachment.

SECTION 14. Section 15A of said chapter 254, as so appearing, is hereby amended by inserting after the word "materials", in line 10, the following words:- or professional services.

SECTION 15. Section 21 of said chapter 254, as so appearing, is hereby amended by inserting after the word "contract", in line 9, the following words:- , except that claims of lien creditors under sections 2C and 2D shall be paid only after payment in full of the claims of other lien creditors pursuant to this chapter.

SECTION 16 . Said chapter 254 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:-

Section 23. If the person for whom the labor or material has been furnished or professional services have been performed dies or conveys away his estate or interest before the commencement of a civil action to enforce a lien, it may be commenced and prosecuted against his heirs or against the persons holding the estate or interest which he had in the land at the time the labor or material was furnished or professional services were performed. If

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the action was commenced in the lifetime of such person, it may be prosecuted against his executor, administrator, heirs or assigns as if the estate or interest has been mortgaged to secure the debt.

SECTION 17. Section 25 of said chapter 254, as so appearing, is hereby amended by inserting after the word “material”, in line 4, the following words:- or performing professional services.

SECTION 18. Section 32 of said chapter 254, as so appearing, is hereby amended by inserting after the word “demolition”, in line 5, the following words:- , professional services.

SECTION 19. Section 33 of said chapter 254, as so appearing, is hereby amended by striking out, in line 28, the word “section” and inserting in place thereof the following words:- sections 2C, 2D or.

SECTION 20. This act shall apply to liens for professional services, as defined in section 1, for which any person has filed or recorded a notice of contract on an interest in real property on or after the effective date of this act; provided, however, that this act shall not apply to any mortgage filed or recorded before the effective date of this act.

SECTION 21. This act shall take effect on July 1, 2011.

Approved, January 5, 2011.

Chapter 425. AN ACT AMENDING THE CHARTER OF THE TOWN OF MIDDLEBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 592 of the acts of 1920, as amended by section 3 of chapter 443 of the acts of 1935, is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. The board of selectmen shall appoint a suitable qualified person to the office of town treasurer and collector of taxes. The town treasurer and collector of taxes shall have and exercise all the powers and rights and be subject to all the duties and liabilities now or hereafter conferred or imposed by law upon town treasurers and town collectors of taxes. The board of selectmen, by majority vote after notice and hearing, may remove the town treasurer and collector of taxes from office for cause. The board of selectmen may appoint a suitable qualified person to fill any vacancy in the office of town treasurer and collector of taxes resulting from death, resignation, retirement, removal or other cause. The board of selectmen shall determine the compensation of the town treasurer and collector of taxes and may establish an employment contract with the town treasurer and collector of taxes for a period of time to provide 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 duties of office, liability insurance, vacation and leave.

SECTION 2. Section 17 of said chapter 592 is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) The board of selectmen shall annually appoint and determine the compensation of an attorney or law firm to act as town counsel.

(b) The board of selectmen may prosecute, defend and compromise all litigation, to which the town is a party, and appoint and determine the compensation of special counsel to assist the town counsel whenever it deems necessary.

The town counsel shall draft all bonds, deeds, leases, obligations, conveyances and other legal instruments and do every professional act which may be required of him by vote of the town or any board of town officers. The town counsel shall furnish a written opinion on any question that may be submitted thereto by such board or any committee of the town and shall at all times furnish legal advice to any officer of the town who may require an opinion upon any subject concerning the duties of such officer.

The town counsel shall prosecute all suits or other legal proceedings ordered to be brought by the town or the board of selectmen, appear before any court in the commonwealth in defense of all actions or suits brought against the town or its officers in their official capacity, try and argue all causes in which the town shall be a party before any tribunal, whether in law or in equity, in the commonwealth or before a board of referees or commission, and appear at all hearings on behalf of the town whenever town counsel services may be required.

SECTION 3. Section 19 of said chapter 592 is hereby amended by adding the following 3 subsections:-

(k) To prepare and submit an annual operating budget to the board of selectmen. The proposed budget shall include, but not be limited to, a listing of the funds requested by all boards, committees, officers and departments of the town; provided, however, that the proposed budget shall be balanced and show both proposed expenditures and anticipated revenues. After reviewing the proposed budget and making changes it deems appropriate, the board of selectmen shall submit its recommended budget to the finance committee not later than the twentieth day of January of each year for review and recommendation of town meeting.

(l) To annually prepare a 5-year financial forecast of town revenue, expenditures and general finance condition of the town. The forecast shall be submitted to the board of selectmen who shall make it available to the public.

(m) To be responsible, on behalf of the board of selectmen, for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of agreements made by the school committee and the municipal light board. In carrying out duties hereunder, the town manager may engage labor counsel as the town manager deems necessary and with the approval of the board of selectmen; provided, however, that the board of selectmen shall retain sole authority to approve and execute all

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collective bargaining agreements negotiated by the town manager on the board of selectmen's behalf.

SECTION 4. Notwithstanding any general or special law to the contrary, the board of selectmen of the town of Middleborough shall appoint the person serving in the elective office of town treasurer and collector of taxes on the effective date of this act as the initial appointee as town treasurer and collector of taxes; provided, however, that the person shall receive not less than the compensation and benefits to which the elected town treasurer and collector of taxes was entitled unless modified by an employment contract. The elective office of town treasurer and collector of taxes shall terminate on the effective date of this act.

Approved, January 5, 2011.

Chapter 426. AN ACT TO REPEAL THE SALES TAX ON ALCOHOL.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, alcoholic beverages subject to the excise tax imposed by Chapter 138 of the General Laws shall be exempt from sales tax, and to that end, Section 6(g) of Chapter 64H of the General Laws, as most recently amended by St. 2009, c. 27, § 55, is hereby amended by striking out the words "and 64F" and inserting in place thereof the following words:- 64F and 138.

SECTION 2. Section 1 shall take effect on January 1, 2011.

Adopted by the People at the November 2, 2010 state election.

Chapter 427. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Dedham 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 Centre Market of Dedham, Inc. at 545 High street in said town. The license shall be subject to all of said chapter 138, except said section 17.

(b) 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

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license is in good standing with the department and that all applicable taxes have been paid.

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

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

Approved, January 7, 2011.

Chapter 428. AN ACT PROVIDING FOR AN EARLY RETIREMENT INCENTIVE PROGRAM FOR CERTAIN EMPLOYEES IN THE CITY OF MALDEN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding paragraph (g) of section 66 of chapter 188 of the acts of 2010, the city of Malden may, within 30 days of final approval of this act, establish an early retirement incentive program as established in said chapter 188, subject to the following provisions:

(i) the mayor shall submit a plan to the public employee retirement administration commission for approval within 2 months after the effective date of this act;

(ii) once the plan has been approved, the mayor shall submit the plan to the city council for acceptance not later than the next meeting of the city council at which the plan can practicably be submitted;

(iii) publish and make available to employees the approved plan within 1 month after its acceptance by the city council;

(iv) require employees to participate within 2 months of the plan's publication;

(v) determine which applicants may participate in the program and notify them within 1 month of the application deadline; and

(vi) require that participating employees retire within 2 months after being notified of notification of their acceptance.

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

Approved, January 7, 2011.

Chapter 429. AN ACT ESTABLISHING A SICK LEAVE BANK FOR DOREEN EDWARDS, 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

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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 Doreen Edwards, an employee of the Dorchester division of the Boston municipal 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 Doreen Edwards. Whenever Doreen Edwards terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.

Approved, January 7, 2011.

Chapter 430. AN ACT RELATIVE TO TRUSTS FOR THE CARE OF ANIMALS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 203 of the General Laws is hereby amended by inserting after section 3B the following section:-

Section 3C. (a) A trust for the care of animals alive during a settlor's lifetime shall be valid. Unless the trust instrument provides for an earlier termination, the trust shall terminate upon the death of the animal or, if the trust was created to provide for the care of more than 1 animal alive during the settlor's lifetime, upon the death of the last surviving animal.

(b) Except as otherwise expressly provided in the trust instrument, no portion of the principal or income shall be converted to the use of the trustee, other than reasonable trustee fees and expenses of administration, or to any use other than for the benefit of covered animals.

(c) A court may reduce the amount of property held by the trust if it determines that the amount substantially exceeds the amount required for the intended use and the court finds that there will be no substantial adverse impact in the care, maintenance, health or appearance of the covered animal. The amount of the reduction shall pass as unexpended trust property in accordance with subsection (d).

(d) Upon reduction or termination, the trustee shall transfer the unexpended trust property in the following order:

- (1) as directed in the trust instrument;
- (2) to the settlor, if living;

(3) if the trust was created in a nonresiduary clause in the transferor's will or in a codicil to the transferor's will, under the residuary clause in the transferor's will; or

(4) to the settlor's heirs in accordance with chapter 190.

(e) If a trustee is not designated in the trust instrument or no designated trustee is willing or able to serve, the court shall name a trustee. The court may order the transfer of the property to another trustee if the transfer is necessary to ensure that the intended use is carried out. The court may also make other orders and determinations as are advisable to carry out the intent of the settlor and the intended use of the trust.

(f) The intended use of the principal or income may be enforced by an individual designated for that purpose in the trust instrument, by the person having custody of an animal for which care is provided by the trust instrument, by a remainder beneficiary or by an individual appointed by a court upon application to it by an individual or charitable organization.

(g) The settlor or other custodian of an animal for whose benefit the trust was created may transfer custody of the animal to the trustee at or subsequent to the creation of the trust.

(h) A trust created under this section shall be exempt from chapter 184A and the common law rule against perpetuities.

Approved, January 7, 2011.

Chapter 431. AN ACT FURTHER REGULATING DEBT COLLECTION.

Be it enacted, etc., as follows:

SECTION 1. Section 16 of chapter 224 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- In the case of a debtor who is either a handicapped person or a person 60 years of age or older, where the court finds that the debtor has no property or income not exempt from being taken on execution, the proceedings shall be dismissed without prejudice.

SECTION 2. Said section 16 of said chapter 224, as so appearing, is hereby further amended by inserting after the word "chapter", in line 35, the following words:- ; provided, however, that in the case of a debtor who is either a handicapped person or a person 60 years of age or older and an order was issued under this chapter and the debtor is later determined to have only exempt property or income, the court shall suspend the order and dismiss the proceedings without prejudice.

SECTION 3. Said section 16 of said chapter 224, as so appearing, is hereby further amended by adding the following paragraph:-

For the purpose of this section, "handicapped person" shall mean a person who: (i) has a physical or mental impairment which substantially limits 1 or more major life activities; or (ii) is regarded as having such impairment as evidenced by the receipt of state or federal disability benefits.

SECTION 4. Chapter 235 of the General Laws is hereby amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. The following property of the debtor shall be exempt from seizure on execution:

First, The necessary wearing apparel, beds and bedding for the debtor and the debtor's family, 1 heating unit used for warming the dwelling house, 1 stove, 1 refrigerator, 1 freezer and 1 hot water heater used primarily for the personal, family or household use of the debtor or a debtor's family and the amount each month, not exceeding \$500, reasonably necessary to pay for fuel, heat, refrigeration, water, hot water and light for the debtor and the debtor's family;

Second, Other household furniture necessary for the debtor and the debtor's family, not exceeding \$15,000 in value;

Third, The bibles, schoolbooks and library used by the debtor or the debtor's family, not exceeding \$500 in value;

Fourth, 2 cows, 12 sheep, 2 swine and 4 tons of hay;

Fifth, Tools, implements and fixtures necessary for carrying on the trade or business of the debtor, not exceeding \$5,000 in value;

Sixth, Materials and stock designed and procured by the debtor which is necessary for carrying on the trade or business of the debtor and intended to be used or wrought therein, not exceeding \$5,000 in value;

Seventh, Provisions necessary and procured and intended for the use of the debtor's family or the money necessary therefor, not exceeding \$600 in value;

Eighth, 1 pew occupied by the debtor or the debtor's family in a house of public worship; provided, however, that nothing herein shall prevent the sale of a pew for the nonpayment of a tax legally imposed thereon;

Ninth, Boats, fishing tackle and nets of a debtor who is a fisherman and actually used by the debtor in the course of the debtor's business, not exceeding \$1,500 in value;

Tenth, The uniform of an officer or soldier in the militia and the arms and accoutrements required by law to be kept by the officer or soldier;

Eleventh, The rights of burial and tombs in use as repositories for the dead;

Twelfth, 1 sewing machine in actual use by each debtor or by his family, not exceeding \$300 each in resale value, and 1 computer and 1 television, in actual use by each debtor's family;

Thirteenth, Shares in co-operative associations subject to chapter 157, not exceeding \$100 in value in the aggregate;

Fourteenth, Estates of homestead as defined in chapter 188 or, in lieu thereof, the amount of money each rental period, not exceeding \$2,500 per month, necessary to pay the rent for the dwelling unit occupied by the debtor and the debtor's family;

Fifteenth, \$2,500 in cash or savings or other deposits in a banking or investment institution, wages equal to the greater of 85 per cent of the debtor's gross wages or 50 times

the greater of the federal or the Massachusetts hourly minimum wage for each week or portion thereof and the full amount owing or paid to a person as public assistance;

Sixteenth, An automobile necessary for the debtor's personal transportation or to secure or maintain employment, not exceeding \$7,500 of wholesale resale value; provided, however, that the equitable value of a vehicle owned or substantially used by debtor who is either a handicapped person or a person 60 years of age or older shall be exempt up to \$15,000 in wholesale resale value;

Seventeenth, The debtor's aggregate interest in any personal property, not to exceed \$1,000 in value, plus up to \$5,000 of any unused dollar amount of the aggregate exemptions provided under clauses Second, Fifth and Sixteenth; and

Eighteenth, The debtor's aggregate interest, not to exceed \$1,225 in value, in jewelry held primarily for the personal, family or household use of the debtor or the debtor's spouse or dependent.

SECTION 5. Section 28 of chapter 246 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the figure "\$125" and inserting in place thereof the following words:- the greater of 85 per cent of the debtor's gross wages or 50 times the greater of the federal or the Massachusetts hourly minimum wage for each week or portion thereof.

SECTION 6. Said chapter 246 is hereby further amended by striking out section 28A, as so appearing, and inserting in place thereof the following section:-

Section 28A. Twenty-five hundred dollars of any natural person in an account in a trust company, savings bank, cooperative bank, credit union, national banking association or other banking institution doing business in the commonwealth shall be exempt from attachment by trustee process. A trustee summons served on any such institution shall describe the exemption with reference to this section. Upon service of a trustee summons, the trustee shall answer as subject to attachment only so much money of the defendant that exceeds \$2,500.

No business, trust or organization shall be entitled to the exemption in this section and no natural person shall be entitled to more than a \$2,500 exemption at any one time. In any action, the plaintiff may apply to the court for further attachments upon proof by certified records of a trustee that the defendant has received an exemption not authorized under this section or that the \$2,500 exemption of the defendant has been in whole or in part exhausted or exceeded.

Approved, January 7, 2011.

**Chapter 432. AN ACT AUTHORIZING THE TOWN OF HARWICH TO ISSUE AN
ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. (a) Notwithstanding sections 17 and 17A of chapter 138 of the General Laws, the licensing authority of the town of Harwich may convert 1 currently issued seasonal license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138, currently issued to Back Nine Café, LLC., located at 183 Oak street, to an annual license for the sale of all alcoholic beverages to be drunk on the premises under said section 12 of said chapter 138. The license granted under this section shall be subject to all of said chapter 138 except said sections 17 and 17A.

(b) 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 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.

(c) 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 section.

SECTION 2. (a) Notwithstanding section 17 of chapter 138 of the General Laws, the licensing authority of the town of Harwich may grant a license for the sale of all alcoholic beverages to be drunk on the premises under section 12 of said chapter 138, to Patrick Wiseman and Annie Wiseman doing business at 86 Sisson road, state highway route 39, Harwich Port.

(b) 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 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.

(c) 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 section.

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

Approved, January 13, 2011.

Chapter 433. AN ACT ESTABLISHING THE MASSACHUSETTS PILOTAGE RATE BOARD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to establish a pilotage rate board, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 103 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 2 to 5, inclusive, the words “and establish rates within their respective districts, which, for district one shall be the rates established in section thirty-one, and which for the other three districts shall not exceed the rates established by said section”.

SECTION 2. Said chapter 103 is hereby further amended by inserting after section 3 the following section:-

Section 3A. In determining the eligibility of applicants for consideration for appointment to any status as pilot candidate or for a warrant or full branch pilot commission, the pilot commissioners shall adopt regulations allowing applicants who are members of any uniformed service of the United States to apply as credit any time during which the applicant has served on active duty and the time accrued shall be applied as experience toward the applicant’s required experience. Military sea service in command of a vessel shall be applied as credit toward any requirements for service in the capacity of master. Military sea service as second-in-command of a vessel shall be applied as credit toward any requirements for service in the capacity of chief mate. Military sea service in a capacity as an officer in charge of a navigational bridge watch shall be applied as credit toward any sea service requirements other than those in the capacity of master or chief mate. No person’s status as a veteran or as a military reservist, and no person’s susceptibility to recall to military active duty, shall diminish the person’s eligibility for selection for pilot candidate training or for warrant or full branch pilot commission.

SECTION 3. Section 5 of said chapter 103, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- The Boston Marine Society shall reimburse the members of the state pilotage rate board established in section 31A for travel and other reasonable expenses associated with the duties of the members of the board.

SECTION 4. Section 31 of said chapter 103, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Rates of pilotage outward and inward for the port of Boston, calculated per foot of draught, shall be as follows:

- for vessels 3,500 gross tons or under \$50.06
- for vessels 3,501 to 7,000 gross tons \$65.30
- for vessels 7,001 to 15,000 gross tons \$74.26
- for vessels 15,001 to 25,000 gross tons \$77.76
- for vessels 25,001 to 35,000 gross tons \$79.49

for vessels 35,001 to 45,000 gross tons \$81.71
for vessels 45,001 to 55,000 gross tons \$87.78
for vessels 55,001 to 70,000 gross tons \$92.78
for vessels 70,001 to 85,000 gross tons \$99.46
for vessels over 85,000 gross tons \$106.13.

SECTION 5. Said section 31 of said chapter 103, as amended by section 4 of this act, is hereby further amended by striking out the second and third paragraphs.

SECTION 6. Said chapter 103 is hereby amended by inserting after section 31 the following section:-

Section 31A. (a) There shall be a pilotage rate board which shall determine the rates to be charged by pilots commissioned under this chapter to ensure the safe navigation of vessels within the waters of the commonwealth and to ensure that the most qualified individuals are retained as commissioned pilots.

(b) The board shall consist of the following members or their designees: the director of the Massachusetts Port Authority; the president of the Boston Marine Society; the president of the Boston Shipping Association; a commissioner of pilots designated by the trustees of the Boston Marine Society; the chair of the Seaport Advisory Council; the executive director of the Boston Harbor Association; and the executive director of the New Bedford Harbor Development Commission. The board shall elect a chairperson and a vice chairperson from its members.

(c) The board shall be subject to section 11A½ of chapter 30A.

(d) Four board members shall constitute a quorum. The board shall approve its actions by a majority vote. Board members may vote by proxy or by electronic means.

(e) The board shall establish rates for pilotage within the waters of the commonwealth based upon prevailing rates in other similar ports, the need to retain the services of the best qualified harbor pilots available and other economic conditions that may affect the quality of pilotage services in the ports.

(f) The board shall meet at least once annually in October on a date to be set by the chairperson but not later than October 15. The board may meet at other times as necessary to carry out its duties.

(g) Board members shall serve without compensation but shall be reimbursed for travel and other reasonable expenses at the rate such expenses are reimbursed to full time employees of the commonwealth. Such reimbursement shall be paid by the Boston Marine Society from funds received pursuant to section 5.

(h) Any decision of the board as to the rates for pilotage shall become effective within 60 days after the board's final decision on rates.

(i) The board shall determine how the rates for pilotage shall be made available to the maritime industry.

SECTION 7. Sections 2 and 4 shall take effect upon their passage.

SECTION 8. Section 6 shall take effect on January 1, 2011; provided, however, that

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the first meeting of the pilotage rate board shall occur not later than January 31, 2011, at a location to be designated by the chair of the Seaport Advisory Council.

SECTION 9. Sections 1, 3 and 5 shall take effect on the effective date of the initial pilotage rates established by the board pursuant to section 31A of chapter 103 of the General Laws.

Approved, January 13, 2011.

Chapter 434. AN ACT ESTABLISHING A SICK LEAVE BANK FOR MARYANN AUDETTE, 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 Maryann Audette, 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 Maryann Audette. Whenever Maryann Audette terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 435. AN ACT ESTABLISHING A SICK LEAVE BANK FOR PATRICK J. HAGER, 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 Patrick J. Hager, 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 Patrick J. Hager. Whenever Patrick J. Hager terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 436. AN ACT ESTABLISHING A SICK LEAVE BANK FOR ROBERT MANNING, 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 Robert Manning, an employee of the Dorchester division of the Boston municipal court department. Any employee of the trial court may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Robert Manning. Whenever Robert Manning terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.

Approved, January 13, 2011.

Chapter 437. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BEVERLEY O'RIORDAN, AN EMPLOYEE OF THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

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 ele-

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mentary and secondary education, therefore 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 elementary and secondary education shall establish a sick leave bank for Beverley O’Riordan, 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 Beverley O’Riordan. Whenever Beverley O’Riordan terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 438. AN ACT ESTABLISHING A SICK LEAVE BANK FOR BETTY GARCIA, 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 Betty Garcia, 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 Garcia. Whenever Betty Garcia terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 439. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KAREN REILLY, AN EMPLOYEE OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the department of children and families shall establish a sick leave bank for Karen Reilly, 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 Karen Reilly. Whenever Karen Reilly terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 440. AN ACT ESTABLISHING A SICK LEAVE BANK FOR KATHRYN BEAUPRE, 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 Kathryn Beaupre, an employee of the department. Any employee of the department may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Kathryn Beaupre. Whenever Kathryn Beaupre terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank

as determined by the department.

Approved, January 13, 2011.

Chapter 441. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LORI J. MADRAZO-BULAK, 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 Lori J. Madrazo-Bulak, 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 J. Madrazo-Bulak. Whenever Lori J. Madrazo-Bulak terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 442. AN ACT ESTABLISHING A SICK LEAVE BANK FOR STEPHEN COSTA, AN EMPLOYEE OF THE MASSACHUSETTS REHABILITATION COMMISSION.

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

Be it enacted, etc., as follows:

Notwithstanding any general or special law, rule or regulation to the contrary, the Massachusetts rehabilitation commission shall establish a sick leave bank for Stephen Costa,

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an employee of the Massachusetts rehabilitation commission. Any employee of the commission may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Stephen Costa. Whenever Stephen Costa terminates employment with the commission 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 commission.

Approved, January 13, 2011.

Chapter 443. AN ACT ESTABLISHING A SICK LEAVE BANK FOR RALPH P. RUZZO, SR., 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 Ralph P. Ruzzo, Sr., an employee 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 Ralph P. Ruzzo, Sr. Whenever Ralph P. Ruzzo, Sr. terminates employment with the trial court or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the trial court paid leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the trial court.

Approved, January 13, 2011.

Chapter 444. AN ACT ESTABLISHING A SICK LEAVE BANK FOR LOIS KEITHLY, 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.

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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 public health shall establish a sick leave bank for Lois Keithly, an employee of the department. Any employee of the department may voluntarily contribute 1 or more of his sick, personal or vacation days to the sick leave bank for use by Lois Keithly. Whenever Lois Keithly terminates employment with the department or requests to dissolve the sick leave bank, any remaining time in the sick leave bank shall be transferred to the extended illness leave bank. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 445. AN ACT ESTABLISHING A SICK LEAVE BANK FOR FRANK J. SERVELLO, AN EMPLOYEE OF THE EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the executive office of public safety and security, therefore 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 executive office of public safety and security shall establish a sick leave bank for Frank J. Servello, a 24-year employee of the department of correction, transferred to the executive office of public safety and security on August 1, 2010, as the result of consolidation of the secretariat's information technology functions. Any employee of the executive office of public safety and security or the department of correction may voluntarily contribute 1 or more sick, personal or vacation days to the sick leave bank for use by Frank J. Servello. Whenever Frank J. Servello 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. 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.

Approved, January 13, 2011.

Chapter 446. AN ACT ESTABLISHING A SICK LEAVE BANK FOR HEIDI HOWARD, 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 Heidi 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 Heidi Howard. Whenever Heidi 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. Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.

Approved, January 13, 2011.

Chapter 447. AN ACT RELATIVE TO THE REGISTRATION OF REAL ESTATE APPRAISERS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 112 of the General Laws is hereby amended by striking out section 181, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 181. The term of a certificate or a license issued by the board, except a transitional license under subdivision C of section 180, shall be 2 years from the date of issuance. Notwithstanding the foregoing, each certificate or license originally issued to an individual, except a transitional license under said subdivision C of said section 180, shall be valid until the anniversary of the date of birth of the licensee next occurring more than 24 months after the date of issuance; or the director of the division of professional licensure may designate a date other than a birthday for license expiration. A real estate appraisal trainee shall be eligible for renewal of a trainee license for not more than 4 two-year periods after the original term of the license.

SECTION 2. The executive office for administration and finance shall assess proportionately the fee charged to a licensee under section 181 of chapter 112 of the General

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Laws to correspond with the new 2-year cycle for licenses issued under said section 181 of said chapter 112.

SECTION 3. Sections 1 and 2 of this act shall take effect 120 days after the effective date of this act.

Approved, January 13, 2011.

**Chapter 448. AN ACT RELATIVE TO CERTAIN MEMBERS OF THE
CAMBRIDGE RETIREMENT SYSTEM.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law, rule or regulation to the contrary, upon acceptance of this act by the legislative body of the city of Cambridge, Mary Ellen Galante and Valerie Ososky, members of the Cambridge retirement system, shall be entitled to credit for the period that each of them performed services as nurse midwives for the Cambridge Hospital Professional Services Corporation and the Somerville hospital; provided, however, that such service shall not be credited until the member has paid into the annuity savings fund of such system, in 1 sum or in installments upon such terms and conditions as the state board of retirement may prescribe, the amount of contributions, together with interest thereon, that would have been withheld from regular compensation during the period from when the member left membership after June 30, 1995, and then became employed by the Cambridge Hospital Professional Services Corporation, and later the Somerville hospital, to the time when the member reentered membership in the Cambridge retirement system as an employee of the Cambridge public health commission.

SECTION 2. A member in service of the retirement system eligible for the creditable service under this act may make application for the creditable service within 180 days of the acceptance of this act by the legislative body of the city of Cambridge.

SECTION 3. Terms used in this act shall have the same meaning as those terms defined in section 1 of chapter 32 of the General Laws.

Approved, January 13, 2011.

**Chapter 449. AN ACT RELATIVE TO CUTTING DOWN, TRIMMING OR
REMOVING BUSHES AND SMALL TREES.**

Be it enacted, etc., as follows:

Chapter 87 of the General Laws is hereby amended by adding the following section:-
Section 14. (a) For the purposes of this section, "utility" shall mean a company en-

gaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and nonprofit educational institutions, and where such plant or equipment was in operation before January 1, 1986.

(b) A utility may, or at the request of the tree warden shall, submit an annual vegetation management plan describing the maintenance work to be performed in a municipality. The plan shall include, but not be limited to, a map of the circuits where the maintenance work will be performed, the tree maintenance standards that will be followed and any foreseeable variance from those standards. The plan shall comply with local ordinances and regulations. The plan shall be submitted not less than 90 days prior to the date the utility proposes to begin its maintenance work. Upon receipt of the plan, the tree warden, or a designee thereof, shall notify the utility within 60 days, in writing, whether or not the plan has been approved. Upon receipt of written notification that the plan has been approved, or approved with modifications agreed to by both parties, a utility shall be exempt from the requirements of sections 3 and 5 for the work described in the approved plan.

(c) A utility may, or at the request of the tree warden shall, submit an annual hazard tree removal plan describing hazard tree removal work to be performed in a municipality. The plan shall include, but not be limited to, the specific trees that the utility has identified as a hazard and proposes to remove. The plan shall comply with local ordinances and regulations. The plan shall be submitted not less than 90 days prior to the date a utility proposes to begin tree removal. Upon receipt of the plan, the tree warden, or a designee thereof, shall notify the utility within 60 days, in writing, whether or not the plan has been approved. Upon receipt of written notification that the plan has been approved, or approved with modifications agreed to by both parties, the utility shall be exempt from the requirements of sections 3 and 5 for the work described in the approved plan.

(d) If a tree warden fails to notify a utility whether a vegetation management plan or hazard tree removal plan has been approved within 60 days of the warden's receipt of the plan, the utility may request a decision by the selectmen, mayor or chief administrative officer of the municipality.

(e) Notwithstanding approval of a vegetation management plan or hazard tree removal plan, a utility shall notify a tree warden, in writing, not less than 14 days prior to beginning maintenance work or tree removal work in a municipality. If a local ordinance or regulation requires more than 14 days notice, the utility shall comply with such ordinance or regulation. The notice provided shall include the date on which the utility will begin work and the phone number of the person or persons supervising the work in the field.

(f) The utility shall provide to the state forester, or such other person or agency as designated by the secretary of energy and environmental affairs, a copy of any annual vegetation management plan or hazard tree removal plan and a copy of the approval or denial

letter from the applicable tree warden. The state forester, or such other person or agency as designated by the secretary of energy and environmental affairs, shall provide the utility an acknowledgment of receipt of such plans and determinations in any manner approved by said secretary.

(g) The utility shall annually submit to the state forester's office a set of utility tree maintenance standards and specifications and evidence that these standards have been adopted by the utility company. These standards and specifications shall conform with: American National Standard Institute A-300; American National Standard Institute Z-133; and National Electric Safety Code 218 Tree Trimming and OSHA 29 CFR Part 1910 Line Clearance Tree Trimming Operations. The state forester, or such other person or agency as designated by the secretary of energy and environmental affairs, shall make these standards and specifications available to the public on their websites or other accessible locations and shall accept and maintain a publicly accessible record of comments received relative to the standards and specifications and shall transmit the comments to the utilities.

Approved, January 13, 2011.

**Chapter 450. AN ACT DESIGNATING A CERTAIN AREA OF THE
BLACKSTONE RIVER AND CANAL HERITAGE STATE PARK IN
THE TOWN OF NORTHBRIDGE AS THE SPAULDING R.
ALDRICH MEMORIAL RECREATION AREA.**

Be it enacted, etc., as follows:

The area of the Blackstone river and Canal Heritage State Park on Church street extension in the town of Northbridge located between the Blackstone river and the historic Blackstone canal shall be designated and known as the Spaulding R. Aldrich Memorial Recreation Area, in memory of Spaulding R. Aldrich, a dedicated public servant and past president of Blackstone Valley Heritage Homecoming, Inc. The department of conservation and recreation shall erect suitable markers bearing this designation in compliance with the standards of the department and any existing historic preservation laws and guidelines.

Approved, January 13, 2011.

**Chapter 451. AN ACT AUTHORIZING THE APPOINTMENT OF CHRISTOPHER
J. LANE AS A POLICE OFFICER IN THE CITY OF METHUEN,
NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding chapter 31 of the General Laws or any other general or special law to the contrary, the personnel administrator shall certify Christopher J. Lane to be eligible for original appointment to the position of police officer in the city of Methuen, notwithstanding his having reached the age of 32 before taking any civil service examination in connection with such appointment. Christopher J. Lane shall be eligible for appointment to the position of police officer in the city of Methuen if he otherwise qualifies for employment under said chapter 31 and regulations of the civil service commission and any lawful hiring practices for the city of Methuen. This exemption shall apply only to the certified lists assembled under the examination conducted prior to the effective date of this act.

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

Approved, January 14, 2011.

**Chapter 452. AN ACT AUTHORIZING THE TOWN OF BELLINGHAM 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. (a) 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 to be drunk on the premises under section 12 of said chapter 138 to Paul Winshman for the business located at 191 Mechanic street, unit 9, in the town of Bellingham. The license shall be subject to all of said chapter 138 except said section 17.

(b) 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 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.

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

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

Approved, January 14, 2011.

Chapter 453. AN ACT AMENDING THE CHARTER OF THE TOWN OF WINCHENDON.

Be it enacted, etc., as follows:

SECTION 1. The following shall be the charter of the Town of Winchendon:

**ARTICLE 1
INCORPORATION AND POWERS**

SECTION 1-1 INCORPORATION

The Inhabitants of the Town of Winchendon, within the territorial limits established by law, shall continue to be a body and politic under the name "Town of Winchendon."

SECTION 1-2 SHORT TITLE

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

SECTION 1-3 DIVISION OF POWERS

The administration of all the fiscal, prudential and municipal affairs of the Town of Winchendon shall be vested in an executive branch headed by a Board of Selectmen. The legislative powers of the Town of Winchendon shall be exercised by a Town meeting, open to all registered voters of the Town of Winchendon.

SECTION 1-4 POWERS OF THE TOWN; INTENT OF THE VOTERS

It is the intent and the purpose of the voters of the Town of Winchendon, through the adoption of this Charter, to secure for the Town of Winchendon all of the powers possible to secure for their government under the Constitution and statutes of the Commonwealth, as fully and as completely 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 liberally in favor of the Town and the specific mention of any particular power is not intended to limit the general powers of the Town as stated in Section 1-4.

SECTION 1-6 INTERGOVERNMENTAL RELATIONS

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

**ARTICLE 2
LEGISLATIVE BRANCH**

SECTION 2-1 OPEN TOWN MEETING

The legislative powers of the Town shall be vested in a Town meeting open to all registered voters of the Town of Winchendon.

SECTION 2-2 PRESIDING OFFICER

All sessions of the Town meeting shall be presided over by a Moderator, elected as

provided in Article 3. In the absence or disability of the Moderator, the Town Clerk shall call the meeting to order and shall preside until a temporary Moderator is elected by the voters present. The Moderator shall regulate the proceedings, decide all questions of order, and make public declaration of all votes. He shall have such additional powers and duties as may be provided by Charter, general law, By-law or by other vote of the Town.

SECTION 2-3 COMMITTEES

(a) General - Unless otherwise provided by the Charter, by By-law, or by other vote of the Town, the members of all committees of the Town meeting, whether special or standing, shall be appointed for fixed terms by the Moderator. All such committees shall have such powers, duties and responsibilities as may be provided to them by Charter, by By-law, or by other vote of the Town. When acting within the scope of its authority, any such committee shall be entitled to examine the pertinent records of any Town agency and to consult with, and obtain pertinent advice and information from any Town officer, employee or agent.

(b) Finance Committee: There shall be a Finance Committee which shall be appointed by the Moderator. The number of members, the term of office and further conditions of appointment and service may be provided by Bylaw.

(c) Planning Board: There shall be a Planning Board consisting of 5 members, appointed by the Board of Selectmen, to serve for terms of 3 years each. The terms of members shall be arranged so that as nearly an equal number of such terms as possible shall expire each year. The Planning Board shall have the duties conferred upon it by the General Laws, Town By-law or a vote of the Town meeting.

(d) Capital Planning Committee: There shall be a Capital Planning Committee which shall be composed by 5 registered voters of the Town. Further composition will be determined by Bylaw. Member terms shall be for 1 year. The principal duties of the committee shall be to examine the need for capital improvements, determine how such projects should be funded, and advise the town manager and the town meeting in a manner to be prescribed by By-law in regard to the annual capital improvement budget. Further conditions of appointments, vacancies and the powers and duties of the committee shall be provided by Bylaw.

SECTION 2-4 ANNUAL TOWN MEETING

The annual Town meeting shall be held on such date as may from time to time be fixed by Bylaw.

SECTION 2-5 SPECIAL TOWN MEETINGS

Special Town meetings may be held at the call of the Board of Selectmen at such times as it may deem appropriate and whenever a special Town meeting is requested by voters in accordance with procedures made available by the General Laws.

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 subjects which are to be acted upon. The publication and distribution of the war-

rants for Town meetings shall be in accordance with any By-law of the Town governing such matters.

SECTION 2-7 INITIATION OF WARRANT ARTICLES

(a) Requests - The Board of Selectmen shall include in the warrant for an annual Town meeting all subjects which are timely submitted to it by voters in the manner provided by General Law. The Board of Selectmen shall also include in the warrant for any Town meeting, annual or special, all subjects timely requested by any Town meeting, annual or special, all subjects timely requested by any Town agency. Requests for inclusion of subject matter shall be in writing, but need not conform to any particular style or form.

(b) Time and Manner of Submission - Whenever the Board of Selectmen shall determine to call a special town meeting, it shall post a notice of such intention on the Town bulletin board. The warrant for any special town meeting shall not be closed until at least 72 weekday hours, exclusive of Saturdays, Sundays and legal holidays, have elapsed following such posting. The warrant for the annual town meeting shall not be closed more than forty-five days preceding the date on which the annual town meeting is to commence.

SECTION 2-8 AVAILABILITY OF TOWN OFFICIALS

Every Town agency shall designate a representative to attend all sessions of the Town meeting at which warrant articles pertinent to that agency are or may be taken up, for the purpose of providing information pertinent to such articles at the Town meeting. If any person so designated is not a Town resident, he shall, notwithstanding, be entitled to speak in order to provide the Town meeting with information relative to his responsibilities.

SECTION 2-9 PROCEDURES

(a) Clerk of the Meeting - The Town Clerk shall be the clerk of the Town meeting, give notice thereof, record its proceedings, and perform such other duties as may be assigned by general law, by By-law or by other vote of the Town.

(b) Rules of Procedure - The Town meeting shall, by Bylaw adopt and from time to time amend, revise or repeal rules to govern the conduct of all Town meetings.

**ARTICLE 3
ELECTED OFFICIALS**

SECTION 3-1 IN GENERAL

(a) Elective Offices - The Town offices to be filled by the voters shall be a Board of Selectmen, a School Committee, and a Town Moderator and a Board of Health. In addition, 4 members of a Housing Authority and representatives to regional authorities or districts established by law or inter local agreement may also be filled by the voters.

(b) Eligibility - Any voter shall be eligible to hold any elective Town office; provided, however, that a person shall not simultaneously hold more than 1 elected Town office as defined in this section.

(c) Town Election - The annual election of Town officers, for the election of representatives to regional authorities or districts and for the determination of all questions

to be referred to the voters, shall be held on such date as may from time to time be provided by By-law.

(d) Conflict of Meetings - The Board of Selectmen and the School Committee shall establish the schedule of their regular meetings so as to assure that regular meetings of the multiple member bodies are not in conflict with one another.

(e) Recall of Elected Officers

1. Application - Any holder of an elected Town office who has held such office for at least 6 months, and who has more than 6 months remaining in office, may be recalled and removed from office by the registered voters of the Town in the manner provided by this section.

2. Filing of Affidavit - Any registered voters of the Town comprising no less than 5 per cent of the total number of voters registered at the most recent Town election may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and stating the specific grounds for recall. Grounds for recall shall include: lack of fitness for office, corruption, neglect of duties, misfeasance, or malfeasance.

3. Preparation and filing of petition - The Town Clerk shall thereupon issue to the 10 persons first named on such petitions, petition blanks demanding said recall, printed forms of which he shall keep available.

The blanks may be completed by printing or typewriting; they shall be addressed to the Board of Selectmen; they shall contain the names of the 10 persons to whom they are issued; the name of the officer whose recall is sought and the grounds for recall as stated in the affidavit; they shall demand the election of a successor to the office; they shall be dated and signed by the Town Clerk. The recall petitions shall be returned to the office of the Town Clerk within 20 days following the date they are issued, signed by at least 15 per cent of the total number of persons registered to vote as of the date of the most recent Town election.

4. The Town Clerk shall, within 24 hours following such filing with him, submit the petitions to the Board of Registrars of Voters which shall within 10 days thereafter, certify thereon the number of signatures which are the names of voters.

5. Order for Recall Election - If the petitions shall be certified by the Registrars of Voters to be sufficient, the Town Clerk shall forthwith submit the same with his certificate to the Board of Selectmen. Upon its receipt of the certified petition, the Board of Selectmen shall forthwith give notice, in writing, of said petition to the officer whose recall is sought. If said officer does not resign his office within 5 days following delivery of the said notice, the Board of Selectmen shall order a special election to be held not less than the minimum number of days required by the General Laws to fill a vacancy by election in a Town office, nor more than 100 days after the date of the certification of the Town Clerk that the petition is sufficient; provided, however, if a regular Town election is to be held within 90 days, the recall election shall be held at such time in conjunction with such regular election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be

counted.

6. Recall Election - Any officer sought to be recalled may be a candidate to succeed himself, and unless he requests otherwise in writing, the Town Clerk shall place his name on the official ballot without nomination. The number of signatures of votes required to place the name of a candidate on the official ballot for use at a recall election shall be in accordance with the General Laws regulating elections. The publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the General Laws regulating elections.

Ballots used at the recall election shall state the proposition in the order indicated:

For the Recall (removal) of (name of officer) from (name of office)

Against the Recall (removal) of (name of officer) from (name of office)

Adjacent to each proposition shall be a place to vote for either of said proposition. After the said proposition shall appear the word "candidates" and the names of candidates arranged alphabetically. If a majority of the votes cast on the proposition is against the recall, the votes for candidates need not be counted. If the majority of the votes cast is in favor of the recall, and provided at least 20 per cent of the total number of voters as of the date of the most recent Town election have participated at such recall election, the officer shall be deemed to be recalled and the ballots for candidates shall then be counted and the candidate receiving the highest number of votes shall be declared elected, and shall forthwith take the oath of office.

7. Incumbent - The incumbent shall continue to hold office and to perform his duties until the recall election, unless he sooner resigns. If he is not then recalled, he shall continue in office, and shall not be subject to recall for the remainder of his unexpired term.

8. If the officer is recalled, he shall be deemed removed upon certification of the election results. The candidate who receives the highest number of votes shall, upon qualification for office, serve for the balance of the unexpired term.

SECTION 3-2 BOARD OF SELECTMEN

(a) Composition, Term of Office, Remuneration - There shall be a Board of Selectmen 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. The members of the Board of Selectmen shall serve without salary, but shall be entitled to reimbursement of expenditures incurred in the execution of their duties as set forth in this Charter, said expenditures to be reimbursed only after submission of an expense voucher listing in detail the monies sought for reimbursement, the reasons therefore, and only after said vouchers have been reviewed and approved by the Town Manager. Reimbursements based on such vouchers shall be paid as soon as is possible and practical after the end of the month in which the said vouchers are approved by the Town Manager. (Amended March 4, 1985)

(b) Powers and Duties - The executive powers of the Town shall be vested in the Board of Selectmen which shall be deemed to be the chief executive office in 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. It shall be responsible for the issuance of policy directives and guidelines to be followed by all Town agencies serving under it and, in conjunction with other elected Town officers to develop and to promulgate policy guidelines designed to bring all agencies of the Town into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of them, 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 appointed by or under its authority. The Board of Selectmen shall cause a record of all its official acts to be kept. To aid it to perform its duties the Board of Selectmen shall appoint a Town Manager as provided in Article 4.

(c) Appointment Powers - The Board of Selectmen shall appoint those offices and multiple member bodies listed below in accordance with any requirements relative thereto that may be set forth by the town By-laws;

- Town Manager
- Town Accountant
- Board of Registrars of Voters and other election officers, but not including the Town Clerk
- Board of Appeals
- Conservation Commission
- Planning Board
- Constables
- Board of Library Trustees
- Council on Aging
- Development and Industrial Commission
- Town Forest Committee
- Historic District Commission
- Capital Planning Committee (as provided in section 2-3(d))
- Industrial Development Financing Authority, as provided in chapter 40D of the General laws

A person shall not serve concurrently as a member of more than 1 of the following multiple-member bodies: Planning Board, Board of Appeals, Board of Health or the Conservation Commission.

(d) 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 and to attach conditions and to impose restrictions on any such licenses as it may issue 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 any license.

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 terms 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 of the powers and duties which are given to School Committees by the General Laws.

SECTION 3-4 TOWN MODERATOR

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

(b) Powers and Duties - The Town Moderator shall be the presiding officer of the Town meeting, as provided in Section 2-2.

(c) Appointing Powers - The Town Moderator shall appoint the Finance Committee, Charter and By-law Review Committees, and any other committees as directed by Town Meeting.

SECTION 3-5 WINCHENDON HOUSING AUTHORITY

(a) Composition. Term of Office - There shall be a Housing Authority which shall consist of 5 members serving for terms of 5 years each so arranged that the term of 1 member shall expire each year. Four of these members shall be elected by the voters and the fifth member shall be appointed by the Secretary of Communities and Development of the Commonwealth (or as may otherwise be provided by law).

(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 person of low income. The Housing Authority shall have such other powers and duties as are assigned to housing authorities by the General Laws.

SECTION 3-6 REPRESENTATIVE TO MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE

Representatives to the Montachusett Regional Vocational Technical School District Committee shall be selected according to the provisions of the agreement establishing the school district, as it may be amended from time to time.

SECTION 3-7 BOARD OF HEALTH (Added march 1, 1993)

(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 as nearly an equal number of members as is possible shall expire each year.

(b) Powers and Duties - The Board of Health shall have all the powers and duties conferred upon Boards of Health by General Laws and it shall have such additional powers and duties as may be authorized by the Charter, by By-law or by other town meeting vote.

(c) This article shall take effect as follows: At the annual Town election in the year following the year in which this Charter amendment is adopted, the terms of office of all members of the Board of Health then serving shall expire notwithstanding the years in which they were appointed. At the said annual town election in the year following the year in which the Charter amendment is adopted, a new 5 member board of Health shall be elected as follows: The 2 candidates who receive the highest number of votes shall be declared elected

for a term of 3 years, the 2 candidates who receive the next highest number of votes shall be declared elected for a term of 2 years, the candidate who receives the fifth highest number of votes shall be declared elected for a term of 1 year. As the terms of office of members so elected expire, successors shall be chosen as provided in section 3 of the Charter.

ARTICLE 4 TOWN MANAGER

SECTION 4-1 APPOINTMENT, QUALIFICATIONS, TERM OF OFFICE

The Board of Selectmen shall appoint a Town Manager to serve for an indefinite term of office, and shall fix his compensation within the limits of available appropriations. The office of Town Manager shall not be subject to the consolidated personnel By-law, if any, of the Town. The Town Manager shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a person of proven professional ability, especially fitted by education, training and previous experience in business or public administration to perform the duties of the office. He need not be a resident of Winchendon at the time of his appointment, but he shall establish such residence within 6 months following the effective date of his appointment; provided, however, that the Board of Selectmen, may, by majority vote of the full board, extend such time or waive this requirement. The Town Manager shall devote his full-time to the office and shall not hold any other public office, elective or appointive, nor shall he engage in any other business, occupation or profession during his term, unless such action is approved in advance, in writing, by the Board of Selectmen.

SECTION 4-2 POWERS AND DUTIES

The Town Manager shall be the chief administrative officer of the Town and shall be responsible to the Board of Selectmen for the proper discharge of all duties of the office and for the proper administration of all Town affairs placed under his charge by or under the Charter. The powers and duties of the Town Manager shall include, but not be limited to the following:

(a) He shall supervise, direct and be responsible for the efficient administration of all functions under his control, as may be authorized by the Charter, by By-law, by other Town meeting vote, or by vote of the Board of Selectmen, including all officers appointed by him and their respective departments.

(b) He shall appoint, and may remove, subject to the civil service law and such collective bargaining agreement as may be applicable, all department heads, all officers and subordinates and employees for whom no other method of selection is provided by the Charter.

(c) He shall appoint the following positions:

- Town Clerk
- Town Treasurer
- Town Collector

- Board of Assessors
- Town Counsel
- Chief of Police
- Fire Chief
- Superintendent of Public Works
- Building Commissioner

(d) He shall be entrusted with the administration of a Town personnel system, including, but not limited to, personnel policies and practices, rules and regulations, and all collective bargaining agreements entered into on behalf of the Town. He shall prepare, maintain and keep current a plan establishing the personnel staffing requirements for each Town agency, except those under the jurisdiction of the School Committee.

(e) Appointments or removals made by the Town Manager shall become effective on the fifteenth day following the day notice of proposed appointment or removal is filed with the Board of Selectmen, unless the Board of Selectmen shall, within said period, by a vote of at least 4 members of the Board reject such appointment or removal, or has sooner voted to affirm it. Copies of notices of proposed appointments or removals as filed with the Board of Selectmen shall simultaneously be posted on the Town bulletin board.

(f) He shall fix the compensation of all Town officers and employees appointed by the Town Manager within the limits established by appropriations.

(g) He shall attend all regular and special meetings of the Board of Selectmen, unless excused at his own request, and shall have a voice, but no vote, in all of its discussions.

(h) He shall attend all sessions of the Town meeting and shall answer all questions concerning warrant articles which are directed to him and which relate to matters under his general supervision.

(i) He shall see that all provisions of the General Laws, the Charter, the By-laws and other votes of the Town meeting, and all votes of the Board of Selectmen, which require enforcement by him, or officers and employees subject to his direction and supervision are faithfully carried out, performed, executed and enforced.

(j) He shall prepare and submit, in the manner provided in Article 5, a proposed annual operating budget and capital outlay program.

(k) He shall keep the Board of Selectmen fully informed as to the financial condition and needs of the Town, and shall make such recommendations to the Board of Selectmen and other Town officers concerning the financial conditions and needs of the Town as he may deem necessary or expedient.

(l) He shall assure that full and complete records of the financial and administrative activities of the Town are kept and shall render reports to the Board of Selectmen at the end of each fiscal year and at such other times as it may reasonably require.

(m) He shall have jurisdiction over the rental and use of all Town facilities, except those under the jurisdiction of the School Committee. He shall be responsible for the maintenance and repair of all Town facilities, including, if authorized by a Town meeting vote, school buildings and grounds.

(n) He may at any time inquire into the conduct of office of any Town officer, employee or agent under his general supervision.

(o) He shall 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.

(p) He shall be responsible for the negotiation of all contracts with Town employees over wages, hours, and other terms and conditions of employment; provided, however, that any such contract as he may propose may be rejected by a majority vote of the full Board of Selectmen within 15 days following the date it is submitted to such board for its review.

(q) He shall be responsible for the purchase of all supplies, materials and equipment, and shall award all contracts for supplies, materials and equipment for all departments and activities of the Town, except books and other instructional materials and supplies for school or library use, and except in case of emergency. He shall examine and inspect, or cause to be examined and inspected, the quality and condition of all supplies, materials and equipment delivered to or received by any Town agency.

(r) He may, in the manner provided in Article 6, re-organize, consolidate or abolish Town agencies under his general supervision, provided for new Town agencies, and, when incident to any such reorganization with the approval of the Finance Committee, transfer all or a portion of the appropriation made for one Town agency to another.

(s) He may authorize any subordinate officer or employee to exercise any power or function which he is authorized to exercise; provided, however, that all acts performed under any such delegation shall be deemed to be his acts.

(t) He shall perform such other duties as may be required of him by the Charter, by By-law, by Town meeting vote, or by vote of the Board of Selectmen.

SECTION 4-3 ACTING TOWN MANAGER

(a) Temporary Absence - The Town Manager shall, subject to the approval of the Board of Selectmen, and by letter filed with the Board of Selectmen and the Town Clerk, designate a qualified Town officer or employee to exercise the powers and perform the duties of the Town Manager during his temporary absence. During the temporary absence of the Town Manager the Board of Selectmen may not revoke such designation until at least 10 working days have elapsed. Following the expiration of the said 10 working days, or if the person so designated is for any reason unable to serve, the Board of Selectmen may designate some other qualified person to serve as Acting Town Manager until the Town Manager shall return.

(b) Vacancy - Any vacancy in the office of Town Manager shall be filled as soon as possible by the Board of Selectmen, but, pending such full time appointment they shall designate some other qualified person to perform the duties of the Town Manager on a temporary basis. Such temporary appointment shall not exceed 3 months; but one renewal, not to exceed a second 3 months, may be voted by the Board of Selectmen.

(c) Powers and Duties - The powers and duties of an Acting Town Manager under subsection (a) or (b) shall be limited to matters not admitting of delay.

SECTION 4-4 REMOVAL AND SUSPENSION

The Board of Selectmen may, by majority vote of the full board, terminate and remove or suspend the Town Manager from his 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 publicly thereon at a meeting of the Board of Selectmen prior to a final vote on his removal, but pending and during such hearing the Board of Selectmen may suspend him from his office. The action of the Board of Selectmen in suspending or removing the Town Manager from office shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Board of Selectmen. The Town Manager shall continue to receive his salary until the effective date of a final vote of removal.

**ARTICLE 5
FISCAL PROCEDURES**

SECTION 5-1 FISCAL YEAR

The fiscal year of the Town shall begin on July 1 and shall end on June 30 unless another provision is made by general law.

SECTION 5-1 SCHOOL COMMITTEE BUDGET

(a) Submissions to Town Manager - The budget as adopted by the School Committee shall be submitted to the Town Manager in sufficient time to enable him to consider its effect on the total Town budget he is required to submit under this article.

(b) Public Hearing - At least 7 days before the date on which the School Committee is to vote on its final budget request, the School Committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall specifically indicate any major variations from the current budget, and the reasons for such changes. The notice shall also indicate the times and places where complete copies of the committee's draft budget are available for public examination, and, the date, time and place when a public hearing will be held by the School Committee on its proposed budget, not less than seven days following such publication.

SECTION 5-3 SUBMISSION AND NOTICE

Within a time fixed by By-law before the date on which the Town meeting is scheduled to begin its session at which annual appropriations are to be made, the Town Manager with the approval of the Board of Selectmen, shall submit to the Finance Committee his proposed budget for the ensuing fiscal year, with an accompanying budget message and supporting documents. He 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 budget, and the reasons for such changes. The notice shall also indicate the times and places at which complete copies of the proposed budget and accompanying materials are available for public examination.

SECTION 5-4 BUDGET MESSAGE

The budget message submitted by 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 proposed financial policies of the town for the ensuing fiscal year; describe important features of the proposed budget indicate any major variations from the current budget in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the Town's debt position; and it shall include such additional information as the Town Manager deems desirable or the Board of Selectmen may reasonably require.

SECTION 5-5 THE PROPOSED BUDGET

The proposed budget shall provide a complete financial plan of all Town funds and activities, including the budget as requested by the School Committee. Except as may otherwise be required by the General Laws, or by the Charter, it shall be in the form the Town Manager deems desirable or as the Board of Selectmen may require. In his presentation of the budget the Town Manager shall make use of modern concepts of fiscal presentation so as to furnish a maximum amount of information and the best financial controls. The budget shall be arranged to show the actual and estimated income and expenditures for the previous, current and ensuing fiscal years and shall indicate, in separate sections;

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by Town agency, function and work programs, and the proposed method of financing such expenditures.

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by Town agency, and the proposed methods of financing such expenditures.

(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 5-6 ACTION ON PROPOSED BUDGET

(a) Public Hearing - The Finance Committee shall forthwith upon receipt of the proposed budget provide for the publication in a local newspaper of a notice stating the date, time and place, not less than 7 nor more than 14 days following such publication, when a public hearing will be held by the Finance Committee on the proposed budget.

(b) Review - The Finance Committee shall consider, in open public meeting, the detailed expenditures proposed for each Town agency and may confer with representatives of any Town 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 of the proposed budget.

(c) Presentation to the Town Meeting - The Finance Committee shall file a report containing its recommendations for actions on the proposed budget which shall be available at least seven days prior to the date on which the Town meeting acts on the proposed budget. When the proposed budget is before the Town meeting for action, it shall first be subject to amendment, if any, by the Finance Committee.

SECTION 5-7 CAPITAL IMPROVEMENT PROGRAM

The Town Manager shall submit a Capital Improvement Program to the Board of Selectmen and to the Finance Committee at least 30 days before the day fixed by By-law for the submission of the proposed operating budget. The Capital Improvement Program shall include, but need not be limited to the following:

- (a) A clear, concise general summary of its contents.
- (b) A listing of all capital expenditures proposed to be made, by years, during the 5 fiscal years next ensuing, with supporting information as to the need for each expenditure.
- (c) Cost estimates methods of financing and recommended time schedules.
- (d) The estimated annual cost of operating and of maintaining any new facility or piece of major equipment involved. The information contained in the Capital Improvement Program shall be revised each year with regard to each item still pending, or in the process of being acquired, improved or constructed.

**ARTICLE 6
ADMINISTRATION ORGANIZATION**

SECTION 6-1 ORGANIZATION OF TOWN AGENCIES

The organization of the Town into operating agencies for the provision of services and the administration of the government may be accomplished through either of the methods provided in this section.

(a) By-laws - Subject only to an express prohibition in the General Laws or as otherwise provided in this Charter, the Town Meeting may, by By-law, reorganize, consolidate or abolish, create, merge or divide, alter the term of office, the manner of selection, or, if a multiple member body, the number of members of any Town agency, in whole or in part, establish new Town agencies and may prescribe the functions, powers, duties and responsibilities of any such Town agency.

(b) Administrative Code - The Town Manager after consultation with the Board of Selectmen, may from time to time, prepare and submit to the Town meeting, plans of organization, or reorganization of Town agencies, as provided in Section 4-2(p).

Whenever the Town Manager prepares such a plan he shall, in conjunction with the Board of Selectmen, hold public hearings on such proposal, giving notice by publication in a local newspaper of the date, time and place of the public hearing and the scope of the proposal.

Before any such plan shall become effective the Town Manager shall provide that the proposed organizational plan, which may be amended or revised as a result of information developed at the public hearing, be submitted to a session of the Town meeting. The authority of the Town meeting concerning the proposed organizational plan shall be limited to the approval or the rejection of it; the Town meeting shall not vote to amend or to alter the proposed plan.

**ARTICLE 7
GENERAL PROVISIONS**

SECTION 7-1 CHARTER CHANGES

This Charter may be replaced, revised or amended in accordance with any procedure made available under the state Constitution, or by statute enacted in accordance with the state Constitution.

SECTION 7-2 SEVERABILITY

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

SECTION 7-3 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.

SECTION 7-4 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 made available for review by any person who shall request such information.

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 masculine gender shall include the feminine gender.

SECTION 7-6 PERIODIC REVIEW, CHARTER AND BYLAWS

(a) Charter Review - At least once every 10 years, in every year ending in zero, a special committee shall be appointed by the Town Moderator, for the purpose of reviewing the provisions of the Charter and to make a report, with recommendations, to the Town meeting, concerning any proposed amendments or revision which said committee may deem to be necessary or desirable.

(b) Bylaws - At least once in every 5 years, in years ending in a 5, or in a zero, the Town Moderator shall appoint a special committee which shall be charged with the responsibility to review the then existing By-laws of the Town for the purpose of determining if any amendments or revision may be necessary or desirable. Such review shall be conducted under the supervision of the Town Counsel, or, if the Town meeting so directs, by special counsel retained for that purpose. A report, with recommendations, shall be submitted to the Town meeting not more than 10 months following the date such committee is appointed.

(c) Copies of Charter and Bylaws - Copies of the Charter and By-laws of the Town, as most recently amended or revised, shall be kept available for distribution to any person

who may request the same at the office of the Town Clerk. A charge, not to exceed the actual cost of reproduction of the said material, may be charged. In any interval between publication of the Charter or By-laws, as amended or revised, supplements shall be published which shall contain all enactments affecting the Charter or By-laws since last published in consolidated form.

SECTION 7-7 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 - The word "charter" shall mean this Charter and any amendments to it which may hereafter be adopted.

(b) Days - The word "days" shall refer to business days, not including Saturdays, Sundays and legal holidays when the time set is less than 7 days; when the time set is 7 days or more, every day shall be counted.

(c) Emergency - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action.

(d) general laws - The words "general laws", all lower case letters, shall mean laws which apply alike to all cities and Towns, or to all Towns or to a class of municipalities of which Winchendon is a member.

(e) General Laws - The words "General Laws" (used with initial capital letters) shall refer to the General Laws of Massachusetts.

(f) Local Newspaper - The words "local newspaper" shall mean a newspaper of general circulation in the Town of Winchendon.

(g) Majority Vote - The words "majority vote" shall mean a majority of those present and voting, provided a quorum is present when the vote is taken, unless a higher number is required by law or by its own rules.

(h) Multiple Member Body - The words "multiple member body" shall mean any Town committee, commission, board, sub-committee or other body consisting of two or more persons; whether elected, appointed, or otherwise constituted.

(i) Town - The word "town" shall mean the Town of Winchendon.

(j) Town Agency - The words "town agency" shall mean any multiple member body, department, division, or office of the Town of Winchendon.

(k) Town Bulletin Boards - The words "town bulletin boards" shall mean the bulletin board in the Town Hall on which official notices are posted, and those at such other locations within the town which may, from time to time, be established by the Board of Selectmen.

(l) Voters - The words "voters" shall mean persons who are registered to vote in the Town of Winchendon.

SECTION 7-8 VACANCIES IN OFFICES

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 the appointing authority. If, at the expiration of 30 days following delivery of such written notice to the appointing authority, said appointing authority 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 the unexpired term by a majority vote of the remaining members.

SECTION 7-9 LOSS OF OFFICE, EXCESSIVE ABSENCE

If any person appointed to serve as a member of a multiple member body shall fail to attend 6 consecutive meetings, or more than one-half of all meetings held during 1 calendar year, the appointing authority or the remaining members of the multiple member body may, by vote of a majority of the remaining members, declare the office of such person vacant; provided, however, that prior to the vote on such question written notice of an intention so to do shall be given in hand, or mailed to the last known address of such person by regular first class and by certified mail.

**ARTICLE 8
TRANSITIONAL PROVISIONS**

SECTION 8-1 TIMING OF CHANGES

Proposed changes to this Charter approved by a majority vote at the May 18, 2009, Town Meeting shall take effect upon enactment by the General Court, and, if so required by the General Court, approval by the voters of the Town at an Annual or Special election.

SECTION 1A. Subsection (c) of section 3-7 of section 1 shall take effect as of March 1, 1993.

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

Approved, January 14, 2011.

**Chapter 454. AN ACT MAKING CORRECTIVE CHANGES IN CERTAIN
GENERAL AND SPECIAL LAWS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 116D of chapter 6 of the General Laws, inserted by section 1 of chapter 422 of the acts of 2008, is hereby repealed.

SECTION 2. Said chapter 6 is hereby further amended by inserting after section 116E the following section:-

Section 116F. There shall be a harbormaster training council within the executive

office of public safety. The council shall consist of 11 members, 1 of whom shall be a member of the state police marine unit with knowledge of marine law enforcement and operations who shall be appointed by the colonel of state police; 1 of whom shall be a representative of the environmental police with knowledge of marine law enforcement and operations who shall be appointed by the secretary of energy and environmental affairs; 1 of whom shall be an employee of the executive office of public safety who shall be appointed by the secretary of public safety to serve ex officio; 1 of whom shall be an employee of United States First Coast Guard District to be appointed by the district commander who shall serve ex officio; and 7 of whom shall be harbormasters appointed by the governor, 2 of whom shall be from the coastal communities north of Boston, 2 of whom shall be from coastal communities south of Boston, 2 of whom shall be from coastal communities from Cape Cod and the Islands and 1 of whom shall be from the city of Boston. Members appointed by the governor shall serve for 2-year terms and their successors shall be appointed in like manner. Members of the council shall serve without compensation.

The council shall set policies and standards for training harbormasters and assistant harbormasters in accordance with applicable laws and regulations including sections 19 to 21, inclusive, of chapter 102.

The expenses of the council shall be funded solely from the Harbormaster Training Trust Fund established in section 35KK of chapter 10.

SECTION 3. Section 2 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, in line 8, the word “authority” and inserting in place thereof the following word:- department.

SECTION 4. Section 46A of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 1, 2, 3, 4, 8, 14, 15, 19 and 30, the word “authority” and inserting in place thereof, in each instance, the following word:- department.

SECTION 5. Chapter 7 of the General Laws is hereby amended by striking out section 58, as appearing in section 2 of chapter 56 of the acts of 2010, the second time it appears, and inserting in place thereof the following section:-

Section 58A. There shall be a supplier diversity office which shall be an office within the operational services division of the executive office for administration and finance.

SECTION 6. Section 35JJ of chapter 10 of the General Laws, inserted by section 3 of chapter 312 of the acts of 2008, is hereby repealed.

SECTION 7. Section 35KK of said chapter 10, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 9, the figure “116D” and inserting in place thereof the following figure:- 116F.

SECTION 8. Said chapter 10 is hereby further amended by inserting after section 35OO the following section:-

Section 35PP. (a) There shall be established the Salisbury Beach Preservation Trust

Fund to be used, without further appropriation, for the long-term preservation and maintenance of Salisbury Beach. Any balance in the fund at the end of a fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point during a fiscal year.

(b) Notwithstanding any general or special law to the contrary, the department of conservation and recreation shall impose a surcharge of \$2 upon each fee charged and collected from admission into, camping and parking in the Salisbury Beach Reservation. The additional monies collected from the surcharge shall be deposited into the fund.

SECTION 9. Section 12 of chapter 23I of the General Laws is hereby amended by striking out, in line 16, as appearing in the 2008 Official Edition, the word "for" and inserting in place thereof the following words:- to serve for.

SECTION 10. Said section 12 of said chapter 23I is hereby further amended by striking out, in lines 22 and 23, as so appearing, the words "executive director" and inserting in place thereof the following word:- president.

SECTION 11. Section 13 of said chapter 23I, as so appearing, is hereby amended by striking out, in line 5, the words "executive director" and inserting in place thereof the word:- president.

SECTION 12. Section 17 of said chapter 23I, as so appearing, is hereby amended by inserting after the word "of", in line 4, the following word:- the.

SECTION 13. Section 9 of chapter 23J of the General Laws, inserted by section 62 of chapter 240 of the acts of 2010, is hereby repealed.

SECTION 14. Said chapter 23J is hereby further amended by adding the following section:-

Section 12. The center shall be subject to section 16G of chapter 6A and section 56 of chapter 23A.

SECTION 15. The definition of "Intentional violation" in section 18 of chapter 30A of the General Laws, as appearing in section 18 of chapter 28 of the acts of 2009, is hereby amended by striking out the words "by violating" and inserting in place thereof the following words:- violation of.

SECTION 16. Clause (e) of the definition of "Meeting" in said section 18 of said chapter 30A, as so appearing, is hereby amended by striking out the figure "10" and inserting in place thereof the following figure:- 9.

SECTION 17. The definition of "Minutes" in said section 18 of said chapter 30A, as so appearing, is hereby amended by striking out the figure "23" and inserting in place thereof the following figure:- 22.

SECTION 18. Subsection (c) of section 20 of said chapter 30A is hereby amended by striking out the third paragraph, as amended by section 22 of chapter 131 of the acts of 2010, and inserting in place thereof the following paragraph:-

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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 and a duplicate copy of the notice shall be filed with the regulations division in the state secretary's office.

SECTION 19. The third paragraph of subsection (f) of section 23 of said chapter 30A, as appearing in section 18 of chapter 28 of the acts of 2009, is hereby amended by striking out the word "subsection (b)" and inserting in place thereof the following word:- subsection (c).

SECTION 20. Chapter 30B of the General Laws is hereby amended by striking out section 22, inserted by section 72 of chapter 240 of the acts of 2010, and inserting in place thereof the following section:-

Section 23. A public procurement unit may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of supplies with public procurement units or external procurement activities in accordance with an agreement entered into between the participants. The public procurement unit conducting the procurement of supplies shall do so in a manner that constitutes a full and open competition.

SECTION 21. Section 48 of chapter 31 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 10 and 11, the words "department of highways" and inserting in place thereof the following words:- highway division in the Massachusetts Department of Transportation.

SECTION 22. Section 66 of said chapter 31, as so appearing, is hereby amended by striking out, in line 2, the words "department of highways of the commonwealth" and inserting in place thereof the following words:- highway division in the Massachusetts Department of Transportation.

SECTION 23. Said section 66 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 3, 7, 9 and 10, 12 and 13, the words "such department" and inserting in place thereof, in each instance, the following words:- the division.

SECTION 24. Said section 66 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 7, the word "departmental".

SECTION 25. Said section 66 of said chapter 31, as so appearing, is hereby further amended by striking out, in said line 8, the word "department" and inserting in place thereof the following word:- division.

SECTION 26. Section 67 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "department of highways" and inserting in place thereof the following words:- highway division in the Massachusetts Department of Transportation.

SECTION 27. Said section 67 of said chapter 31, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the word "department" and inserting in place thereof, in each instance, the following word:- division.

SECTION 28. Chapter 32A of the General Laws is hereby amended by striking out section 25, inserted by section 5 of chapter 288 of the acts of 2010, and inserting in place thereof the following section:-

Section 26. The commission shall, subject to appropriation, negotiate with and purchase, on such terms as it deems to be in the best interest of the commonwealth and its employees, from 1 or more entities that can manage a wellness program covering persons in the service of the commonwealth and their dependents, and shall execute all agreements or contracts pertaining to the program. The commission may negotiate a contract for such term not exceeding 5 years as it may, in its discretion, deem to be the most advantageous to the commonwealth; provided, however that the program shall be able to evaluate individual and aggregate data, give employees access to their individual information confidentially and allow the commission to receive collective reports summarizing baseline and ongoing data regarding the behavior and well being of enrollees. The commission may reduce premiums or co-payments or offer other incentives to encourage enrollees to comply with the wellness program goals.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall submit an annual report to the governor, the secretary of health and human services, the secretary of administration and finance, the chairs of the joint committee on health care financing, chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president. The report shall include the collective results including, but not limited to, the level of participation among employees, incentives provided for participation, the number and type of screenings and diagnostic tests conducted, the instance of undiagnosed risks defined as out of range diagnostic tests and number of employees seeking and receiving preventative treatment. The commission shall use this information in the negotiating and purchasing, on such terms as it deems in the best interest of the commonwealth and its employees, from 1 or more insurance companies, savings banks or non-profit hospital or medical service corporations, of a policy or policies of group life and accidental death and dismemberment insurance covering persons in the service of the commonwealth and group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance benefits covering persons in the service of the commonwealth and their dependents.

Beginning 1 year after the end of the fiscal year in which the commission has implemented the wellness program, the commission shall annually submit a report to the governor, secretary of administration and finance, the chairs of the joint committee on health care financing, the chairs of the house and senate committees on ways and means, the speaker of the house of representatives and the senate president on the savings that have been achieved in procuring such insurance policies since implementing the wellness program.

SECTION 29. Section 8B of chapter 40 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 1, the word “by-line” and inserting in place thereof the following word:- by-law.

SECTION 30. Section 59 of said chapter 40 is hereby amended by striking out, in lines 26, 58, 61, 72, 82, 95, 98 and 100, as so appearing, the word “paragraph” and inserting in place thereof, in each instance, the following word:- clause.

SECTION 31. Said section 59 of said chapter 40 is hereby further amended by striking out, in line 75, as so appearing, the word “paragraphs” and inserting in place thereof the following word:- clauses.

SECTION 32. Said section 59 of said chapter 40 is hereby further amended by striking out, in line 82, as so appearing, the word “and”.

SECTION 33. Said section 59 of said chapter 40 is hereby further amended by striking out, in line 102, the word “therein.”, as so appearing, and inserting in place thereof the following words:- therein; and.

SECTION 34. Section 60A of said chapter 40 is hereby amended by striking out, in lines 48 and 49, and in lines 74 and 75, as so appearing, the word “paragraph” and inserting in place thereof, in each instance, the following word:- clause.

SECTION 35. Section 143A of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 to 6, inclusive, the words “shall in like manner issue precepts for an election to fill such vacancy at the next biennial state election for which precepts can be reasonably” and inserting in place thereof the following words:- the secretary shall forthwith issue precepts for an election to fill such vacancy at the next biennial state election for which precepts can be seasonably.

SECTION 36. Section 145 of said chapter 54, as so appearing, is hereby amended by striking out, in line 2, the word “three” and inserting in place thereof the following figure:- 4.

SECTION 37. Section 6 of chapter 62 of the General Laws is hereby amended by striking out, in line 583, as so appearing, the word “subsection” and inserting in place thereof the following word:- paragraph.

SECTION 38. Chapter 63 of the General Laws is hereby amended by striking out section 31M, inserted by section 46 of chapter 173 of the acts of 2008.

SECTION 39. Said chapter 63 is hereby amended by inserting after section 31M the following section:-

Section 31N. In determining gross income under this chapter, if the federal gross income includes any item of gain or has been reduced by any item of loss, with respect to property, then the federal gross income shall be increased by the excess of the federal adjusted basis of the property over the Massachusetts adjusted basis of the property, and shall be decreased by the excess of the Massachusetts adjusted basis of the property over the federal adjusted basis of the property, so that the gain or loss realized for Massachusetts purposes takes into account all applicable differences in the Massachusetts and federal tax rules over the life of an asset that should, in principle, give rise to differences in basis. The Massachusetts adjusted basis of property shall be the federal adjusted basis, except that: (i)

any federal adjustment resulting from provisions of the Code that were not applicable in determining Massachusetts gross income at the time the federal adjustments were made shall be disregarded; and (ii) adjustments shall be made for any item that was applicable in determining Massachusetts gross income but that was not so applicable in determining federal gross income and for which a federal adjustment would be allowed under the Code if the item had been applicable in determining federal gross income. Without limitation of the foregoing, the federal basis of shares in a business corporation that was formerly treated as a corporate trust or of shares in a successor of that entity shall be reduced in computing Massachusetts adjusted basis to take into account any tax-free earnings and profits accumulated by the former corporate trust.

SECTION 40. Section 1 of chapter 82 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 13, the words “district highway director of the department of highways” and inserting in place thereof the following words:- administrator for highways in the Massachusetts Department of Transportation.

SECTION 41. Said section 1 of said chapter 82, as so appearing, is hereby further amended by striking out, in lines 44 and 45, the words “commissioner of the state department of highways” and inserting in place thereof the following words:- administrator for highways in the Massachusetts Department of Transportation.

SECTION 42. Said section 1 of said chapter 82, as so appearing, is hereby further amended by striking out, in line 47, the word “commissioner” and inserting in place thereof the following word:- administrator.

SECTION 43. Section 1 of chapter 85 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “metropolitan district commission” and inserting in place thereof the following words:- department of conservation and recreation.

SECTION 44. Section 20A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 151, the word “may”.

SECTION 45. Section 20A½ of said chapter 90, as so appearing, is hereby amended by striking out, in line 130, the word “may”.

SECTION 46. Section 222 of chapter 111 of the General Laws, inserted by section 6 of chapter 197 of the acts of 2010, is hereby repealed.

SECTION 47. Section 222 of said chapter 111, inserted by section 9 of chapter 288 of the acts of 2010, is hereby repealed.

SECTION 48. Said chapter 111 is hereby further amended by adding the following 2 sections:-

Section 223. (a) As used in this section, the following words shall, unless the context clearly indicates otherwise, have the following meanings:-

“Competitive foods or beverages”, all foods or beverages sold or provided in: (i) a la carte lines in school cafeterias; (ii) school stores; (iii) school snack bars; (iv) vending machines; and (v) any other locations in public schools; provided, however, that competitive foods or beverages shall not include foods sold or provided as part of the School Breakfast

Program, the School Lunch Program and the Child and Adult Care Food Program of the United States Department of Agriculture; provided further, that competitive foods or beverages shall not include non-sweetened carbonated water.

“Nutritional standards”, the standards promulgated by the department in accordance with subsection (c).

“Public school”, an elementary, middle, high, charter or innovation school operated by a public school district or board of trustees pursuant to chapter 71.

“School day”, the hours of the day that students are required to attend school.

(b) The department, in consultation with the department of elementary and secondary education and the department of mental health, shall establish, and periodically review, guidelines for:

(i) the training of all public school nurses in behavioral health and appropriate screening and resources for the treatment of childhood obesity and behavioral health disorders, including eating disorders;

(ii) the recognition, treatment and availability of resources for children at risk for and diagnosed with childhood obesity and type 2 diabetes;

(iii) professional development and training of public school nurses and aid staff to gain the most up-to-date knowledge on childhood obesity, eating disorders and type 2 diabetes so that they can become more effective at screening for these conditions and making appropriate referrals for treatment; and

(iv) the establishment of a referral program where medical resources in the community shall collaborate with public schools to identify children in need of nutritional services, and provide these resources through in-school, outpatient and inpatient settings, where appropriate.

(c)(1) The department shall promulgate regulations establishing nutritional standards for the sale or provision of competitive foods or beverages in public schools.

(2) All competitive foods or beverages sold or provided in public schools shall be limited to foods or beverages that comply with the nutritional standards; provided, however, that the nutritional standards shall not apply, unless a public school district or board of trustees elects to apply the nutritional standards beyond this timeframe, to competitive foods or beverages sold on school grounds up to 30 minutes before the beginning of the school day or 30 minutes after the end of the school day, with the exception of competitive foods or beverages sold through vending machines, in which case the nutritional standards shall apply at all times; and provided further, that the department may make reasonable exceptions for the application of the nutritional standards to competitive foods or beverages sold during the school day at booster sales, concession stands, and other school-sponsored or school-related fundraisers and events.

(3) In developing the regulations, the department shall consider nutritional and dietary recommendations developed by state, federal and independent departments and health advisory associations including, but not limited to: the United States Department of Health and Human Services, the United States Department of Agriculture, the American Dietetic

Association, the national School Nutrition Association, the Institute of Medicine, the American Heart Association and the School Nutrition Association of Massachusetts; provided, however, that the department, where appropriate, may develop the regulations in conformity with federal nutritional standards.

(4) The regulations shall include, but not be limited to, the following requirements for public schools:

(i) making available plain, potable water to all public school students during the day, at no cost to the students;

(ii) offering for sale fresh fruit and non-fried vegetables at any location where food is sold; provided, however, that this shall not include non-refrigerated vending machines and vending machines which dispense only beverages;

(iii) making nutritional information available to students for non-prepackaged competitive foods or beverages; provided, however, that this shall not include fresh fruit or fresh vegetables and foods or beverages sold during the school day at booster sales, concession stands, and other school-sponsored or school-related fundraisers and events;

(iv) prohibiting fryolators in the preparation of competitive foods; provided, however, that the department may establish exceptions for the use of fryolators in the preparation of competitive foods sold during the school day at booster sales, concession stands and other school-sponsored or school-related fundraisers and events; and

(v) ensuring that all foods, including competitive foods or beverages sold or provided to students during the school day, meet state and federal food safety requirements.

(d) The department, in collaboration with the department of elementary and secondary education, shall assist public schools in the implementation of the nutritional standards relative to the sale or provision of competitive foods or beverages in public schools. The assistance may include:

(i) additional training in nutrition and diet available for school food service directors;

(ii) an assessment of a school's capacity, resources and equipment to prepare and provide recommended foods; and

(iii) recommendations on the duration of school lunch periods.

(e) Every 5 years, the department, in consultation with the department of elementary and secondary education, shall conduct a review of the nutritional standards and update the nutritional standards as needed pursuant to subsection (c). In August of the last year of the 5-year period, the department shall report the findings of the review to the speaker of the house of representatives, the president of the senate, the joint committee on health care financing, the joint committee on public health and the joint committee on education. The report shall include, but not be limited to, the following information:

(i) an assessment of the success of implementing the nutritional standards in public schools;

(ii) the challenges or barriers experienced by public schools upon implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(iii) changes in revenue received from the sale of federally-reimbursable school meals;

(iv) changes in total revenue from federally-reimbursable school meals and competitive sales combined that were lost or gained after implementation of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages;

(v) notable changes in student participation in the federally-reimbursable school meals programs; and

(vi) recommendations for improvement of the nutritional standards and guidelines for the sale or provision of competitive foods and beverages.

(f) The department, in collaboration with the department of elementary and secondary education, shall promulgate regulations facilitating the establishment of school wellness advisory committees within school districts in order to maximize school districts' eligibility as recipients of federal grant awards. The regulations may require the wellness advisory committees to develop and recommend district-wide wellness policies addressing school nutrition, nutrition education and physical activity. The regulations may further require the wellness advisory committees to periodically review the district-wide wellness policies and implement any recommendations made as a result of this review prior to the following school year. Committee members may include school administrators, school nurses, food service directors, food service staff, parents of students in the school district, students, physical and health education teachers, dietitians, health care professionals and interested community members.

(g) To promote food safety, the department, in collaboration with the department of elementary and secondary education, shall promulgate regulations requiring local health officials to conduct food safety inspections at public schools, in accordance and with the frequency required by state and federal law, or as a result of public complaint or food recall, and to track and report the results of these inspections for each school to the department and the department of elementary and secondary education, including any violations and steps to remediate the violations. The regulations may include minimal qualifications for local health officials responsible with conducting food safety inspections at public schools. All reports and information collected or received by the departments pursuant to the requirements of this subsection shall be public records pursuant to section 7 of chapter 4.

Section 224. There shall be a commission on falls preventions within the department. The commission shall consist of the commissioner of public health or the commissioner's designee, who shall chair the commission; the secretary of elder affairs or the secretary's designee; the director of MassHealth or the director's designee; and 8 members to be appointed by the governor, 1 of whom shall be a member of the Home Care Alliance of Massachusetts, Inc., 1 of whom shall be a member of the AARP, 1 of whom shall be a member of the Massachusetts Senior Care Association, Inc., 1 of whom shall be a member of the Massachusetts Association of Councils on Aging, Inc., 1 of whom shall be a member of the Massachusetts Medical Society Alliance, Inc., 1 of whom shall be a member of the Massachusetts Assisted Living Facilities Association, 1 of whom shall be a member of Mass

Home Care and 1 of whom shall be a member of the Massachusetts Pharmacists Association Foundation, Inc.

The commission on falls prevention shall make an investigation and comprehensive study of the effects of falls on older adults and the potential for reducing the number of falls by older adults. The commission shall monitor the effects of falls by older adults on health care costs, the potential for reducing the number of falls by older adults and the most effective strategies for reducing falls and health care costs associated with falls. The commission shall:

- (1) consider strategies to improve data collection and analysis to identify fall risk, health care cost data and protective factors;
- (2) consider strategies to improve the identification of older adults who have a high risk of falling;
- (3) consider strategies to maximize the dissemination of proven, effective fall prevention interventions and identify barriers to those interventions;
- (4) assess the risk and measure the incidence of falls occurring in various settings;
- (5) identify evidence-based strategies used by long-term care providers to reduce the rate of falls among older adults and reduce the rate of hospitalizations related to such falls;
- (6) identify evidence-based community programs designed to prevent falls among older adults;
- (7) review falls prevention initiatives for community-based settings; and
- (8) examine the components and key elements of the above falls prevention initiatives, consider their applicability in the commonwealth and develop strategies for pilot testing, implementation and evaluation.

The commission on falls prevention shall submit to the secretary of health and human services and the joint committee on health care financing, not later than September 22, annually, a report that includes findings from the commission's review along with recommendations and any suggested legislation to implement those recommendations. The report shall include recommendations for:

- (1) intervention approaches, including physical activity, medication assessment and reduction of medication when possible, vision enhancement and home-modification strategies;
- (2) strategies that promote collaboration between the medical community, including physicians, long-term care providers and pharmacists to reduce the rate of falls among their patients;
- (3) programs that are targeted to fall victims who are at a high risk for second falls and that are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations;
- (4) programs that encourage partnerships to prevent falls among older adults and prevent or reduce injuries when falls occur; and
- (5) programs to encourage long-term care providers to implement falls- prevention

strategies which use specific interventions to help all patients avoid the risks for falling in an effort to reduce hospitalizations and prolong a high quality of life.

SECTION 49. Section 86F of chapter 127 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 1, the word “on” and inserting in place thereof the following word:- of.

SECTION 50. Section 2 of chapter 140B of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the word “commissioner” and inserting in place thereof the following word:- administrator.

SECTION 51. Section 5 of said chapter 140B, as so appearing, is hereby amended by striking out, in line 1, the word “commissioner” and inserting in place thereof the following word:- administrator.

SECTION 52. Section 6 of said chapter 140B, as so appearing, is hereby amended by striking out, in lines 3 and 5, the word “commissioner” and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 53. Said section 104 of said chapter 160, as so appearing, is hereby further amended by striking out, in line 6, the word “department” and inserting in place thereof the following word:- division.

SECTION 54. Section 69S of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words “sixty-nine I” and inserting in place thereof the following figure:- 69J.

SECTION 55. Section 6 of chapter 183A of the General Laws is hereby amended by striking out, in line 18, as so appearing, the words “clause (1)” and inserting in place thereof the following words:- paragraph (i).

SECTION 56. Said section 6 of said chapter 183A is hereby further amended by striking out, in line 27, as so appearing, the word “clause” and inserting in place thereof the following word:- paragraph.

SECTION 57. Section 9 of chapter 188 of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words “eighteen or chapter two hundred and thirty-six” and inserting in place thereof the following words:- 18 of chapter 236.

SECTION 58. Subsection (c) of section 83 of chapter 4 of the acts of 2003 is hereby amended by striking out the figure “2zzz”, as appearing in section 130 of chapter 25 of the acts of 2009, and inserting in place thereof the following figure:- 2ZZZ.

SECTION 59. Section 137 of chapter 25 of the acts of 2009 are hereby amended by striking out, in line 1, the word “each” and inserting in place thereof the following word:- Each.

SECTION 60. Section 176 of said chapter 25 is hereby amended by striking out, in line 6, the word “authority” and inserting in place thereof the following word:- department.

SECTION 61. The second paragraph of section 177 of said chapter 25 is hereby amended by striking out, in lines 6 and 11, the word “authority” and inserting in place thereof, in each instance, the following word:- department.

SECTION 62. Section 178 of said chapter 25 is hereby amended by striking out, in lines 30, 61 and 65, the word “authority” and inserting in place thereof, in each instance, the following word:- department.

SECTION 63. The second paragraph of Article VI of section 2 of chapter 106 of the acts of 2009 is hereby amended by striking out the word “twenty-six” and inserting in place thereof the following word:- Twenty-sixth.

SECTION 64. The first paragraph of article viii of said section 2 of said chapter 106 is hereby amended by striking out the words “, section 10 of chapter 6, sections 23A to 23C, inclusive, of chapter 39” and inserting in place thereof the following words:- of the General Laws, section 10 of chapter 66 of the General Laws, sections 23A to 23C, inclusive, of chapter 39 of the General Laws.

SECTION 65. Subsection (b) of section 7 of chapter 197 of the acts of 2010 is hereby amended by striking out the figure “222” and inserting in place thereof the following figure:- 223.

SECTION 66. Section 10 of said chapter 197 is hereby amended by striking out the figure “222” and inserting in place thereof the following figure:- 223.

SECTION 67. Section 31N of chapter 63 of the General Laws, inserted by section 39, shall be effective for tax years beginning on or after January 1, 2009.

Approved, January 14, 2011.

Chapter 455. AN ACT REGULATING THE ISSUANCE OF SECOND HAND MOTOR VEHICLE LICENSES IN THE CITY OF REVERE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding sections 57, 58 and 59 of chapter 140 of the General Laws or clause (9) of section 34 of chapter 687 of the acts of 1914 or any other general or special law to the contrary, the license commission of the city of Revere shall not issue more than 30 class 2, second hand motor vehicle licenses within the city of Revere under said sections 57, 58 and 59 of said chapter 140. A license granted by the license commission of the city of Revere under said section 58 or 59 of said chapter 140 before the effective date of this act and valid on said effective date, shall remain in effect at the licensee’s location as long as the licensee complies with all of the rules and regulations of the license commission. The license commission shall not approve the transfer of a valid class 2, second hand motor vehicle license on the effective date of this act to any other location within the city of Revere except into an IP or TED district.

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

Approved, January 14, 2011.

Chapter 456. AN ACT AUTHORIZING THE APPOINTMENT OF CHRISTOPHER M. DUFRESNE AS A FIREFIGHTER IN THE TOWN OF NORTH ANDOVER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the personnel administrator of the human resources division shall certify Christopher M. Dufresne to be eligible for original appointment to the position of firefighter in the town of North Andover according to the grade he received on the examination for firefighter, notwithstanding his having reached the age of 32 before taking the civil service examination in connection with that appointment. If Christopher M. Dufresne meets all other requirements for certification as a firefighter under chapter 31 of the General Laws, regulations of the civil service commission and any lawful hiring practices for the town of North Andover, the town of North Andover may appoint him.

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

Approved, January 14, 2011.

Chapter 457. AN ACT DESIGNATING A PROPOSED WALKING PATH IN THE BELLE ISLE MARSH AREA IN THE TOWN OF WINTHROP AS THE JOHN KILMARTIN WALKWAY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to designate forthwith a proposed walking path in the town of Winthrop as the John Kilmartin Walkway, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

A certain walking path to be constructed from the Short Beach along Winthrop Parkway to Belle Isle Creek in the Belle Isle Marsh area of Winthrop shall be designated and known as the John Kilmartin Walkway, in honor of John Kilmartin, in recognition of his many contributions to conservation efforts in Belle Isle Marsh. 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, January 14, 2011.

**Chapter 458. AN ACT AUTHORIZING THE TOWN OF CUMMINGTON TO
CONTINUE THE EMPLOYMENT OF POLICE CHIEF DENNIS W.
FORGEA.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Cummington may continue the employment of Dennis W. Forgea as the chief of the town's police department until June 30, 2015, the date of his retirement or his non-reappointment by the board of selectmen; provided, however, that no further deductions shall be made from the regular compensation of Dennis W. Forgea under chapter 32 of the General Laws for service subsequent to November 4, 2010.

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

Approved, January 14, 2011.

**Chapter 459. AN ACT AUTHORIZING THE TOWN OF READING 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. (a) Notwithstanding section 17 of chapter 138 of the General Laws, or any other general or special law to the contrary, the licensing authority of the town of Reading 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 Oaktree Development, LLC located at 30 Haven street in the town of Reading. The license shall be subject to all of said chapter 138 except said section 17.

(b) 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.

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

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

Approved, January 14, 2011.

Chapter 460. AN ACT RELATIVE TO SPECIAL LICENSE PLATES FOR CERTAIN MILITARY PERSONNEL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to recognize forthwith the heroic service of individuals in receipt of distinguished military awards, without delay, therefore 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 2 of chapter 90 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the eighteenth paragraph the following paragraph:-

The registrar shall furnish, without charge, to owners of private passenger motor vehicles and motorcycles who have been awarded the Silver Star, the Bronze Star, the Distinguished Flying Cross or the Purple Heart distinctive registration plates with an emblem representing the award received for either 1 private passenger motor vehicle or a motorcycle owned and principally used by such recipient upon presentation by an applicant of satisfactory evidence, as determined by the registrar, of receipt of such award and that the applicant, on the date of such application, is currently on active service in the armed forces of the United States. The surviving spouse of a deceased recipient may elect to retain such distinctive registration plates and 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 the spouse remarries or fails to renew or cancels the registration.

Approved, January 14, 2011.

Chapter 461. AN ACT RELATIVE TO THE ISSUANCE OF UNIFORM POLICE IDENTIFICATION CARDS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a uniform identification card for police officers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 19 of chapter 22C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- The secretary of public safety and security may adopt regulations relative to the

form, content and issuance of identification cards and to the carrying thereof by state police officers.

SECTION 2. Chapter 41 of the General Laws is hereby amended by striking out section 98D, as so appearing, and inserting in place thereof the following section:-

Section 98D. Each city or town shall issue to every full-time police officer employed by it an identification card bearing the officer's photograph and identifying information. The secretary of public safety and security may adopt regulations relative to the form, content and issuance of such identification cards and to the carrying thereof by municipal police officers. Such identification card shall be carried on the officer's person and shall be exhibited upon lawful request for purposes of identification.

SECTION 3. Section 3 of chapter 161A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(s) To issue to every full-time police officer employed by the authority an identification card bearing the officer's photograph and identifying information. The secretary of public safety and security may adopt regulations relative to the form, content and issuance of such identification cards and to the carrying thereof by such police officers.

Approved, January 14, 2011.

Chapter 462. AN ACT RELATIVE TO THE STANDARD FIRE INSURANCE POLICY.

Be it enacted, etc., as follows:

Section 99 of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after clause Twelfth A the following clause:-

Thirteenth. Notwithstanding any other provision of this chapter, a commercial policy issued in compliance with this section may exclude coverage for loss by fire or other perils insured against if the fire or other perils insured against were caused directly or indirectly by an act of terrorism; provided, however, that "an act of terrorism" shall have the meaning as defined in the Terrorism Risk Insurance Act of 2002 (P.L. 107-297), as amended. Exclusions under this clause shall remain valid and in effect until the expiration of the Terrorism Risk Insurance Program created by the Terrorism Risk Insurance Act of 2002, or its successor.

Approved, January 14, 2011.

Chapter 463. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TREASURER OF PALMER FIRE DISTRICT NUMBER ONE AND PALMER WATER DISTRICT NUMBER ONE.

Be it enacted, etc., as follows:

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Notwithstanding any general or special law or rule or regulation to the contrary, the Palmer Fire District Number One and Palmer Water District Number One shall appoint a suitably qualified person to the office of treasurer of the district. The treasurer shall have and exercise all the powers and rights and be subject to the duties and liabilities as provided by law. The treasurer shall hold office at the will of the prudential committee and may be removed from office in the discretion of that committee. The prudential committee shall establish the terms and conditions of the employment of the treasurer.

Notwithstanding this act, the incumbent in the office of treasurer on the effective date of this act shall continue to hold office and perform the duties thereof until the expiration of the term for which he was elected and the appointment and qualification of a successor or until the incumbent otherwise vacates the office.

Approved, January 14, 2011.

Chapter 464. AN ACT RELATIVE TO THE DISTRIBUTION OF THE SIMPLIFIED RULES OF PROCEDURE FOR SPECIAL TOWN MEETINGS IN THE TOWN OF NORTH ANDOVER.

Be it enacted, etc., as follows:

Chapter 2 of the charter of the town of North Andover, which is on file in the office of the archivist of the commonwealth as provided by section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 2-6-2 and inserting in place thereof the following section:-

2-6-2 the town clerk shall make copies of the simplified rules available for distribution to those requesting them and to those in attendance at all sessions of the town meeting.

Approved, January 14, 2011.

Chapter 465. AN ACT RELATIVE TO THE DISTRIBUTION OF COPIES OF THE WARRANT IN THE TOWN OF NORTH ANDOVER.

Be it enacted, etc., as follows:

Section 4-3-2 of chapter 4 of the charter of the town of North Andover, which is on file in the office of the archivist of the commonwealth as provided by section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection (l) and inserting in place thereof the following subsection:-

(l) Distribute, or cause to be distributed, copies of the warrant and Finance Committee report for all town meetings as prescribed in chapter 9-6-1 of the town charter as

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amended.

Approved, January 14, 2011.

Chapter 466. AN ACT RELATIVE TO THE EXPIRATION OF FIREARM IDENTIFICATION CARDS AND LICENSES TO CARRY FIREARMS ISSUED TO ACTIVE DUTY MILITARY.

Be it enacted, etc., as follows:

SECTION 1. Section 129B of chapter 140 of the General Laws is hereby amended by inserting after the word “denied”, in line 172, as appearing in the 2008 Official Edition, the following words:- ; provided, however, that if the cardholder is on active duty with the armed forces of the United States on the expiration date of his card, the card shall remain valid until the cardholder is released from active duty and for a period of not less than 90 days following such release.

SECTION 2. Section 129C of said chapter 140 is hereby amended by striking out clause (j), as so appearing, and inserting in place thereof the following clause:-

(j) Any resident of the commonwealth returning after having been absent from the commonwealth for not less than 180 consecutive days or any new resident moving into the commonwealth, with respect to any firearm, rifle or shotgun and any ammunition therefor then in his possession, for 60 days after such return or entry into the commonwealth.

SECTION 3. Section 131 of said chapter 140 is hereby amended by inserting after the word “denied”, in line 237, as so appearing, the following words:- if the licensee is on active duty with the armed forces of the United States on the expiration date of his license, the license shall remain valid until the licensee is released from active duty and for a period of not less than 90 days following such release.

Approved, January 14, 2011.

Chapter 467. AN ACT AUTHORIZING THE DEPARTMENT OF CONSERVATION AND RECREATION TO DESIGNATE A CERTAIN AREA AS PAUL P. LORING SQUARE.

Be it enacted, etc., as follows:

The department of conservation and recreation shall designate a certain area on the Turtle Pond Parkway in the Hyde Park district of the city of Boston to be known as Paul P. Loring Square, in memory of Paul P. Loring, a Turtle Pond parkway resident who served honorably in the United States Army in the Iraq War and served the people of Boston as a firefighter. The department of conservation and recreation shall erect a suitable sign bearing

such designation at the designated location.

Approved, January 14, 2011.

Chapter 468. AN ACT RELATIVE TO APPRENTICE TRAINING.

Be it enacted, etc., as follows:

SECTION 1. Section 11H of chapter 23 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following definition:-

“Proctor”, an instructor approved by the division or a person competent in an apprentice’s trade or occupation including, but not limited to, a journey worker.

SECTION 2. Section 11I of said chapter 23, as so appearing, is hereby amended by inserting after the word “apprenticed”, in line 9, the following words:- and any examinations administered during such instruction shall be monitored by a proctor.

SECTION 3. Section 11K of said chapter 23, as so appearing, is hereby amended by inserting after the word “learned”, in line 19, the following words:- and any examinations administered during such instruction shall be monitored by a proctor.

Approved, January 14, 2011.

Chapter 469. AN ACT RELATIVE TO HOME SERVICE CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Sections 149F to 149L, inclusive, of chapter 175 of the General Laws are hereby repealed.

SECTION 2. Said chapter 175 is hereby further amended by inserting after section 149L the following 12 sections:-

Section 149M. As used in sections 149M to 149X, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Administrator”, the person who is responsible for the administration of the service contracts or the service contracts plan.

“Consumer”, an individual who purchases, other than for purposes of resale, tangible personal property used for personal, family or household purposes.

“NAIC”, the National Association of Insurance Commissioners.

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

“Premium”, the consideration paid to an insurer for a reimbursement insurance policy.

“Provider”, a person who is contractually obligated to the service contract holder under the terms of the service contract.

“Reimbursement insurance policy”, a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider’s nonperformance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

“Service contract”, a contract for a separately stated consideration and for a specific duration to perform the service, repair, replacement or maintenance of tangible personal property or indemnification for service, repair, replacement or maintenance, for the operational or structural failure due to a defect in materials or workmanship or normal wear and tear, with or without additional provision for incidental payment or indemnity under limited circumstances, for related expenses, including, but not limited to, rental and food spoilage.

“Service contract holder”, a consumer who is in possession of a service contract.

“Warranty”, a guarantee incidental to the sale of the product made solely by the manufacturer, importer or seller of property or services; provided, however that consideration that is negotiated or separated from the sale of the product that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor or other remedial measures, such as repair or replacement of the property or repetition of services shall not be included within the definition of “warranty”.

Section 149N. (a) A provider may appoint an administrator or other designee to be responsible for the administration of service contracts executed under sections 149M to 149V, inclusive.

(b) Service contracts shall not be issued, sold or offered for sale unless the provider has provided: (1) a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and (2) a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(c) A provider of service contracts shall file a registration with the commissioner which shall include, without limitation, the provider’s name, address, phone and contact person and a designated person in the commonwealth for service of process. Each provider shall pay to the commissioner a fee of \$600 upon initial registration and upon renewal which shall occur every 3 years thereafter.

(d) In order to assure the faithful performance of a provider’s obligations to its contract holders, each provider shall:

(1) insure all service contracts under a reimbursement insurance policy issued by an insurer that is authorized, registered or otherwise permitted to transact insurance in the commonwealth or a surplus lines insurer authorized to do business in the commonwealth; provided, that the reimbursement insurance policy shall be obtained from an insurer that: (i) at the time the policy is filed with the commissioner, and continuously thereafter, maintains surplus as to contract holders and paid-in capital of at least \$15,000,000 and annually files

copies of the insurer's financial statements, its NAIC annual statement and an actuarial certification if required and filed in the insurer's state of domicile; or (ii) at the time the policy is filed with the commissioner, and continuously thereafter, maintains surplus as to policyholders and paid-in capital of less than \$15,000,000 but at least \$10,000,000, demonstrates to the satisfaction of the commissioner that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to contract holders and paid-in capital of not greater than 3 to 1, and annually files copies of the insurer's financial statements, its NAIC annual statement and an actuarial certification if required and filed in the insurer's state of domicile;

(2) (i) maintain a funded reserve account for its obligations under its contracts issued and outstanding in the commonwealth; provided that the reserve account shall not be less than 40 per cent of gross consideration received, less claims paid, on the sale of the service contract for all in-force service contracts and shall be subject to examination and review by the commissioner; and (ii) place in trust with the commissioner a financial security deposit, having a value of not less than 5 per cent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than \$25,000, consisting of 1 of the following: a surety bond issued by an authorized surety, securities of the type eligible for deposit by authorized insurers in the commonwealth, cash, a letter of credit issued by a qualified financial institution or another form of security authorized by the commissioner; or

(3) (i) maintain, or together with its parent company maintain, a net worth or stockholders' equity of \$25,000,000; and (ii) upon request, provide the commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the United States Securities and Exchange Commission within the last calendar year, or if the company does not file with the United States Securities and Exchange Commission, a copy of the company's financial statements showing a net worth of the provider or its parent company of at least \$25,000,000. If the provider's parent company's Form 10-K, Form 20-F or financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in the commonwealth.

(e) Except for the requirements specified in subsections (c) and (d), no additional registration submissions or financial security requirements shall be required by the commissioner for service contract providers.

(f) Service contracts shall require the provider to permit the service contract holder to return the service contract within 20 days of the date the service contract was mailed to the service contract holder or within 10 days of delivery of the service contract to the service contract holder if the service contract is delivered to the service contract holder at the time of sale or within a longer time period permitted under the service contract. Upon return of the service contract to the provider within the applicable time period, if no claim has been made under the service contract prior to its return to the provider, the service contract shall be void and the provider shall refund to the service contract holder, or credit the account of the service contract holder or other payer of record, if different, the full purchase price of the

service contract. The right to void the service contract provided in this subsection shall not be transferable and shall apply only to the original service contract purchaser if no claim has been made prior to its return to the provider. A 10 per cent penalty per month shall be added to a refund that is not paid or credited within 45 days after return of the service contract to the provider.

(g) Provider fees collected on service contracts shall not be subject to premium taxes; provided, however, that premiums for reimbursement insurance policies shall be subject to premium taxes and all other applicable taxes.

(h) Except for the registration requirements in subsection (c), providers and related service contracts sellers, administrators and other persons marketing, selling or offering to sell service contracts shall not be required to hold any other form of license granted by the commonwealth.

(i) Chapter 176D shall apply to all providers and related service contract sellers, administrators and other persons marketing, selling or offering to sell service contracts; provided however, a service contract shall not be considered to be insurance for any purpose under the laws of the commonwealth and the marketing, sale, offering for sale, issuance, making, proposing to make and administration of service contracts by providers and related service contract sellers, administrators and other persons shall be exempt from all other provisions of chapter 175, including any non-consumer commercial service contract.

(j) Service contracts may provide for the service, repair, replacement or maintenance of tangible personal property for damage resulting from power surges and accidental damage from handling and may provide for leak or repair coverage to roofing systems on residential dwellings.

Section 149O. (a) Reimbursement insurance policies insuring service contracts issued, sold or offered for sale in the commonwealth shall require the insurer that issued the reimbursement insurance policy to reimburse or pay on behalf of the provider any covered sums the provider is legally obligated to pay or, in the event of the provider's non-performance, shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

(b) In the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the contract holder may apply directly to the reimbursement insurance company.

Section 149P. Service contracts shall be printed in clear and understandable language and shall include: (1) a statement in substantially the following form: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy", or for service contracts not insured under a reimbursement insurance policy a statement in substantially the following form: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider"; (2) the name and address of the insurer, including the reimbursement insurance policy insurer, provider, an administrator if different from the provider, the service contract seller and the service contract holder to the extent that the name of the service contract holder has been furnished

by the service contract seller; (3) the total purchase price and the terms under which service contract was sold; (4) the existence of any deductible amount, if applicable; (5) the property and services to be provided and any limitations, exceptions or exclusions, if applicable; (6) any restrictions governing the transferability of the service contract; (7) the terms, restrictions or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the provider or the service contract holder; provided, however, that the provider of the service contract shall mail a written notice to the contract holder, including the effective date of the cancellation and the *raison* for the cancellation, at the last known address of the service contract holder contained in the records of the provider at least 5 days prior to cancellation by the provider unless the reason for cancellation is nonpayment of the provider, material misrepresentation or a substantial breach of duties by the service contract holder relating to the covered product or its use; (8) all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and any requirements to follow owner's manual; and (9) whether or not the service contract provides for any preexisting conditions.

Section 149Q. (a) A provider shall not: (i) use in its name the words insurance, casualty, surety, mutual or any other words descriptive of the insurance, casualty or surety business; or (ii) a name deceptively similar to the name or description of any insurance or surety corporation or to the name of any other provider; provided, however, that the words "guaranty", "warranty" or other similar words may be used.

(b) A provider or its representative shall not permit or cause to be made any false or misleading statement or deliberately omit any material statement that a reasonable person would consider misleading if omitted.

(c) A person shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property, but may promote, endorse or recommend the purchase unless otherwise prohibited by law.

Section 149R. (a) The provider shall keep accurate accounts, books and records concerning transactions regulated under sections 149M to 149W, inclusive, which shall include: (i) copies of each type of service contract sold; (ii) the name and address of each service contract holder to the extent that the name and address have been furnished to the service contract provider; and (iii) written or electronic claims files which shall contain the dates and description of claims related to the service contract.

(b) Except as provided in subsection (d), the provider shall retain all records required to be maintained by this section for at least 1 year after the specified period of coverage has expired.

(c) Records required under sections 149M to 149W, inclusive, may be maintained in electronic format. If the records are maintained in a form other than hard copy, the records shall be capable of duplication to legible hard copy at the request of the commissioner.

(d) A provider discontinuing business in the commonwealth shall maintain its records until the commissioner certifies that the provider has furnished satisfactory proof that the provider has discharged all obligations to service contract holders in the commonwealth.

Section 149S. An insurer issuing a reimbursement insurance policy shall not terminate the policy until a notice of termination has been mailed or delivered to the commissioner. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

Section 149T. (a) An insurer issuing reimbursement insurance to providers shall be considered to have received the premiums for such insurance upon the payment of provider fees by consumers for service contracts issued by such insured providers.

(b) Sections 149M to 149W, inclusive, shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay under the service contract.

Section 149U. (a) The commissioner may conduct examinations of providers, administrators, insurers or other persons to enforce sections 149M to 149W, inclusive, and protect service contract holders. Upon request of the commissioner, the provider shall make all accounts, books and records concerning service contracts sold by the provider available to the commissioner which are necessary to enable the commissioner to reasonably determine whether the provider is complying with sections 149M to 149W, inclusive.

(b)(1) The commissioner may enforce sections 149M to 149W, inclusive. The commissioner may, without limitation: (i) issue a cease and desist order to prevent continuing violations of those sections; (ii) issue an order prohibiting a service contract provider from selling or offering for sale service contracts in violation of those sections; or (iii) issue an order imposing a civil penalty on that provider or any combination of the foregoing, as applicable.

(2) A person aggrieved by an order issued under this subsection may request a hearing before the commissioner. The request shall be filed with the commissioner within 20 days of the commissioner's order. If a hearing is requested, an order issued by the commissioner under this section shall be suspended from the original effective date of the order until completion of the hearing and final decision of the commissioner. At the hearing, the burden shall be on the commissioner to show why the order issued under this subsection is justified.

(3) The commissioner may bring an action in any court of competent jurisdiction for an injunction or other appropriate relief to enjoin threatened or existing violations of sections 149M to 149W, inclusive. An action filed under this paragraph may also seek restitution on behalf of persons aggrieved by a violation of said sections or orders or regulations of the commissioner.

(4) A person who is found to have violated sections 149M to 149W, inclusive, or orders or regulations of the commissioner issued under those sections, may be assessed a civil penalty in an amount determined by the commissioner of not more than \$500 per violation and not more than \$10,000 in the aggregate for all violations of a similar nature. For purposes of this section, violations shall be of a similar nature if the violation consists of the same or similar course of conduct, action or practice, irrespective of the number of times the act, conduct or practice which is determined to be a violation of said sections occurred.

Section 149V. The following shall be exempt from sections 149M to 149W, inclusive: (a) warranties, service contracts or maintenance agreements provided by public utilities that are regulated by the department of telecommunications and cable or the Federal Communications Commission, or by an affiliate of such entity, covering customer wiring, transmission devices serviced by such public utility or warranting services provided by such public utility or its affiliate; (b) mechanical breakdown insurance policies offered by insurers otherwise licensed and regulated under the insurance laws and regulations of the commonwealth; (c) warranties, service contracts or other agreements regarding automobiles; and (d) warranties offered by builders as part of a conveyance of real estate.

Section 149W. The commissioner may promulgate rules and regulations for the administration and enforcement of sections 149M to 149V, inclusive.

Section 149X. The commissioner shall retain all registration fees collected under subsection (c) of section 149N and fines collected under clause (4) of subsection (b) of section 149U; provided, however, that revenue in excess of \$100,000 annually shall revert to the General Fund. The retained revenue collected may be used by the commissioner to support the commissioner's registration, rulemaking and enforcement activities under sections 149M to 149W, inclusive.

SECTION 3. A person engaged in the service contract business, as a provider or otherwise, on or before the effective date of this act, who submits an application for registration as a provider under chapter 175 of the General Laws within 30 days after the commissioner makes the application available, may continue to engage in business as a provider until final agency action is taken by the commissioner regarding the registration application and all rights to administrative judicial review have been exhausted or expired. Said chapter 175 shall govern all service contracts issued after the effective date of this act. Contracts in effect on the effective date of this act shall be governed by said chapter 175 upon renewal of the contract.

SECTION 4. Notwithstanding any general or special law to the contrary, section 149Q of chapter 175 of the General Laws shall not apply to a company using any of the prohibited language in its name prior to the effective date of said section 149Q; provided, however, that a company using such prohibited language in its name shall include in its service contracts a statement in substantially the following form: "This agreement is not an insurance contract".

Approved, January 14, 2011.

Chapter 470. AN ACT PROVIDING FOR CONSIDERATION FOR THE CONVEYANCE OF CERTAIN LAND IN THE CITY OF NORTH ADAMS.

Be it enacted, etc., as follows:

Section 1 of chapter 290 of the acts of 2002, as amended by chapter 400 of the acts of 2008, is hereby further amended by adding the following paragraph:-

Consideration for the conveyance of Lot No. 19 shall be deemed paid in full upon payment of \$1 to the General Fund by the grantee.

Approved, January 14, 2011.

Chapter 471. AN ACT RELATIVE TO GROUP HEALTH INSURANCE.

Be it enacted, etc., as follows:

SECTION 1. Section 110 of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “policy”, in lines 44 and 85, the following words:- which qualifies as creditable coverage pursuant to chapter 111M and is.

SECTION 2. Said section 110 of said chapter 175, as so appearing, is hereby further amended by inserting after the word “policy”, in lines 62, 145 and 164, the following words:- which qualifies as creditable coverage pursuant to chapter 111M and.

SECTION 3. Said section 110 of said chapter 175, as so appearing, is hereby further amended by inserting after the word “policy”, in line 164, the second time it appears, the following words:- which qualifies as creditable coverage pursuant to chapter 111M.

SECTION 4. Said section 110 of said chapter 175, as so appearing, is hereby further amended by striking out, in lines 47 and 50, the words “A policy” and inserting, in place thereof, in each instance, the following words:- Any such policy.

SECTION 5. Subdivision (A) of said section 110 of said chapter 175, as so appearing, is hereby amended by inserting after the fourth sentence the following 3 sentences:- Any general or blanket policy which does not qualify as creditable coverage pursuant to chapter 111M and is delivered or issued for delivery in the commonwealth, and any certificate and the schedule of premium charges issued in connection with that policy, shall be furnished to the commissioner upon request thereby. Any such policy on which the premiums are paid by the policyholder wholly from the employer's funds or funds contributed by him, insuring all eligible employees, shall be considered a general or blanket policy within the meaning of this section. Any such policy on which the premiums are paid by the policyholder, either partly from the employer's funds or funds contributed by him and partly from funds contributed by the insured employees, or wholly from funds contributed by the insured employees, and the benefits of which are offered to all eligible employees shall be considered a general or blanket policy within the meaning of this section.

SECTION 6. Said subdivision (A) of said section 110 of said chapter 175, as so appearing, is hereby further amended by inserting after the fifth sentence the following 2 sentences:- A policy which does not qualify as creditable coverage pursuant to chapter 111M

and on which the premiums are paid by the trustees of a fund, established as described in clause (h), wholly from funds contributed by the employer or employers of the employees, or by the union or association, or by the unions or associations, or by both, or on which the premiums are paid by the trustees partly from funds contributed by the employer or employers of the employees, or by the union or unions or association or associations, or both, and partly from funds contributed by the insured persons specifically for their insurance, and insuring all eligible employees of the employer or employers or all the eligible members of the union or unions or association or associations, or all eligible employees or members of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or unions, or association or associations, or to both, or such a policy on which the premiums are paid by the trustees partly or wholly from funds contributed by the insured persons specifically for their insurance the benefits of which are offered to all eligible employees of the employer or employers or all eligible members of the union or unions or association or associations, or all eligible employees or members of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or unions, or association or associations, or to both, or such a policy issued to the trustees of a fund established by 1 or more employers and 1 or more trade unions or associations, the premiums on which are paid by the trustees partly from funds contributed by the employers, unions or associations, or both, and partly or wholly from funds contributed by the insured persons specifically for their insurance, and the benefits of which are offered to all eligible persons, who remit funds for premium payments to the trustees, shall also be considered a general or blanket policy within the meaning of this section. In the case of a policy which does not qualify as creditable coverage pursuant to chapter 111M and which is issued to a trade union or association under clause (g) on which the premiums are to be paid by the trade union or association, or the trade union, association and its members jointly, or wholly by its members, and the benefits of the policy are offered to all eligible members, shall also be considered a general or blanket policy within the meaning of this section.

SECTION 7. Said section 110 of said chapter 175, as so appearing, is hereby further amended by striking out the words “employees; the”, in lines 98 and 99, and inserting in place thereof the following words:- employees, former employees, the.

SECTION 8. Subdivision (C) of said section 110 of said chapter 175, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- A policy which does not qualify as creditable coverage pursuant to chapter 111M and on which the premiums are paid by the members of the association and the benefits of which are offered to all of its members shall be considered to be a general or blanket policy within the meaning of this section.

SECTION 9. Subdivision (D) of said section 110 of said chapter 175, as so appearing, is hereby amended by adding the following sentence:- A policy which does not qualify as creditable coverage pursuant to chapter 111M and on which the premiums are paid

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by the policy holder, either partly from funds of or contributed by the policy holder and partly from funds contributed by the insured independent contractor newspaperboys or wholly from funds contributed by the newspaperboys and the benefits of which are offered to all eligible newspaperboys shall be considered to be a general or blanket policy within the meaning of this section.

Approved, January 14, 2011.

Chapter 472. AN ACT FURTHER REGULATING DENTAL HYGIENISTS PRACTICING IN PUBLIC HEALTH SETTINGS.

Be it enacted, etc., as follows:

SECTION 1. The first sentence of the third paragraph of section 51 of chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following words:- and may conduct minor emergency denture adjustments to eliminate pain and discomfort in nursing homes and other long-term care facilities under general supervision.

SECTION 2. Said third paragraph of said section 51 of said chapter 112 is hereby further amended by striking out the second sentence, as so appearing, and inserting in place thereof the following sentence:- Public health settings shall include, but not be limited to, residences of the homebound, schools, nursing homes and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or certified by the department of public health, mobile and portable dental health programs licensed or certified by the department of public health and operated by a local or state agency, Head Start programs and any other facilities or programs deemed appropriate by the department of public health

Approved, January 14, 2011.

Chapter 473. AN ACT RELATIVE TO COMPLIANCE WITH RESERVE REQUIREMENTS OF LIFE INSURERS.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 175 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the definition of "Resident" the following definition:-

"Statistical agent", an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for, and history of, ongoing electronic communications and data transfer with its member or subscriber insurers,

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which ensure the integrity of the transferred data; and a history of aggregation of data and accurate promulgation of the experience modifications in a timely fashion.

SECTION 2. Section 9 of said chapter 175, as so appearing, is hereby amended by adding the following subsection:-

14. The commissioner may designate 1 or more statistical agents to assist the commissioner and any authorized insurer to comply with this section and any rules or regulations promulgated under this section.

Approved, January 14, 2011.

Chapter 474. AN ACT FURTHER REGULATING THE CAPE & VINEYARD ELECTRIC COOPERATIVE, INC.

Be it enacted, etc., as follows:

SECTION 1. Sections 1 to 3, inclusive, 6, 6A, 7, 9B, 10 to 14, inclusive, 16, 35, 37, 48, 49, 51, 53 to 58, inclusive, 61, 62, 65 to 69, inclusive, 72 to 74, inclusive, 78 to 80, inclusive, 100 to 102, inclusive, 104 to 106, inclusive, 108, 109 and 112 to 116, inclusive, of chapter 156B of the General Laws shall apply to the Cape & Vineyard Electric Cooperative, Inc.

SECTION 2. Section 63 and 64 of chapter 156B of the General Laws shall apply to the Cape & Vineyard Electric Cooperative, Inc., for statements, reports, articles of organization, articles of amendment and articles of consolidation or merger required to be filed pursuant to said chapter 156B or pursuant to section 136 of chapter 164 of the General Laws.

SECTION 3. The provisions of chapter 156B of the General Laws that are made applicable to the Cape & Vineyard Electric Cooperative, Inc. under section 1 and that pertain to stock and stockholders, shares and classes or series of shares and stock and transfer records shall be applicable as nearly as may be to members, classes of members and records of membership.

Approved, January 14, 2011.

Chapter 475. AN ACT PROVIDING FOR THE DISPOSITION OF COMMONWEALTH-OWNED LAND IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital asset management and maintenance, subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and this act but

notwithstanding section 40H of said chapter 7, may convey by deed approximately 5,000 square feet of commonwealth-owned property, currently under the care and control of Roxbury Community College, located at the intersection of Centre street and Columbus avenue in the city of Boston, to Jackson Square Partners, LLC, or its designee, for activities consistent with the Jackson Square redevelopment area as more fully described in the Memorandum to the Boston Redevelopment Authority regarding the Jackson Square Project, Site II, Phase 1 Building D & F, Jackson Commons Notice of Project Change, Jamaica Plain and Roxbury, Board Approved, dated April 13, 2010. The commissioner shall establish the exact boundaries of the parcel, based upon a survey to be performed prior to such conveyance.

SECTION 2. The consideration for the conveyance authorized by this act shall be not less than the full and fair market value of the property for its highest and best use, as determined by the commissioner of capital asset management and maintenance based on an independent professional appraisal. The inspector general shall review and approve the appraisal and the review shall include a review of the methodology utilized for the appraisal. The inspector general shall complete his review of the appraisal within 30 days after receipt of the appraisal and a report by the commissioner. The inspector general shall submit to the commissioner a report on his review and approval of said appraisal. At least 15 days before the conveyance of the property, the commissioner shall submit a copy of the inspector general's report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight.

SECTION 3. All monies received as a result of the conveyance authorized by this act shall be deposited in an expendable trust, to be established on behalf of Roxbury Community College, to further support the educational mission of the college.

SECTION 4. The grantee of the property shall be responsible for all costs and expenses of the transaction authorized by this act, as determined by the commissioner of capital asset management and maintenance including, without limitation, the cost of any survey, appraisal or other expenses relating to the conveyance of the property, and shall be responsible for all costs, liabilities and expenses of any nature and kind in connection with the grantee's subsequent ownership of the property. The grantee shall take title to the property in its existing condition without any warranty by the commonwealth.

SECTION 5. The deed of conveyance from the commissioner of capital asset management and maintenance shall reserve to Roxbury Community College a permanent non-exclusive right, if and when the grantee constructs a vehicular driveway across said property, to use said vehicular driveway for access to the abutting property owned by, or under the care and control of, Roxbury Community College; provided, however, that nothing in this act shall be construed to require the grantee to construct or alter the driveway in any manner to suit the particular needs of Roxbury Community College or to maintain the driveway to any particular standard; and provided further, that Roxbury Community College, its agents, officers, employees, students, invitees and contractors shall use the driveway at the sole risk thereof.

SECTION 6. The deed or other instrument conveying the property described in section 1 to Jackson Square Partners, LLC, or its designee or its affiliates, shall, without limitation, provide that if for any reason the property is developed prior to the receipt of the certification in section 7 by the grantee for purposes other than those described in section 1, then, following the giving of written notice and an opportunity to cure in accordance with a procedure to be specified in the deed conveying the property, and upon the recording of a notice by the commissioner with the Suffolk district registry of deeds, title to the property shall revert to the commonwealth under the care and control of the division of capital asset management and maintenance and any further disposition shall be subject to sections 40E to 40J, inclusive, of chapter 7 of the General Laws and to the prior approval of the general court.

SECTION 7. Upon completion of the redevelopment of the property for the purposes described in section 1, as evidenced by an architect's certificate of completion, the commissioner shall furnish the grantee with an appropriate instrument, in recordable form, certifying as to such completion. Such certification by the commissioner shall be a conclusive determination of the grantee's satisfaction of the conditions in section 1 and shall further constitute a termination of the right of reversion contained in section 6.

Approved, January 14, 2011.

Chapter 476. AN ACT DESIGNATING CERTAIN BRIDGES UNDER THE CONTROL OF THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION.

Be it enacted, etc., as follows:

SECTION 1. The bridge on state highway route 44 spanning the Nemasket River in the town of Middleboro shall be designated and known as the Staff Sergeant Bruce A. Rushforth, Jr. Bridge, in honor of the late Bruce A. Rushforth, Jr., who served as a member of the United States Army's 160th Special Operations Aviation Regiment. The highway division of the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 2. Bridge No. B-23-008 on state highway route 18 spanning the Town River in the town of Bridgewater, shall be designated and known as the Lance Corporal Kevin Preach Bridge, in honor of the late Kevin Preach who served his country in Afghanistan. The highway division of the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 3. The bridge on state highway route 140 spanning the Mill River in the city of Taunton shall be designated and known as the Frank "Gasper" Sylvia Bridge, in honor

of the late Frank “Gasper” Sylvia, in recognition of his service to his country in World War II as well as his service as a councilor to the city of Taunton. The highway division of the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 4. The bridge on state highway route 140 spanning the Bay Colony railroad tracks in the city of Taunton shall be named the Ferdinand Medeiros POW Bridge, in honor of Ferdinand Medeiros, who was held prisoner of war during World War II. The highway division of the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 5. The bridge on state highway route 44, spanning Spring street in the town of Carver shall be named the Julian M. Southworth and Nelson J. Garnett Bridge, in memory of Julian M. Southworth and Nelson J. Garnett, veterans from the town of Carver who served their country during World War II. The highway division of the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

Approved, January 14, 2011.

**Chapter 1. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION ON THE REUSE OF WESTBOROUGH
STATE HOSPITAL.**

Resolved, That a special commission shall consist of the commissioner of capital asset management and maintenance or his designee who shall serve as chair; the secretary of housing and economic development or his designee; the commissioner of mental health or his designee; the commissioner of youth services or his designee; the commissioner of fish and game or his designee; the commissioner of agricultural resources or his designee; a representative of the Massachusetts historical commission; a representative of the department of highways; 3 representatives of the town of Westborough, who shall be members of the Westborough board of selectmen or their designees; 3 representatives of the town of Northborough, who shall be members of the Northborough board of selectmen or their designees; and a representative of the Central Massachusetts Regional Planning Commission.

The members of the senate and house of representatives who represent the towns of Westborough and Northborough and a representative of the 495/MetroWest Corridor Partnership shall serve as nonvoting, ex-officio members. Reuse of all or a portion of Westborough State Hospital that is determined, pursuant to chapter 7 of the General Laws, to be surplus after patients of the department of mental health are transferred from Westborough State Hospital.

The commission shall: (1) review existing municipal comprehensive plans and zoning; (2) consider state, regional and local plans and policies that might affect or guide use of surplus portions of the hospital including, without limitation, plans and policies encouraging the development of a variety of housing options, jobs and open space and policies encouraging smart growth; (3) solicit public input on potential uses of surplus portions of the hospital; (4) provide information and analysis regarding the aforementioned matters to the towns of Westborough and Northborough as may be requested, to the extent funding for the provision of such information and analysis is available; (5) work with the planning boards and boards of selectmen of the towns of Westborough and Northborough in a cooperative planning process to identify any appropriate zoning changes and to develop and bring proposals for such changes for town meeting approval; (6) consider potential municipal uses or needs in relation to any portions of the hospital that may be surplus; and (7) hold its initial meeting not later than 45 days after the effective date of this resolve; and (8) submit a written report and recommendation to the clerks of the senate and house of representatives and the commissioner of capital asset management and maintenance on potential reuses of and appropriate restrictions upon surplus portions of the hospital not later than 1 year after the determination, pursuant to chapter 7 of the General Laws, that all or a portion of Westborough State Hospital is surplus property. The commission shall be subject to sections 11A and 11A½ of chapter 30A of the General Laws.

Approved April 9, 2010.

**Chapter 2. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO AUTISM.**

Resolved, That a special commission is hereby established to make an investigation and study relative to individuals with autistic spectrum disorders, which shall include, but not be limited to, Asperger's syndrome, high functioning autism and pervasive development disorder. The commission shall investigate and study the range of services and supports necessary for individuals to achieve their full potential across their lifespan, including, but not limited to, investigating issues related to public education, job attainment and employment, including supported employment, provision of adult human services, post-secondary education, independent living, community participation, housing, social and recreational opportunities, behavioral services based on best practices to ensure emotional well-being, mental health services and issues related to access for families of children with autism spectrum disorder and adults who are from linguistically and culturally diverse communities. The commission shall address mechanisms to ensure maximization of federal reimbursement and coordination of state human service agencies. The special commission shall consist of 2 members of the senate, 1 of whom shall be appointed by the minority leader, 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader, the secretary of health and human services or his designee, the commissioner of developmental services or his designee, the commissioner of mental health or his designee, the secretary of education or his designee, the director of the department of housing and community development or his designee, the secretary of labor and workforce development or his designee, the commissioner of the Massachusetts rehabilitation commission or his designee, the commissioner of early education and care or his designee, the commissioner of elementary and secondary education or his designee, the commissioner of higher education or his designee and the secretary of elder affairs or his designee, and 12 persons to be appointed by the governor, 8 of whom shall be representatives of the statewide autism group, 2 of whom shall be representatives of the Asperger's Association of New England and 2 of whom shall be named by the Autism Society of America, Massachusetts chapter.

The commission shall report to the general court the results of its investigation and study and its recommendations, if any, by filing the same with the clerk of the senate and the clerk of the house of representatives not later than January 26, 2011.

Approved April 22, 2010.

**Chapter 3. RESOLVE REVIVING AND CONTINUING THE SPECIAL
COMMISSION RELATIVE TO THE ESTABLISHMENT OF A
CRANBERRY HERITAGE AREA.**

Resolved, That the special commission established in chapter 2 of the resolves of 2008 is hereby revived and continued to December 31, 2010.

Approved July 15, 2010.

**Chapter 4. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY
A SPECIAL COMMISSION RELATIVE TO SEAFOOD
MARKETING.**

Resolved, That a special commission to consist of 2 members of the senate, 1 of whom shall be appointed by the senate minority leader, 2 members from the house of representatives, 1 of whom shall be appointed by the house minority leader, the director of the department of agriculture resources or his designee, the director of the division of marine fisheries or his designee, and 9 persons to be appointed by the governor, 1 of whom shall be a representative of the Massachusetts Marine Fisheries Institute, 1 of whom shall be a representative of the Massachusetts Fishermen's Partnership, 1 of whom shall be a member of a wholesale seafood dealer, 1 of whom shall be a member of a seafood specialty retail business, 2 of whom shall be members of a fishing industry advocacy organization, and 3 of whom shall be members of the commercial fishing industry, 1 of whom shall be a representative of the groundfish industry, 1 of whom shall be a representative of the scallop industry and 1 of whom shall be a representative of the lobster industry, is hereby established for the purpose of making an investigation and study relative to establishing a coordinated, generic marketing program for seafood caught in the commonwealth and determining whether such program will enhance and stabilize the economic environment for the commercial fishing industry and fishing communities. The commission shall include, but not be limited to: determining, via an economic analysis, whether a generic seafood marketing program has the potential to enhance the consumer surplus derived from Massachusetts' seafood catches; exploring the creation of a branded identity for Massachusetts seafood which embraces the historic roots of fishing in the commonwealth; and continuing development of sustainable fishing practices through cooperative research.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry 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 joint committee on environment, natural resources and agriculture on or before July 31, 2011.

Approved August 9, 2010.

**Chapter 5. RESOLVE DESIGNATING A CERTAIN ACT OF 2008 AS
"DARNELL'S LAW".**

Resolved, That chapter 397 of the acts of 2008 shall be designated and known as "Darnell's Law", in memory of Darnell Cobb of the city of Marlborough.

Approved September 21, 2010.

SUMMARY OF THE ACTS AND RESOLVES APPROVED, APPROVAL WITHHELD, AN ACT DECLARED EMERGENCY LAW BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION AND A LAW ENACTED BY THE PEOPLE AT THE NOVEMBER 2, 2010 STATE ELECTION.

During the second session of the General Court held in 2010, 476 Acts were enacted of which 471 Acts and five Resolves received the Governor's approval.

Chapters 11, 257 and 287 were not approved by the Governor within the ten days prescribed by the Constitution. They were not returned to either legislative branch during the ten days with the Governor's reasons for disapproval in writing and since the General Court had not prorogued during that time, these acts have the force of law and have been so certified.

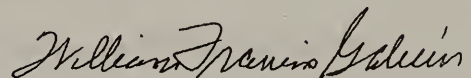
This summary does not include those line item vetoes by the Governor on appropriation Acts nor any subsequent legislative action on those vetoes.

One Act, Chapter 188, was declared to be an emergency law by the Governor under Article XLVIII of the Amendments to the Constitution.

Chapter 426, An Act to Repeal the Sales Tax on Alcohol was adopted by the people at the November 2, 2010 state election under Article XLVIII of the Amendments to the Constitution, The Initiative, Part V, Section 1, as amended; according to the determination of the Governor and Council dated December 1, 2010.

Chapter 56, 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 2010 session of the General Court was dissolved at midnight on Tuesday January 4, 2011 the session having lasted 364 days.

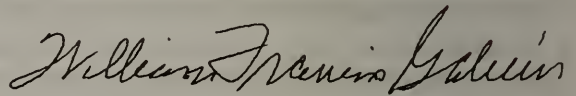


William Francis Galvin
Secretary of the Commonwealth

OFFICE OF THE SECRETARY, BOSTON, MASSACHUSETTS **October 28, 2011**

I hereby certify that the Acts and Resolves contained in this volume are true copies of the originals on file with this department.

I further certify that the Index and the Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of M.G.L. c. 3, section 52.

A handwritten signature in cursive script, reading "William Francis Galvin".

William Francis Galvin
Secretary of the Commonwealth

TABLE OF CHANGES

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH, AS APPEARING IN THE 2006 OFFICIAL EDITION, HAVE BEEN AFFECTED BY THE LEGISLATION PASSED BY THE GENERAL COURT SINCE JANUARY 1, 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.

§ 18A repealed, 2010, 131 § 4 (See 2010, 131 § 202)

§ 38C, subsection (e) added, 2010, 288 § 1

§ 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.

§ 7, clause (18) amended, 2010, 131 § 5 (See 2010, 131 § 202)

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

§ 15NNNNN added, 2010, 92 § 1

**CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers
 under the Governor and Council, and State Library. - continued**

- § 1500000 added, 2010, 238
- § 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)
- § 18B amended, 2010, 189 § 1
- § 33A amended, 2010, 189 § 3
- § 48 revised, 2009, 4 § 25 (See § 82)
- § 57 repealed, 2009, 25 § 3 (See 26 § 60)
- § 58 repealed, 2009, 25 § 3 (See 26 § 60)
- § 59 repealed, 2009, 25 § 3 (See 26 § 60)
- § 98 revised, 2009, 10 § 1
- § 116 amended, 2010, 262 § 1
- § 116A amended, 2010, 262 § 2
- § 116C amended, 2010, 256 § 1; amended, 2010, 262 § 3
- § 116E revised, 2009, 26 § 3
- § 133 amended, 2010, 189 § 2
- § 133C amended, 2010, 189 § 4
- § 167 amended, 2010, 256 § 2 (See 2010, 256 § 145); definitions of “All available criminal offender record information,” “Board” and “Commissioner” inserted, 2010, 256 § 3 (See 2010, 256 § 145); definitions of “Criminal offender record information” and “Department” inserted, 2010, 256 § 4 (See 2010, 256 § 145); definition of “Executive office” inserted, 2010, 256 § 5 (See 2010, 256 § 145); definition of “Person” inserted, 2010, 256 § 6 (See 2010, 256 § 145); definitions of “Requestor,” “Secretary,” “Self-audit” and “Subject” inserted, 2010, 256 § 7 (See 2010, 256 § 145)
- § 167A inserted, 2010, 256 § 8 (See 2010, 256 § 145)
- § 168, first paragraph revised, 2010, 256 § 9; amended, 2010, 256 § 10; fourth and sixth paragraphs repealed, 2010, 256 § 11; revised, 2010, 256 § 12 (See 2010, 256 § 145)
- § 168A amended, 2010, 256 § 13
- § 168B amended, 2010, 256 § 14
- § 168C amended, 2010, 256 § 15
- § 171 amended, 2010, 256 §§ 16 (See 2010, 256 § 145), 17 (See 2010, 256 § 145), 18 (See 2010, 256 § 145)
- § 171A inserted, 2010, 256 § 19 (See 2010, 256 § 145)
- § 172 amended, 2010, 256 § 20 (See 2010, 256 § 145); revised, 2010, 256 § 21 (See 2010, 256 § 145); clause (8) of subsection (a) amended, 2010, 359 §§ 4, 5; clause (24) of subsection (a) amended, 2010, 359 § 6
- § 172A revised, 2010, 256 § 22 (See 2010, 256 § 145)
- § 172B½ inserted, 2010, 256 § 23 (See 2010, 256 § 145)
- § 172C amended, 2010, 256 § 24 (See 2010, 256 § 145)
- § 172E revised, 2010, 256 § 25 (See 2010, 256 § 145)

**CHAPTER 6 - The Governor, Lieutenant Governor and Council, Certain Officers
under the Governor and Council, and State Library. - continued**

§ 172G amended, 2010, 256 § 26 (See 2010, 256 § 145)
§ 172H amended, 2010, 256 §§ 27, 28 (See 2010, 256 § 145), 29
§ 172I amended, 2010, 256 § 30 (See 2010, 256 § 145)
§ 172J amended, 2010, 256 § 31 (See 2010, 256 § 145)
§ 172K inserted, 2009, 43 § 1 (See 43 § 2); amended, 2010, 256 § 32
§ 173 amended, 2010, 256 §§ 33 (See 2010, 256 § 145), 34 (See 2010, 256 § 145)
§ 175 revised, 2010, 256 § 35 (See 2010, 256 § 145)
§ 178 revised, 2010, 256 § 36 (See 2010, 256 § 145)
§ 178A revised, 2010, 256 § 37 (See 2010, 256 § 145)
§ 178C amended, 2010, 256 § 38; amended, 2010, 267 § 1; amended, 2010, 267 § 2;
amended, 2010, 267 § 3
§ 178D amended, 2010, 256 § 39
§ 178F amended, 2010, 256 § 40
§ 178F½ amended, 2010, 256 § 41
§ 178F¾ inserted, 2010, 256 § 42
§ 178H amended, 2010, 267 § 4; amended, 2010, 267 § 5
§ 178K amended, 2010, 256 § 43
§ 183 amended, 2010, 256 § 44

CHAPTER 6A - Executive Offices.

§ 7A inserted, 2010, 131 § 6 (See 2010, 131 § 202)
§ 8C, subsection (a) amended, 2009, 25 § 4 (See 26 § 60)
§ 16G amended, 2009, 4 § 27 (See § 82); amended, 2010, 56 § 1 (See 56 § 14); amended,
2010, 230 § 3; subsection (i) and (j) revised, 2010, 240 § 4; subsection (k) sixth sentence
repealed, 2010, 240 § 5; subsection (l) inserted, 2010, 240 § 6
§ 16K, subsections (a) to (c) revised 2010, 288 § 2; subsections (h) and (i) revised, 288 § 3
§ 18 revised, 2010, 256 § 45
§ 18½ amended, 2010, 256 § 46
§ 18¾ amended, 2010, 256 § 47
§ 18L added, 2010, 300 § 1
§ 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)
§ 46, second paragraph stricken out, 2010, 302 § 1; fourth paragraph, revised, 2010, 302 § 2
§ 181A inserted, 2009, 26 § 59

CHAPTER 7 - Executive Office for Administration and Finance.

§ 4 amended, 2010, 56 § 7 (See 56 § 14)
§ 4A, paragraph (a) amended, 2009, 27 § 6 (See § 82); amended, 2010, 56 § 8 (See 56 § 14);
amended, 2010, 56 § 10 (See 56 § 13)
§ 4D amended, 2010, 56 § 9 (See 56 § 14)
§ 4H amended, 2010, 131 § 7 (See 2010, 131 § 202)
§ 14C inserted, 2010, 131 § 8 (See 2010, 131 § 202); clause (5) of subsection (b) amended,
2010, 359 § 7
§ 22A revised, 2010, 12 § 1
§ 22B½ amended, 2009, 4 § 28 (See § 82); amended, 2009, 25 § 10 (See 26 § 60)
§ 22G amended, 2009, 25 § 11 (See 26 § 60)
§ 22N amended, 2010, 188 § 1
§ 22O inserted, 2010, 240 § 7
§ 23B amended, 2010 197 § 1; subsection (b) revised, 2010, 197 § 2
§ 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
§ 57 added, 2010, 56 § 2 (See 56 § 14)
§ 58 added, 2010, 56 § 2 (See 56 § 14)
§ 59 added, 2010, 56 § 2 (See 56 § 14)
§ 60 added, 2010, 56 § 2 (See 56 § 14)
§ 61 added, 2010, 56 § 2 (See 56 § 14)

CHAPTER 7A - Office of the Comptroller.

§ 12 revised, 2009, 26 § 4; subsection (c) amended, 2010, 240 § 8

CHAPTER 8 - State Superintendent of Buildings, and State House.

CHAPTER 9 - Department of the State Secretary.

CHAPTER 9A - Address Confidentiality Program.

§ 1 amended, 2010, 267 §§ 7, 8, 9

CHAPTER 10 - Department of the State Treasurer.

§ 9A amended, 2009, 25 § 13 (See 26 § 60)

§ 10 amended, 2010, 240 § 9

§ 10A inserted, 2010, 240 § 10

§ 17 amended, 2010, 239 § 1

§ 24A amended, 2009, 27 § 8

§ 35E½ inserted, 2010, 190 § 1

§ 35J amended, 2010, 240 § 11 (See 2010, 240 § 195)

§ 35V replaced, 2009, 5 § 3

§ 35EE amended, 2010, 189 § 5

§ 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

§ 35OO inserted, 2010, 202 § 1

§ 52 amended, 2010, 188 § 2

§ 56A inserted, 2010, 240 § 12

§ 58A inserted, 2010, 188 § 3

§ 59 amended, 2009, 27 § 10

§ 61 amended, 2009, 120 § 9; amended, 2009, 120 § 10; amended, 2010, 359 § 8

§ 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; amended, 2010, 54 § 1

CHAPTER 12A - Office of the Inspector General.

CHAPTER 12B - State Gambling and Advisory Commission.

CHAPTER 13 - Division and Boards of Registration.

§ 9 amended, 2010, 322 § 1 (See § 4); subsection (b) amended, 2009, 4 § 29 (See § 82)

§ 9B subsection (e) amended, 2009, 4 §§ 30 (See § 82), 31 (See § 82)

CHAPTER 13 - Division and Boards of Registration. - continued

§ 33 subsection (a) amended, 2010, 22 § 1 (See § 25); subsection (b) stricken out, 2010, 22 § 2 (See § 25)
§ 34 amended, 2010, 22 § 3 (See § 25); subsection (b) repealed, 2010, 22 § 4 (See § 25)
§ 35 amended, 2010, 22 § 5 (See § 25)
§ 80 revised, 2009, 184 § 1
§ 81 amended, 2009, 184 § 2
§ 84 amended, 2009, 184 § 3
§ 106 added, 2010, 322 § 2 (See § 4)
§ 107 added, 2010, 322 § 2 (See § 4)
§ 108 added, 2010, 322 § 2 (See § 4)

CHAPTER 14 - Department of Revenue.

CHAPTER 15 - Department of Education.

§ 18A amended, 2010, 189 § 6

CHAPTER 15A - Public Education.

§ 1 amended, 2010, 189 § 7
§ 4 amended, 2010, 189 §§ 8, 9; subsection (a) amended, 2010, 189 § 10
§ 4A amended, 2010, 189 § 11
§ 5 amended, 2010, 189 § 12
§ 7 amended, 2010, 189, §§ 13, 14, 15
§ 7A amended, 2010, 189 § 16; amended, 2010, 189 § 17
§ 9 amended, 2010, 189 §§ 18, 19, 20
§ 14 amended, 2010, 189 § 21
§ 15 amended, 2010, 189 §§ 22, 23
§ 15B amended, 2010, 189 § 24
§ 15E amended, 2010, 189 §§ 25, 26, 27
§ 19 amended, 2010, 189 §§ 28, 29
§ 19½ inserted, 2010, 131 § 9 (See 2010, 131 § 202)
§ 19D amended, 2010, 189 § 30
§ 22 amended, 2010, 189 § 31
§ 37 amended, 2010, 189 § 32

**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.

§ 15 revised 2010, 190 § 2
§ 18 added, 2010, 283 § 1
§ 19 added, 2010, 283 § 1

CHAPTER 18 - Department of Transitional Assistance.

§ 2 amended, 2009, 4 §§ 34 (See § 83), 35 (See § 83), 36 (See § 83)
§ 5G revised, 2010, 131 § 10 (See 2010, 131 § 202)
§ 5I inserted, 2010, 131 § 11 (See 2010, 131 § 202)
§ 5J inserted, 2010, 131 § 11 (See 2010, 131 § 202)

CHAPTER 18A - Department of Youth Services.

CHAPTER 18B - Department of Social Services.

§ 6A, first paragraph revised, 2010, 359 § 9 (See 2010, 359 § 135); amended, 2010, 359 § 10
(See 2010, 359 § 135)
§ 13 amended, 2010, 239 § 2

CHAPTER 18C - Office of Child Advocate.

(New chapter inserted, 2008, 176 § 46)

§ 4 amended, 2010, 256 § 48

CHAPTER 19 - Department of Mental Health.

§ 21 amended, 2010, 239 §§ 3, 4, 5

CHAPTER 19A - Department of Elder Affairs.

CHAPTER 19B - Department of Developmental Services.

§ 1 amended, 2010, 239 §§ 6, 7, 8
§ 10 amended, 2010, 239 § 9
§ 12 amended, 2010, 239 § 10
§ 13 amended, 2010, 239 § 11
§ 15 amended, 2010, 239 § 12
§ 16 amended, 2010, 239 § 13
§ 18 amended, 2010, 239 §§ 14, 15, 16

CHAPTER 19C - Disabled Persons Protection Commission.

§ 1 amended, 2010, 239 § 17
§ 4 amended, 2010, 239 § 18

CHAPTER 19D - Assisted Living.

§ 3 amended, 2010, 239 § 19

CHAPTER 20 - Department of Food and Agriculture.

§ 6C inserted, 2010, 277 § 1

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
§ 4B repealed, 2010, 56 § 11 (See 56 § 13)
§ 4C amended, 2010, 131 §§ 12, 13 (See 2010, 131 § 202)
§ 10H amended, 2010, 202 § 2
§ 11 revised, 2010, 202 § 3
§ 11A amended, 2009, 25 §§ 19 (See 26 § 60), 20 (See 26 § 60)
§ 23 added, 2010, 202 § 4

CHAPTER 21B - Mining Regulation and Reclamation.

CHAPTER 21C - Massachusetts Hazardous Waste Management Act.

CHAPTER 21D - Massachusetts Hazardous Waste Facility Siting Act.

CHAPTER 21E - Massachusetts Oil and Hazardous Material Release Prevention and Response Act.

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.

§ 6D, subsection (c) revised, 2010, 179 § 1

§ 6J amended, 2010, 179 § 2

§ 6K amended, 2010, 179 § 3

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; subsection (f) revised, 2010, 359 § 11

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.

§ 1, definition of “Board” stricken out, 2010, 256 § 49; definition of “Department” inserted, 2010, 256 § 50

§ 3 amended, 2010, 256 § 51

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)

§ 32 amended, 2010, 256 § 52

§ 36 amended, 2010, 256 § 53

§ 37 amended, 2010, 267 § 10

§ 38 amended, 2010, 256 § 54

§ 61 repealed, 2009, 25 § 26 (See 26 § 60)

CHAPTER 22D - Department of Fire Services.

CHAPTER 22E - State DNA Database.

§ 9 amended, 2010, 256 § 55 (See 2010, 256 § 145)

CHAPTER 23 - Executive Office of Labor and Work Force Development.

§ 11W revised, 2009, 27 § 12

CHAPTER 23A - Department of Economic Development.

§ 1, clause (b) amended, 2010, 56 § 3; amended, 2010, 240 § 13; subsection (b) stricken out, 2010, 240 § 14; amended, 2010, 359 § 12

§ 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; definition of “Enhanced expansion product” revised, 2010, 240 § 15; definition of “Facility” amended, 2010, 240 § 16; definition of “Gateway municipality” revised, 2010, 240 § 17; definition of “Manufacturing retention project” stricken out and definition of “Manufacturing retention and job growth project” inserted, 2010, 240 § 18; definition of “MOBD” inserted, 2010, 240 § 19

§ 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; subsection (1) amended, 2010, 240 §§ 20, 21, 22; clause (c) of subsection (5) amended, 2010, 240 § 23

CHAPTER 23A - Department of Economic Development.

§ 3I amended, 2009, 25 § 28 (See 26 § 60); amended, 2010, 240 § 24
§ 3J inserted, 2010, 240 § 25
§ 3K inserted, 2010, 240 § 25
§ 3L inserted, 2010, 240 § 25
§ 4 amended, 2010, 240 §§ 26, 27
§ 5 amended, 2010, 240 § 28
§ 6 amended, 2010, 240 § 29; first paragraph amended, 2010, 240 § 30
§ 10A amended, 2010, 240 § 31
§ 13A revised, 2010, 240 § 32; subsection (d) amended, 2010, 359 § 13
§ 13B revised, 2010, 240 § 32
§ 13C amended, 2009, 25 § 29 (See 26 § 60); revised, 2010, 240 § 33
§ 13D revised, 2010, 240 § 34
§ 13E revised, 2010, 240 § 34
§ 13F - § 13S, inclusive, inserted, 2010, 240 § 34
§ 14 amended, 2010, 240 §§ 35, 36, 37
§ 15 - § 28, inclusive, repealed, 2010, 240 § 38
§ 39 repealed, 2010, 56 § 4 (See 56 § 14)
§ 40 - § 44, inclusive, repealed, 2010, 56 § 4 (See 56 § 14)
§ 45 amended, 2009, 25 § 30 (See 26 § 60)
§ 46 - § 55, inclusive, repealed, 2010, 240 § 39
§ 56 revised, 2010, 240 § 40
§ 57, subsection (a) definition of "Small business" revised, 2010, 240 § 41; subsection (i) revised and subsection (j) inserted, 2010, 240 § 42
§ 62 revised, 2010, 240 § 43

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
§ 8 - § 15, inclusive, repealed, 2010, 240 § 44 (See 2010, 240 § 205)
§ 16 revised, 2010, 240 § 45
§ 20 amended, 2010, 240 § 46

CHAPTER 23E - Division of Industrial Accidents.

CHAPTER 23F - The Economic Diversification Program.
(Chapter repealed, 2010, 240 § 47)

CHAPTER 23G - The Massachusetts Development Finance Agency.

- § 1 amended, 2010, 240 § 48 (See 2010, 240 § 196); definition of “Hospital” inserted, 2010, 240 § 49 (See 2010, 240 § 196); definition of “Institution” revised, 2010, 240 § 50 (See 2010, 240 § 196); definition of “Massachusetts Health and Educational Facilities Authority” inserted, 2010, 240 § 50A (See 2010, 240 § 196); amended, 2010, 240 § 51 (See 2010, 240 § 196)
- § 2, subsection (b) amended, 2010, 240 § 52 (See 2010, 240 § 196)
- § 3, clause (16) of the first paragraph amended, 2010, 240 § 53 (See 2010, 240 § 196); clause (34) of the first paragraph inserted, 2010, 240 § 54
- § 8, subsection (k) amended, 2010, 240 § 55
- § 27 revised, 2010, 240 § 56
- § 28 revised, 2010, 240 § 56
- § 44 added, 2010, 240 § 57

CHAPTER 23H - Workforce Development.

CHAPTER 23I - Economic Investments.

- § 4 amended, 2010, 240 § 58
- § 6 amended, 2010, 240 § 59
- § 12 amended, 2010, 240 § 60
- § 18 added, 2010, 240 § 61

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); inserted, 2010, 240 § 62 (corrective change needed)
- § 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

§ 11F amended, 2010, 240 § 63

§ 11H, subsection (c) amended, 2009, 27 § 20

CHAPTER 25B - Massachusetts Appliance Efficiency Standards Act.

CHAPTER 25C Department of Telecommunications and Cable.

§ 6A inserted, 2010, 131 § 14 (See 2010, 131 § 202)

CHAPTER 26 - Department of Banking and Insurance.

§ 8G, first paragraph amended, 2010, 131 § 15 (See 2010, 131 § 202)

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); definition of “State authority” revised, 2010, 240 § 64

§ 2E repealed, 2009, 25 § 32 (See 26 § 60)

§ 2DD repealed, 2009, 25 § 34 (See 26 § 60)

§ 2MMM amended, 2010, 189 § 33

§ 2ZZZ inserted, 2009, 25 § 35 (See 26 § 60); revised, 2009, 35 § 1 (See 35 §§ 2 & 5)

§ 2AAAA inserted, 2009, 169 § 2

CHAPTER 29 - State Finance. - continued

§ 2BBBB inserted, 2010, 131 § 16 (See 2010, 131 § 202)
§ 5B amended, 2010, 131 §§ 17, 18 (See 2010, 131 § 202)
§ 5G inserted, 2010, 131 § 19 (See 2010, 131 § 202)
§ 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
§ 29F, subclause (x) of clause (1) of subsection (c) inserted, 2010, 131 § 20 (See 2010, 131 § 202)
§ 29J inserted, 2010, 131 § 21 (See 2010, 131 § 202)
§ 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.

§ 1, paragraph (4A) inserted, 2010, 240 § 65; paragraph (5A) inserted, 2010, 240 § 66
§ 1D inserted, 2010, 256 § 56
§ 2, paragraphs inserted, 2010, 240 § 67
§ 3, paragraphs inserted, 2010, 240 § 68; third paragraph amended, 2010, 240 § 69; paragraph inserted, 2010, 240 § 70
§ 5A inserted, 2010, 240 § 71
§ 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)

CHAPTER 30A - State Administrative Procedure.

- § 19 inserted, 2009, 28 § 18 (See 2009, 28 § 106)
- § 20 inserted, 2009, 28 § 18 (See 2009, 28 § 106); third paragraph of subsection (c) amended, 2010, 131 § 22 (See 2010, 131 § 202)
- § 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, 2010, 188 §§ 4, 5, 6; 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); definition of “Cooperative purchasing” and “Electronic bidding” amended, 2010, 199 § 7; definition of “External procurement activity” amended, 2010, 188 § 8; definition of “Local procurement unit” amended, 2010, 188 § 9; definition of “Public procurement unit” amended, 2010, 188 § 10; definition of “Reverse auction” amended, 2010, 188 § 11; definition of “Sound business practices” and “State public procurement unit” amended, 2010, 188 § 12
- § 4 amended, 2010, 188 § 13; subsection (d) revised, 2010, 197 § 3
- § 6A added, 2010, 188 § 14
- § 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)
- § 22 added, 2010, 188 § 15; added, 2010, 240 § 72

CHAPTER 31 - Civil Service.

- § 1, definition of “Mentally retarded person” stricken out, 2010, 239 § 20; definition of “Person with an intellectual disability” inserted, 2010, 239 § 21
- § 39A inserted, 2010, 236
- § 47 amended, 2010, 239 §§ 22, 23, 24, 25

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); definition of “Regular compensation” amended, 2010, 131 § 23 (See 2010, 131 § 200); amended, 2010, 131 § 24 (See 2010, 131 § 202)
- § 2 amended, 2009, 25 § 48 (See 26 § 60)
- § 4 amended, 2009, 21 § 4; paragraph (o) of subdivision (1) revised and paragraph (o½) 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); subdivision (1) paragraph (a) revised, 2010, 131 § 25 (See 2010, 131 § 202)
- § 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)
- § 16, second paragraph of subdivision (4) amended, 2010, 131 § 26 (See 2010, 131 § 202)
- § 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)
- § 21, subdivision (3) of paragraph (f), amended, 2010, 188 § 16
- § 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; subdivision (1) amended, 2010, 188 § 17
- § 22E inserted, 2009, 21 § 19
- § 22F inserted, 2010, 188 § 18
- § 23 amended, 2009, 25 § 57 (See 26 § 60); amended, 2010, 240 § 73; subdivision (7) added, 2010, 240 § 74
- § 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)
- § 65D amended, 2010, 131 § 30 (See 2010, 131 § 197)
- § 91 amended, 2009, 21 §§ 20, 21
- § 101 amended, 2010, 131 § 27; paragraph added, 2010, 131 § 28 (See 2010, 131 § 201)
- § 102 amended, 2009, 25 § 62 (See 26 § 60)
- § 103 amended, 2010, 188 § 19
- § 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); subsection (i) inserted, 2010, 288 § 4
§ 24, subsection (a) revised, 2009, 26 § 7; subsections (f), (g) and (h) inserted, 2009, 26 § 8
§ 25 added, 2010, 207 § 1 (See 2010, 207 § 7); added, 2010, 288 § 5

CHAPTER 32B - Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and Their Dependents.

§ 9A½ inserted, 2010, 131 § 29 (See 2010, 131 § 202)
§ 11A, first paragraph revised, 2010, 188 § 20; amended, 2010, 188 § 21

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.

§ 18, paragraphs (i) and (ii) revised, 2010, 261

CHAPTER 34B - Abolition of County Government.

§ 19 amended, 2010, 131 § 31 (See 2010, 131 § 202); clause (6) of paragraph (b) stricken out, 2010, 131 § 32 (See 2010, 131 § 202)
§ 19A inserted, 2010, 131 § 33 (See 2010, 131 § 202)

CHAPTER 35 - County Treasurers, State Supervision of County Accounts and County Finances.

CHAPTER 36 - Registers of Deeds.

§ 14 revised, 2010, 298

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.

§ 3 amended, 2010, 188 § 22

§ 4A amended, 2010, 188 § 23

§ 4E revised, 2010, 12 § 2

§ 4J inserted, 2010, 188 § 24

§ 4K inserted, 2010, 188 § 24

§ 36A amended, 2010, 256 § 57

§ 56 amended, 2010, 188 § 25

§ 59, clause (iii) revised, 2010, 240 § 75; clause (viii) added, 2010, 240 § 76

§ 60, clause (iii) of subsection (a) amended, 2010, 240 § 77

§ 60A, clause (iii) of subsection (a) amended, 2010, 240 § 78

CHAPTER 40A - Zoning Regulations.

§ 3 amended, 2009, 33 §§ 1, 2; amended, 2010, 240 § 79

CHAPTER 40B - Regional Planning.

§ 24 amended, 2009, 25 § 65 (See 26 § 60); amended, 2010, 240 § 80

CHAPTER 40C - Historic Districts.

CHAPTER 40D - Industrial Development of Cities and Towns.

**CHAPTER 40E - Massachusetts Industrial Development Authority.
(Chapter repealed, 2010, 240 § 81)**

CHAPTER 40F - The Massachusetts Community Development Finance Corporation.

CHAPTER 40G - Massachusetts Technology Development Corporation.

§ 2 amended, 2010, 240 §§ 82, 83

§ 3 amended, 2010, 240 § 84

§ 11 added, 2010, 240 § 85

CHAPTER 40H - Community Economic Development Assistance Corporation.

§ 2, definition of “CDC” revised, 2010, 240 § 86; definition of “Eligible organization” amended, 2010, 240 § 87; definition of “Target area” revised, 2010, 240 § 88
§ 2A inserted, 2010, 240 § 89
§ 3 amended, 2010, 240 § 90; subsection (b) amended, 2010, 240 § 91
§ 9 added, 2010, 240 § 92

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; third paragraph amended, 2010, 240 § 93
§ 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; amended, 2010, 240 § 94
§ 6B amended, 2009, 33 §§ 3, 4; subsection (d) amended, 2009, 33 § 5; amended, 2010, 240 § 95; subsection (c) amended, 2010, 240 § 96; subsection (b) amended, 2010, 240 § 97
§ 13 added, 2010, 240 § 98

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.

§ 1, definition of “Adjustment factor” inserted and definition of “Base date” revised, 2010, 240 § 99 (See 2010, 240 § 198); definition of “Development program” amended, 2010, 240 § 100 (See 2010, 240 § 198); definition of “Inflation factor” revised, 2010, 240 § 101 (See 2010, 240 § 198); amended, 2010, 240 §§ 102 (See 2010, 240 § 198), 103 (See 2010, 240 § 198); definition of “Original assessed value” revised, 2010, 240 § 104 (See 2010, 240 § 198)

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- 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 40U - Municipal Fines.**
(Chapter inserted, 2010, 26 § 1)
- CHAPTER 40V - Housing Development Incentive Program.**
(Chapter inserted, 2010, 240 § 105) (See 2010, 240 §§ 195, 199)
- CHAPTER 40W - Massachusetts Growth Capital Corporation.**
(Chapter inserted, 2010, 240 § 105) (See 2010, 240 §§ 195, 199)
- CHAPTER 41 - Officers and Employees of Cities, Towns and Districts.**
§ 30B revised, 2010, 188 § 26
§ 92 amended, 2010, 240 § 106
- 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.**
§ 7 amended, 2010, 188 §§ 28, 29, 30, 31
§ 8 amended, 2010, 188 §§ 32, 33
§ 19 revised, 2010, 188 § 34
§ 21B inserted, 2009, 120 § 13
§ 26 repealed, 2010, 188 § 35
§ 53¾ inserted, 2010, 188 § 36

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.

§ 15 repealed, 2010, 327 § 1

§ 16 stricken out, 2010, 327 § 2

§ 18 stricken out, 2010, 327 § 3

§ 19C amended, 2010, 327 §§ 4, 5

§ 30 amended, 2010, 327 § 6

§ 32 added, 2010, 327 § 7

§ 33 added, 2010, 327 § 7

§ 34 added, 2010, 327 § 7

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

§ 18B inserted, 2010, 188 § 37

CHAPTER 54 - Elections.

§ 1 amended, 2010, 321 §§ 1, 2, 3, 4, 5, 6, 7, 8, 9

§ 2 amended, 2010, 321 § 10

CHAPTER 54 - Elections. - continued

§ 6 amended, 2010, 321 §§ 11, 12, 13, 14, 15, 16, 17, 18

§ 9 amended, 2010, 321 § 19

§ 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)

§ 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)

§ 18G inserted, 2010, 131 § 34 (See 2010, 131 § 202)

§ 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.

§ 8, paragraph 2 and 3, struck and replaced, 2010

CHAPTER 58A - Appellate Tax Board.

CHAPTER 59 - Assessment of Local Taxes.

§ 5 clause thirty-eighth revised, 2009, 25 § 66 (See 26 § 60); amended, 2010, 188 §§ 39, 40, 41, 42; clause sixteen of paragraph (3) revised, 2010, 240 § 108 (See 2010, 240 § 200); clause fifty-first revised, 2010, 240 § 109; clause third of subsection (e) amended, 2010, 258 § 1

§ 5M inserted, 2010, 240 § 110

§ 5K amended, 2009, 27 § 24; amended, 2010, 188 § 43

§ 18 clause fifth amended, 2009, 27 § 25 (2009, 27 § 149)

§ 29 amended, 2010, 188 § 44

§ 31A inserted, 2010, 188 § 45

§ 32 amended, 2010, 188 § 46

§ 38D, third paragraph revised, 2010, 188 § 48

§ 42A inserted, 2010, 188 § 49

§ 61 amended, 2010, 188 §§ 50, 51

§ 75 amended, 2010, 188 § 52

§ 76 amended, 2010, 188 § 53

CHAPTER 59A - Classification of Real Property.

CHAPTER 60 - Collection of Local Taxes.

§ 3A revised, 2010, 188 § 54

CHAPTER 60A - Excise Tax on Registered Motor Vehicles in Lieu of Local Property Tax.

§ 2 amended, 2010, 188 § 55

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)

§ 4 amended, 2010, 240 § 111 (See 2010, 240 § 201)

§ 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); paragraph (1) of subsection (g) revised, 2010, 240 § 112 (See 2010, 240 § 197); paragraph (1) of subsection (j) amended, 2010, 240 §§ 113, 114; subsection (q) added, 2010, 240 § 115 (See 2010, 240 § 197)

§ 6I amended, 2009, 159 § 2; amended, 2010, 240 §§ 116, 117

§ 6J amended, 2010, 131 § 35 (See 2010, 131 § 202)

§ 6L subsections (a) and (b) revised, 2009, 27 § 30

§ 17, subsection (d) revised, 2010, 131 § 36 (See 2010, 131 § 202)

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.

§ 1, definitions of “Administering agency head” and “Authorized tax credit” inserted, 2010, 131 § 37 (See 2010, 131 § 196); definition of “Secretary” inserted, 2010, 131 § 38 (See 2010, 131 § 196); definition of “Tax credit program” added, 2010, 131 § 39 (See 2010, 131 § 196); definition of “Tax credit program” revised, 2010, 240 § 118; amended, 2010, 308 §§ 1, 2

§ 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; clause (26) of subsection (b) inserted, 2010, 240 § 119

§ 24A inserted, 2010, 131 § 40 (See 2010, 131 § 202)

CHAPTER 62C - Administrative Provisions Relative to State Taxation. - continued

- § 25 amended, 2009, 27 § 35
- § 30, fourth paragraph revised, 2010, 131 § 41 (See 2010, 131 § 202)
- § 30A, subsection (c) revised, 2010, 131 § 42 (See 2010, 131 § 202)
- § 31A amended, 2009, 27 § 36 (See 2009, 27 § 156); amended, 2010, 131 § 43 (See 2010, 131 § 202)
- § 32 amended, 2010, 131 § 44 (See 2010, 131 § 202); subsection (e) of paragraph (3) amended, 2010, 131 § 45 (See 2010, 131 § 202)
- § 32A inserted, 2010, 131 § 46 (See 2010, 131 § 194)
- § 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
- § 89 added, 2010, 131 § 47 (See 2010, 131 § 196)

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); subparagraph (b) of paragraph 5 amended, 2010, 240 § 120; subclause (iii) of clause (c) of paragraph 5 stricken out, 2010, 240 § 121 (See 2010, 240 § 203); clauses (d) and (e) of paragraph 5 inserted, 2010, 240 § 122 (See 2010, 240 § 203); subparagraph (b) of paragraph 5 amended, 2010, 359 § 14 (See 2010, 359 § 134)
- § 31H amended, 2009, 159 § 3; paragraph (1) of subsection (c) amended, 2010, 240 §§ 123, 124
- § 32B, clause (iv) of paragraph (3) of subsection (c) added, 2010, 240 § 125 (See 2010, 240 § 204)
- § 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); subsection (a) revised, 2010, 240 § 126 (See 2010, 240 § 197)
- § 38Q amended, 2010, 240 §§ 127, 128
- § 38R amended, 2010, 131 § 48 (See 2010, 131 § 202)
- § 38X amended, 2009, 27 § 46 (See 2009, 27 § 158)
- § 38Z, subsection (d) amended, 2009, 27 § 47
- § 38BB inserted, 2010, 240 § 129
- § 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.

§ 7D inserted, 2010, 131 § 49 (See 2010, 131 § 202)

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)

CHAPTER 64F - Taxation of Fuel and Special Fuels Acquired Outside and Used Within the Commonwealth.

§ 3 amended, 2009, 25 § 71 (See 26 § 60)

§ 14 revised, 2009, 25 § 72 (See 26 § 60)

CHAPTER 64G - Room Occupancy Excise.

§ 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)

CHAPTER 64H - Tax on Retail Sales of Certain Tangible Personal Property.

§ 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)

§ 23 repealed, 2010, 131 § 50 (See 2010, 131 § 202)

§ 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)

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- CHAPTER 64J - Taxation of Fuels Used in the Propulsion of Aircraft.**
- CHAPTER 64K - Controlled Substances Tax.**
- CHAPTER 64L- Local Option Meals Excise.**
(Chapter inserted, 2009, 27 § 60) (See 2009, 27 § 156)
- CHAPTER 64M- Taxation of Direct Broadcast Satellite Service.**
(Chapter inserted, 2009, 27 § 61) (See 2009, 27 § 150)
- CHAPTER 65 - Taxation of Legacies and Successions.**
- CHAPTER 65A - Taxation of Transfers of Certain Estates.**
- CHAPTER 65B - Settlement of Disputes Respecting the Domicile of Decedents for Death Tax Purposes.**
- CHAPTER 65C - Massachusetts Estate Tax.**
- CHAPTER 66 - Public Records.**
§ 10 amended, 2010, 256 § 58
- CHAPTER 66A - Fair Information Practices.**
- CHAPTER 67 - Parishes and Religious Societies.**
- CHAPTER 68 - Donations and Conveyances for Pious and Charitable Uses.**
- CHAPTER 68A - Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.**
- CHAPTER 69 - Powers and Duties of the Department of Education.**
§ 1J revised, 2010, 12 § 3
§ 1K revised, 2010, 12 § 3
§ 1D revised, 2010, 92 § 2; amended, 2010, 197 § 4
§ 1I, clauses (j) and (k) revised, 2010, 197 § 5
§ 6 amended, 2010, 189 § 34
§ 8 amended, 2010, 189 § 35
- CHAPTER 70 - School Funds and State Aid for Public Schools.**

CHAPTER 70A - Equal Educational Opportunity Grants.

CHAPTER 70B - School Building Assistance Program.

§ 2 amended, 2009, 158 § 22

§ 6 amended, 2010, 188 § 56; subsection (d) amended, 2009, 27 § 62

§ 10 amended, 2009, 27 § 63; subsection (a) revised, 2009, 27 § 64

§ 15, subsection (b) amended, 2010, 12 § 4

CHAPTER 71 - Public Schools.

§ 1 amended, 2010, 256 § 60

§ 2 amended, 2010, 12 § 5

§ 2C inserted, 2010, 256 § 61

§ 16, clause (d) amended, 2010, 188 § 57

§ 16G½, third paragraph revised, 2010, 188 § 58

§ 37, amended, 2010, 188 § 59

§ 37H amended, 2010, 92 §§ 3, 4

§ 37N amended, 2010, 92 § 5

§ 38R amended, 2010, 256 § 62 (See 2010, 256 § 145)

§ 41 amended, 2010, 399

§ 61 amended, 2010, 12 § 6

§ 89 revised, 2010, 12 § 7; subsection (ff) amended, 2010, 131 § 51 (See 2010, 131 § 202)

§ 91 added, 2009, 27 § 65; subsection (b) amended, 2010, 131 § 52 (See 2010, 131 § 202)

§ 92 added, 2010, 12 § 8; amended, 2010, 92 § 6

CHAPTER 71A - English Language Education in Public Schools.

CHAPTER 71B - Children with Special Needs.

§ 2A inserted, 2010, 131 § 53 (See 2010, 131 § 202)

§ 3 amended, 2010, 92 §§ 7, 8; amended 2010, 131 § 54 (See 2010, 131 § 202)

§ 8 amended, 2010, 188 § 60

CHAPTER 72 - School Registers and Returns.

CHAPTER 73 - State Colleges and Community Colleges.

§ 1 amended, 2010, 189 §§ 36, 37, 38, 39, 40

§ 1A amended, 2010 189 §§ 41, 42

§ 1B amended, 2010, 189 §§ 43, 44

§ 1D repealed, 2010, 189 § 45

§ 1E amended, 2010, 189 §§ 46, 47

CHAPTER 73 - State Colleges and Community Colleges. - continued

§ 2A amended, 2010, 189 § 48
§ 3 amended, 2010, 189 § 49
§ 4 amended, 2010, 189 § 50
§ 4A amended, 2010, 189 §§ 51, 52
§ 4B amended, 2010, 189 § 53
§ 6 amended, 2010, 189 § 54
§ 8 amended, 2010, 189 § 55
§ 10 amended, 2010, 189 §§ 56, 57, 58
§ 12 amended, 2010, 189 § 59
§ 13 amended, 2010, 189 § 60
§ 14 amended, 2010, 189 §§ 61, 62
§ 15 amended, 2010, 189 § 63, 64
§ 16 amended, 2010, 189 §§ 65, 66
§ 17 amended, 2010, 189 § 67
§ 18 amended, 2010, 189 §§ 68, 69
§ 19 revised, 2010, 189 § 70
§ 20 amended, 2010, 189 §§ 71, 72

CHAPTER 74 - Vocational Education.

CHAPTER 74A - Independent Agricultural and Technical School.

CHAPTER 75 - University of Massachusetts.

§ 1 amended, 2010, 189 § 73
§ 44 amended, 2010, 131 § 55 (See 2010, 131 § 202)
§ 45 amended, 2010, 2010, 240 §§ 130, 131, 132
§ 45A inserted, 2010, 240 § 133

CHAPTER 75A - University of Lowell.

(Chapter repealed, 1991, 142 § 23) (See 1991, 142 §§ 4, 50)

CHAPTER 75B - Southeastern Massachusetts University.

(Chapter repealed, 1991, 142 § 24. (See 1991, 142 §§ 19, 50)

CHAPTER 75C - Private Correspondence Schools.

CHAPTER 75D - Private Business Schools.

CHAPTER 76 - School Attendance.

CHAPTER 77 - School Offenders and County Training Schools.

CHAPTER 78 - Libraries.

§ 19C, clause (2) stricken out, 2010, 131 § 56 (See 2010, 131 § 202)

CHAPTER 78A - Youth Conservation and Service Corps.
(Chapter repealed 2007, 192, §4)

CHAPTER 79 - Eminent Domain.

CHAPTER 79A - Relocation Assistance.

CHAPTER 80 - Betterments.

CHAPTER 80A - Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.

CHAPTER 81 - State Highways.

§ 1 amended, 2009, 25 § 74A (See 26 § 60)

CHAPTER 81A - The Massachusetts Turnpike Authority and the Metropolitan Highway System.
(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.

CHAPTER 82A - Excavation and Trench Safety.

CHAPTER 83 - Sewers Drains and Sidewalks.

CHAPTER 84 - Repair of Ways and Bridges.

CHAPTER 85 - Regulations and By Laws to Ways and Bridges.

§ 7A amended, 2009, 25 § 76 (See 26 § 60)

§ 11C revised, 2009, 26 § 11

§ 14A revised, 2010, 310

CHAPTER 86 - Boundaries of Highways and Other Public Places, and Encroachments Thereon.

CHAPTER 87 - Shade Trees.

CHAPTER 88 - Ferries, Canals and Public Landings.

CHAPTER 89 - Law of the Road.

CHAPTER 90 - Motor Vehicles and Aircraft.

§ 1 amended, 2009, 25 § 77 (See 26 § 60); amended, 2010, 155 §§ 1, 2, 3
§ 1A amended, 2009, 25 § 78 (See 26 § 60)
§ 2, fifteenth paragraph revised, 2009, 48 § 1 (See 48 § 2)
§ 2H inserted, 2010, 311 § 1 (See § 4)
§ 2I inserted, 2010, 311 § 1 (See § 4)
§ 7A amended, 25 § 79 (See 26 § 60)
§ 8, fourteenth paragraph amended, 2010, 155 § 4; amended, 2010, 155 § 5; amended, 2010, 190 § 3; amended, 2010, 259
§ 8D amended, 2010, 190 §§ 4, 5, 6
§ 8E amended, 2010, 184
§ 8M inserted, 2010, 155 § 6
§ 12A inserted, 2010, 155 § 7
§ 13 amended, 2010, 155 § 8
§ 13B inserted, 2010, 155 § 9
§ 20G amended, 2009, 25 § 80 (See 26 § 60)
§ 21 amended, 2010, 296
§ 22I inserted, 2010, 155 § 10
§ 23 amended, 2009, 27 § 67
§ 24 amended, 2010, 155 § 11; amended, 2010, 256 § 63
§ 24N amended, 2010, 256 § 64
§ 30A½ inserted, 2009, 166 § 28
§ 33 amended, 2009, 27 §§ 68, 69; amended, 2010, 311 § 2 (See § 4)
§ 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.

CHAPTER 90B - Motorboats, Other Vessels and Recreational Vehicles.

- § 8, paragraph (4) of subsection (a) amended, 2009, 27 § 71
- § 20, definition of “Law enforcement officer” stricken out and definitions of “All-terrain vehicle,” “Directly supervised” and “Law enforcement officer” inserted, 2010, 202 § 5; definition of “Recreation vehicle” stricken out and definitions of “Recreation utility vehicle” or “utility vehicle” and “Recreation vehicle” or “off-highway vehicle” inserted, 2010, 202 § 6
- § 21 revised, 2010, 202 § 7 (See 2010, 202 § 26)
- § 22, first paragraph revised and paragraph inserted after, 2010, 202 § 8; third paragraph revised and paragraph inserted after, 2010, 202 § 9
- § 24, second and third paragraph stricken out and new paragraph inserted, 2010, 202 § 10
- § 25, third paragraph revised, 2010, 202 § 11; amended, 2010, 202 § 12
- § 26 revised, 2010, 202 § 13 (See 2010, 202 § 27)
- § 26A inserted, 2010, 202 § 14
- § 28A inserted, 2010, 202 § 15
- § 32, first paragraph amended, 2010, 202 § 16
- § 34 amended, 2009, 27 § 72; revised, 2010, 202 § 17
- § 35 revised, 2010, 202 § 18

CHAPTER 90C - Procedure against Violators of Motor Vehicle Laws.

- § 1 amended, 2009, 25 § 86 (See 26 § 60); definition of “Police chief” amended, 2010, 189 § 74; definition of “Police chief” amended, 2010, 359 § 15
- § 2 amended, 2010, 189 §§ 75, 76
- § 2A amended, 2010, 189 § 77
- § 3 amended, 2009, 27 §§ 73, 74; subsection (A) of paragraph (4) amended, 2010, 131 § 56 (See 2010, 131 § 202); first paragraph of paragraph (4) of subsection (A) amended, 2010, 359 § 16

CHAPTER 90D - Motor Vehicle Certificate of Title.

CHAPTER 90E - Bikeways.

- § 1 amended, 2009, 25 §§ 87 (See 26 § 60), 88 (See 26 § 60)

CHAPTER 90F - Uniform Operation of Commercial Motor Vehicles Act.

CHAPTER 90G - Civil Infractions. (Chapter repealed, 1993, 182 § 8)

CHAPTER 90H - Gateway Roads Program.

- § 1 amended, 2009, 25 §§ 89 (See 26 § 60), 90 (See 26 § 60)

CHAPTER 91 - Waterways.

§ 1 amended, 2010, 309 § 1
§ 38 revised, 2010, 309 § 2
§ 37 revised, 2010, 309 § 2
§ 38 revised, 2010, 309 § 2
§ 39 revised, 2010, 309 § 2
§ 40 revised, 2010, 309 § 2
§ 41 revised, 2010, 309 § 2
§ 42 revised, 2010, 309 § 2
§ 43 revised, 2010, 309 § 2
§ 43A inserted, 2010, 309 § 2
§ 42B inserted, 2010, 309 § 2
§ 43C inserted, 2010, 309 § 2
§ 43D inserted, 2010, 309 § 2
§ 49 repealed, 2010, 309 § 3

CHAPTER 91A - Port of Boston Commission.

CHAPTER 92 - Metropolitan Sewers, Water and Parks.

§ 35, first paragraph amended, 2009, 25 § 91 (See 26 § 60)
§ 72 repealed, 2010, 309 § 4
§ 73 repealed, 2010, 309 § 4

CHAPTER 92A - Commonwealth Zoological Corporation.

CHAPTER 92A½ - Watershed Management.

CHAPTER 92B - Commonwealth Zoological Corporation.

§ 2 amended, 2010, 148 §§ 1, 2, 3, 4
§ 5 amended, 2010, 148 §§ 5, 6
§ 6 amended, 2010, 148 § 7
§ 9 amended, 2010, 148 § 8
§ 11 amended, 2010, 148 § 9

CHAPTER 93 - Regulation of Trade and Certain Enterprises.

§ 52 amended, 2010, 256 §§ 65 (See 2010, 256 § 145), 66 (See 2010, 256 § 145)

CHAPTER 93A - Regulation of Business Practices for Consumers Protection.

CHAPTER 93B - Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers.

CHAPTER 93C - Protection of Consumers Against Careless and Erroneous Billings.

CHAPTER 93D - Control of Outdoor Advertising Adjacent to the Interstate and Primary Systems.

CHAPTER 93E - Regulation of Dealers Agreements for the Sale of Gasoline.

CHAPTER 93F - Regulating Certain Business Practices Between Motion Picture Distributors and Exhibitors.

CHAPTER 93G - Equipment Dealers.

CHAPTER 93H - Security Breaches.

CHAPTER 93I - Disposition and Destruction of Records.

CHAPTER 94 - Inspection and Sale of Food, Drugs and Various Articles.

§ 184B, definition of “Food department” revised, 2010, 240 § 134; definition of “Food store” revised, 2010, 240 § 135; definition of “Food store” amended, 2010, 240 § 136; definition of “Warehouse club” inserted, 2010, 240 § 137; definition of “Warehouse club” repealed, 2010, 240 § 138
§ 329 amended, 2010, 154 § 1

CHAPTER 94A - Milk Control.

CHAPTER 94B - Hazardous Substances.

CHAPTER 94C - Controlled Substances Act.

§ 1, definition of “Nurse anesthetist” inserted, 2010, 191 § 1
§ 7, subsection (g) amended, 2010, 191 § 2
§ 9 revised, 2010, 191 § 3; subsection (b) amended, 2010, 288 § 6
§ 18, subsection (e) added, 2010, 283 § 2
§ 24A inserted, 2010, 283 § 3 (See 2010, 283 § 15)
§ 31 amended, 2010, 346
§ 32, subsection (c) inserted, 2010, 256 § 67 (See 2010, 256 § 145)
§ 32A, subsection (e) inserted, 2010, 256 § 68
§ 32B, subsection (c) inserted, 2010, 256 § 69

CHAPTER 94C - Controlled Substances Act. - continued

§ 32E, subsection (d) inserted, 2010, 256 § 70

§ 32H, second paragraph revised, 2010, 256 § 71

§ 32J, paragraph added, 2010, 256 § 72

§ 49 added, 2010, 283 § 5

CHAPTER 94D - Controlled Substances Therapeutic Research Act.

CHAPTER 94E - Provisions Concerning Certain Tobacco Manufacturers.

CHAPTER 94F - Complementary Provisions Concerning Tobacco Product Manufacturers.

CHAPTER 95 - Measuring of Leather.

CHAPTER 96 - Measurement of Lumber.

CHAPTER 97 - Surveying of Land.

CHAPTER 98 - Weights and Measures.

CHAPTER 99 - The Metric System of Weights and Measures.

CHAPTER 100 - Auctioneers.

CHAPTER 100A - Motor Vehicle Damage Repair Shops.

CHAPTER 101 - Transient Vendors, Hawkers and Peddlers.

§ 1 amended, 2010, 308 § 3

§ 3A inserted, 2010, 308 § 4

CHAPTER 102 - Shipping and Seamen, Harbors and Harbor Masters.

CHAPTER 103 - Pilots.

CHAPTER 104 - Agents, Consignees and Factors.

CHAPTER 104A - Consignment of Fine Art.

CHAPTER 105 - Public Warehouses.

CHAPTER 105A - Self-storage Facilities.

CHAPTER 106 - Uniform Commercial Code.

CHAPTER 107 - Money and Registration, Issuance and Redemption of Bonds and Other Securities, Facsimile Signatures.

CHAPTER 107A - Assignments of Accounts Receivable.

CHAPTER 108 - Criminal Offences Relative to Bills of Lading.

CHAPTER 108A - Partnerships.

CHAPTER 109 - Limited Partnerships.

CHAPTER 109A - Uniform Fraudulent Transfer Act.

CHAPTER 110 - Labels, Trade Marks, Names and Registration Thereof.

CHAPTER 110A - Uniform Securities Act.

CHAPTER 110B - Registration and Protection of Trademarks.

CHAPTER 110C - Regulation of Take-over Bids in the Acquisition of Corporations.

CHAPTER 110D - Regulation of Control Share Acquisitions.
(Chapter inserted, 1987, 272 § 1)(See 1987, 272 § 3)

CHAPTER 110E - Regulation of Control Share Acquisitions of Foreign Corporations.

CHAPTER 110F - Business Combinations with Interested Share-holders.

CHAPTER 110G - Uniform Electronic Transactions.

CHAPTER 110H - Registration and Protection of Trademarks.

CHAPTER 111 - Public Health.

§ 4E amended, 2010, 239 § 26

§ 5A½ inserted, 2010, 131 § 58 (See 2010, 131 § 202); inserted, 2010, 359 § 17

§ 5K amended, 2010, 131 § 59 (See 2010, 131 § 202)

§ 24M inserted, 2010, 131 § 60 (See 2010, 131 § 202)

CHAPTER 111 - Public Health. - continued

- § 25I revised, 2009, 166 § 29
- § 25P inserted, 2010, 288 § 7 (See 2010, 288 § 54)
- § 51H amended, 2009, 27 § 75
- § 62K revised, 2010, 131 § 61 (See 2010, 131 § 202)
- § 63A amended, 2010, 239 § 27
- § 67E amended, 2010, 239 § 28
- § 71 amended, 2010, 239 §§ 29, 30; amended, 2010, 256 § 74
- § 72 amended, 2010, 239 §§ 31, 32
- § 72K amended, 2010, 267 §§ 11, 12
- § 72AA inserted, 2010, 198
- § 73 amended, 2010, 239 § 33
- § 121B inserted, 2010, 131 § 62 (See 2010, 131 § 202)
- § 142M amended, 2009, 120 §§ 15, 16, 17, 18, 19; fourth paragraph inserted, 2010, 311 § 3 (See 2010, 311 § 4)
- § 150A, fifth paragraph stricken out, 2010, 131 § 63 (See 2010, 131 § 202); amended, 2010, 131 §§ 64 (See 2010, 131 § 202), 65 (See 2010, 131 § 202); tenth and eleventh paragraphs revised, 2010, 131, § 66 (See 2010, 131 § 202)
- § 217 amended, 2010, 288 § 8
- § 222 added, 2010, 197 § 6; added, 2010, 288 § 9

CHAPTER 111A - Drug Addiction Rehabilitation.
(Chapter repealed, 1969, 889 § 23A)

CHAPTER 111B - Alcoholism.

CHAPTER 111C - Emergency Medical Services System.

- § 25 added, 2010, 188 § 61

CHAPTER 111D - Clinical Laboratories.

CHAPTER 111E - Drug Rehabilitation.

CHAPTER 111F - Hazardous Substances Disclosure by Employers.

CHAPTER 111G - Early Childhood Intervention Services.

CHAPTER 111H - Massachusetts Low-level Radioactive Waste Management Act.

CHAPTER 111I - Women's, Infants and Children Program.

CHAPTER 111J - Alcohol and Drug Counselors.

CHAPTER 111K - Catastrophic Illness in Children Relief Fund Commission.

CHAPTER 111L - Biotechnology.

CHAPTER 111M - Individual Health Coverage.

CHAPTER 111N - Pharmaceutical and Medical Device Manufacturer Conduct.

CHAPTER 112 - Registration of Certain Professions and Occupations.

§ 12A amended, 2010, 283 § 6

§ 12A½ amended, 2010, 256 § 75

§ 12D amended, 2010, 190 § 7

§ 12DD inserted, 2010, 131 § 67 (See 2010, 131 § 202)

§ 45C inserted, 2010, 265 § 1

§ 51 amended, 2009, 70 § 1.

§ 66B, third paragraph amended, 2010, 288 § 10

§ 80H inserted, 2010, 191 § 4

§ 87A amended, 2010, 22 §§ 6 (See § 25), 7 (See § 25), 8 (See § 25)

§ 87A½ amended, 2010, 22 § 9 (See § 25)

§ 87B amended, 2010, 22 §§ 10 (See § 25), 10A (See § 25)

§ 87B½ amended, 2010, 22 §§ 11 (See § 25), 12 (See § 25); paragraphs (6) to (8), inclusive, of subsection (b) stricken out, 2010, 22 § 13 (See § 25); subsection (c) revised, 2010, 22 § 14 (See § 25)

§ 87C repealed, 2010, 22 § 15 (See § 25)

§ 87C½ amended, 2010, 22 § 16 (See § 25); subsection (b½) inserted, 2010, 22 § 17 (See § 25); amended, 2010, 22 § 18 (See § 25); subsection (d) inserted, 2010, 22 § 18A (See § 25)

§ 87D amended, 2010, 22 § 19 (See § 25); subsections (d) and (e) revised and subsections (f) and (g) stricken out, 2010, 22 § 20 (See § 25); subsection (m) inserted, 2010, 22 § 21 (See § 25)

§ 87RR amended, 2010, 307 § 1

§ 87SS, second paragraph revised, 2010, 307 § 2 (See § 3)

§ 259 added, 2010, 322 § 3 (See § 4)

§ 260 added, 2010, 322 § 3 (See § 4)

§ 261 added, 2010, 322 § 3 (See § 4)

§ 262 added, 2010, 322 § 3 (See § 4)

CHAPTER 113 - Promotion of Anatomical Science.

CHAPTER 114 - Cemeteries and Burials.

CHAPTER 115 - Veteran's Benefits.

CHAPTER 115A - Soldier's Homes.

CHAPTER 116 - Settlement.

CHAPTER 117 - Support by the Commonwealth.

CHAPTER 117A - Support by the Commonwealth.

§ 9 revised, 2010, 131 § 68 (See 2010, 131 § 202)

§ 10 revised, 2010, 131 § 68 (See 2010, 131 § 202)

CHAPTER 118 - Aid to Families with Dependent Children.

§ 2, third paragraph revised, 2010, 131 § 69 (See 2010, 131 § 202)

CHAPTER 118A - Assistance to the Aged and Disabled.

§ 7 revised, 2010, 131 § 70 (See 2010, 131 § 202)

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CHAPTER 118C - Coverage of Certain Employees under the Federal Social Security Act.

CHAPTER 118D - Assistance to Persons Who Are Disabled.

CHAPTER 118E - Medical Care and Assistance.

§ 9A, subsection (17) inserted, 2010, 131 § 71 (See 2010, 131 § 202)

§ 22 revised, 2010, 131 § 72 (See 2010, 131 § 202)

§ 47A inserted, 2010, 131 § 73 (See 2010, 131 § 202)

CHAPTER 118F - Department of Medical Security.

(Chapter repealed, 1996, 151 § 274) (See 1996, 151 § 690)

CHAPTER 118G - Health Care Finance and Policy.

§ 1 amended, 2010, 131 §§ 74, 75 (See 2010, 131 § 202); definition of "Health status adjusted total medical expenses" inserted, 2010, 288 § 11; definition of "Relative prices" inserted, 2010, 288 § 12

CHAPTER 118G - Health Care Finance and Policy. - continued

- § 2, second paragraph amended, 2010, 131 § 76 (See 2010, 131 § 202)
- § 6 amended, 2009, 27 § 77; amended, 2010, 131 § 77 (See 2010, 131 § 202); fourth and fifth paragraphs revised, 2010, 288 § 13
- § 6C, subsection (c) revised, 2010, 288 § 14
- § 27, definition of “Intermediate care facility for the mentally retarded or ICF/MR” stricken out and definition of “Intermediate care facility for persons with an intellectual disability or ICF/PWID” inserted, 2010, 239 § 34; amended, 2010, 239 §§ 35, 36, 37
- § 34, definition of “Critical access services” stricken out, 2010, 131 § 78 (See 2010, 131 § 202); definition of “Managed care organization” inserted, 2010, 131 § 79; amended, 2010, 131 §§ 80, 81, 82 (See 2010, 131 § 202)
- § 36, subsection (a) amended, 2010, 131 § 83 (See 2010, 131 § 202); amended, 2010, 131 § 84 (See 2010, 131 § 202)
- § 38, subsection (a) amended, 2010, 131 § 85 (See 2010, 131 § 202)
- § 39 amended, 2009, 27 § 78

CHAPTER 118H - Commonwealth Care Health Insurance Program.

CHAPTER 119 - Protection and Care of Children, and Proceedings against Them.

- § 21, definition of “Young adult” inserted, 2010, 359 § 18 (See 2010, 359 § 135)
- § 23, subsection (d) revised, 2010, 131 § 86 (See 2010, 131 § 202); subsection (f) revised, 2010, 359 § 19 (See 2010, 359 § 135)
- § 29 amended, 2010, 239 § 38; first two paragraphs revised, 2010, 359 § 20 (See 2010, 359 § 135)
- § 29B revised, 2010, 359 § 21 (See 2010, 359 § 135)
- § 29C amended, 2010, 359 § 22 (See 2010, 359 § 135)
- § 51B, subsection (k) amended, 2010, 267 § 13
- § 55B amended, 2010, 267 §§ 14, 15, 16
- § 58 amended, 2010, 267 §§ 17, 18, 19
- § 68B amended, 2009, 166 § 29A

CHAPTER 119A - Child Support Enforcement.

- § 1A amended, 2009, 25 § 92 (See 26 § 60)
- § 10 amended, 2010, 131 § 87 (See 2010, 131 § 202)
- § 11 amended, 2010, 131 § 88 (See 2010, 131 § 202)

CHAPTER 120 - Department of Youth Services and Massachusetts Training Schools.

- § 12 amended, 2010, 267 §§ 20, 21, 22

CHAPTER 120A- Interstate Compact on Juveniles.
(Chapter inserted, 2010, 131 § 89) (See 2010, 131 § 202)

CHAPTER 121 - Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.

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CHAPTER 121B - Housing and Urban Renewal.

CHAPTER 121C - Economic Development and Industrial Corporations.

CHAPTER 121D - Affordable Housing Trust Fund.

CHAPTER 121E - Housing Innovations Trust Fund.

CHAPTER 121F - Housing Stabilization and Investment Trust Fund.

§ 2 amended, 2009, 120 §§ 20, 21

§ 3 amended, 2009, 27 § 79; amended, 2009, 120 § 22

CHAPTER 121G - Capital Improvement and Preservation Trust Fund.

CHAPTER 122 - Tewksbury Hospital.

CHAPTER 123- Treatment and Commitment of Mentally Ill and Mentally Retarded Persons.

§ 12, subsection (a) amended, 2010, 278 § 1

§ 22 revised, 2010, 278 § 2

§ 35, second paragraph revised, 2010, 292

CHAPTER 123A - Care, Treatment and Rehabilitation of Sexually Dangerous Persons.

§ 1 amended, 2010, 267 §§ 23, 24, 25, 26, 27, 28

§ 9 amended, 2010, 256 § 76

§ 14 amended, 2010, 256 § 77

CHAPTER 123B - Mental Health.

§ 1 amended, 2010, 239 §§ 39, 42; definition of “Mentally retarded person” stricken out, 2010, 239 § 40; definition of “Person with an intellectual disability” inserted, 2010, 239 § 41

CHAPTER 123B - Mental Health. - continued

§ 2 amended, 2010, 239 §§ 44, 45
§ 3 amended, 2010, 239 §§ 46, 47, 48
§ 4 amended, 2010, 239 § 49
§ 5 amended, 2010, 239 § 50
§ 6 amended, 2010, 239 § 51
§ 8 amended, 2010, 239 § 52
§ 9 amended, 2010, 239 § 53
§ 12 amended, 2010, 239 § 54
§ 16 amended, 2010, 239 § 55

CHAPTER 124 - Powers and Duties of the Department of Correction.

CHAPTER 125 - Correctional Institutions of the Commonwealth.

CHAPTER 126 - Jails, Houses of Correction and Reformation, and County Industrial Farms.

CHAPTER 127 - Officers and Inmates of Penal and Reformatory Institutions, Paroles and Pardons.

§ 2 amended, 2010, 256 §§ 78, 80
§ 20B inserted, 2010, 256 § 79
§ 28 amended, 2010, 256 § 81
§ 29 amended, 2010, 256 § 82
§ 38(b) amended, 2010, 74 § 1
§ 49B amended, 2010, 267 §§ 29, 30, 31
§ 49C amended, 2010, 267 §§ 32, 33, 34
§ 83B amended, 2010, 267 §§ 35, 36
§ 90A amended, 2010, 267 §§ 37, 38, 39
§ 133E amended, 2010, 256 § 83; amended, 2010, 267 §§ 40, 41, 42
§ 150 amended, 2010, 131 § 90 (See 2010, 131 § 202)
§ 152 amended, 2010, 267 §§ 43, 44, 45
§ 162A amended, 2010, 160 § 1

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CHAPTER 128A - Horse and Dog Racing Meetings.

CHAPTER 128B - Conservation of Soil and Soil Resources and Prevention and Control of Erosion.

CHAPTER 128C - Simulcast Wagering of Horse and Dog Racing.

CHAPTER 129 - Livestock Disease Control.

CHAPTER 129A - Marine Fish and Fisheries, Inland Fish and Fisheries, Birds and Mammals, General Provisions.

CHAPTER 130 - Marine Fish and Fisheries.

§ 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

§ 5 amended, 2009, 161 § 6

§ 17A, second paragraph stricken out, 2009, 161 § 7

§ 17C inserted, 2009, 161 § 8

§ 17D inserted, 2009, 161 § 8

CHAPTER 131 - Inland Fisheries and Game and Other Natural Resources.

§ 11 amended, 2010, 239 § 57

§ 40A amended, 2009, 25 § 93 (See 26 § 60)

§ 45 amended, 2009, 25 § 94 (See 26 § 60)

CHAPTER 131A - Massachusetts Endangered Species Act.

CHAPTER 132 - Forestry.

CHAPTER 132A - State Recreation Areas Outside of the Metropolitan Parks District.

§ 15, subclause (iii) of clause (2) revised, 2010, 131 § 91 (See 2010, 131 § 202)

CHAPTER 132B - Massachusetts Pesticide Control Act.

CHAPTER 133 - Disposition of Old and Infirm Animals.

CHAPTER 134 - Lost Goods and Stray Beasts.

CHAPTER 135 - Unclaimed and Abandoned Property.

CHAPTER 136 - Observance of a Common Day of Rest and Legal Holidays.

CHAPTER 137 - Gaming.

CHAPTER 138 - Alcoholic Liquors.

§12 amended, 2010, 116 § 1; paragraph inserted, 2010, 240 § 139
§ 14A inserted, 2010, 315 § 1
§ 15 amended, 2010, 240 §§ 140, 141; amended, 2010, 255 § 1
§ 15F inserted, 2010, 240 § 142
§ 17, paragraph inserted, 2010, 240 § 143
§ 18, fifth paragraph amended, 2010, 255 § 2
§ 19B amended, 2010, 240 §§ 144, 145, 146; subsection (h) revised, 2010, 240 § 147
§ 33 amended, 2010, 131 § 92 (See 2010, 131 § 202)
§ 33B amended, 2010, 131 § 93 (See 2010, 131 § 202)
§ 64A revised, 2010, 116 § 2
§ 64B revised, 2010, 116 § 3
§ 67 revised, 2010, 116 § 7

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CHAPTER 140 - Licenses.

§ 122 amended, 2010, 256 § 84
§ 122A amended, 2010, 256 §§ 85, 86
§ 122B amended, 2010, 256 § 87
§ 123 amended, 2010, 256 § 88
§ 125 amended, 2010, 256 § 89
§ 127 amended, 2010, 256 § 90
§ 128A amended, 2010, 256 § 91
§ 128B amended, 2010, 256 § 92
§ 129B amended, 2010, 256 § 93
§ 129C amended, 2010, 256 § 94
§ 130B amended, 2010, 256 §§ 95, 96
§ 131 amended, 2010, 256 § 97
§ 131½ amended, 2010, 256 § 98
§ 131A amended, 2010, 256 § 99
§ 137D amended, 2010, 82 § 1
§ 138A inserted, 2010, 82 § 2

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CHAPTER 140B - Control of Certain Junkyards.

CHAPTER 140C - Consumer Credit Cost Disclosure. (Chapter repealed, 1981, 733 § 1)

CHAPTER 140D - Consumer Credit Cost Disclosure.

CHAPTER 140E - Consumer Account Disclosure.

CHAPTER 141 - Supervision of Electricians.

CHAPTER 142 - Supervision of Plumbing.

§ 21 amended, 2009, 25 § 95 (See 26 § 60)

CHAPTER 142A - Regulation of Home Improvement Contractors.

§ 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 § 81)

§ 18 amended, 2009, 4 § 22 (See § 81)

§ 20 amended, 2009, 4 § 23 (See § 81)

CHAPTER 143 - Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.

§ 3A amended, 2009, 25 § 96 (See 26 § 60)

§ 94 amended, 2009, 25 § 97 (See 26 § 60)

CHAPTER 144 - Tenement Houses in Cities.

CHAPTER 145 - Tenement Houses in Towns.

CHAPTER 146 - Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.

§ 53 revised, 2010, 358 § 1

§ 54 revised, 2010, 358 § 2

§ 56 amended, 2010, 358 § 3

§ 58 amended, 2010, 358 § 4

§ 65A inserted, 2010, 358 § 5

CHAPTER 147 - State and Other Police, and Certain Power and Duties of the Department of Public Safety.

§ 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.
§ 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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§ 20B amended, 2010, 160 § 2; final paragraph revised, 2010, 359 § 23
§ 35 repealed, 2010, 160 § 3
§ 36 repealed, 2010, 160 § 4
§ 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).
§ 60 added, 2010, 276

CHAPTER 148A - Code Enforcement Officer.

CHAPTER 149 - Labor and Industries.

§ 26 amended, 2009, 132 §§ 5, 6

§ 29 amended, 2010, 188 § 62

§ 29E inserted, 2010, 293 § 1 (See 2010, 293 § 3)

§ 30B amended, 2010, 239 § 58

§ 44½ inserted, 2009, 27 § 81

§ 44A, paragraph (A) of subsection (2) revised, 2009, 166 § 30; paragraphs (A) and (B) of subsection (2) revised, 2010, 188 § 63

§ 52C, fifth paragraph revised, 2010, 240 § 148

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§ 20, subsection (d) inserted, 2009, 25 § 98 (See 26 § 60)

CHAPTER 150 - Conciliation and Arbitration of Industrial Disputes.

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CHAPTER 150C - Collective Bargaining Agreements to Arbitrate.

CHAPTER 150D - Registration of Labor Replacements of Strike Breakers.

CHAPTER 150E - Labor Relations; Public Employees.

§ 1, definition of "Employer" amended, 2009, 25 § 99 (See 26 § 60)

§ 7 amended, 2009, 25 § 100 (See 26 § 60); amended, 2010, 359 § 24

CHAPTER 151 - Minimum Fair Wages.

CHAPTER 151A - Employment and Training.

§ 14G, subsection (g) stricken out, 2009, 4 § 77 (See § 84)

§ 14P inserted, 2009, 4 § 78 (See § 84)

§ 15, subsection (a) amended, 2009, 4 § 79

§ 25 amended, 2010, 256 § 100

§ 30 amended, 2009, 30 §§ 1, 2, 3f

§ 46, subsection (j) inserted, 2009, 27 § 82.

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§ 4, subsection 9½ inserted, 2010, 256 § 101

CHAPTER 151C - Fair Education Practices.

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CHAPTER 151E - Prohibition of Certain Discrimination by Business.

CHAPTER 151F - Employer-sponsored Health Insurance Access.

CHAPTER 152 - Workers' Compensation.

§ 7 amended, 2010, 256 § 102

§ 25C, subsection (11) inserted, 2010, 285 § 1

§ 73 amended, 2009, 25 §§ 101 (See 26 § 60), 102 (See 26 § 60), 103 (See 26 § 60)

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CHAPTER 154 - Assignment of Wages.

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CHAPTER 157 - Co-operative Corporations.

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CHAPTER 157B - Cooperative Housing Corporations.

CHAPTER 158 - Certain Miscellaneous Corporations.

CHAPTER 159 - Common Carriers.

CHAPTER 159A - Common Carriers of Passengers by Motor Vehicle.

§ 1 amended, 2009, 25 § 104 (See 26 § 60)

CHAPTER 159B - Carriers of Property by Motor Vehicle.

§ 6B amended, 2010, 275

CHAPTER 159C - Telemarketing Solicitation.

CHAPTER 160 - Railroads.

CHAPTER 161 - Street Railways.

CHAPTER 161A - Massachusetts Bay Transit Authority.

§ 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)

CHAPTER 161B - Transportation Facilities, Highway Systems and Urban Development Plan.

§ 1, definition of "Department" revised, 2009, 25 § 116 (See 26 § 60); definition of "Secretary" revised, 2009, 25 § 117 (See 26 § 60)

CHAPTER 161C - Rail Transportation in the Commonwealth.

§ 1, definition of "Secretary" revised, 2009, 25 § 119 (See 26 § 60)

§ 2, definition of "Executive office" revised, 2009, 25 § 118 (See 26 § 60)

CHAPTER 161D - the Massachusetts Intercity Bus Capital Assistance Program.

§ 2, definition of "Executive office" revised, 2009, 25 § 120 (See 26 § 60); definition of "Secretary" revised, 2009, 25 § 121 (See 26 § 60)

CHAPTER 162 - Electric Railroads.

CHAPTER 163 - Trackless Trolley Companies.

CHAPTER 164 - Manufacture and Sale of Gas and Electricity.

§ 1E, subsection (c) revised and subsection (d) stricken out, 2009, 133 § 2

§ 1F amended, 2009, 133 § 3.

§ 1H, definition of “Department” revised, 2010, 240 § 149

§ 1I inserted, 2009, 133 § 4. (§1J, See 133 § 6)

§ 1J inserted, 2009, 133 § 4. (§1J, See 133 § 6)

§ 85B inserted, 2009, 133 § 5.

§ 134 amended, 2009, 158 § 24

§ 138 amended, 2010, 359 § 25; definition of “Net metering facility of a municipality or other governmental entity” inserted, 2010, 359 § 27

§ 139 amended, 2010, 359 § 28; subsection (f) amended, 2010, 359 § 29; amended, 2010, 359 § 30

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§ 11 amended, 2010, 374 §§ 1, 2

CHAPTER 166 - Telephone and Telegraph Companies, and Lines for the Transmission of Electricity.

CHAPTER 166A - Community Antenna Television Systems.

CHAPTER 167 - Supervision of Banks.

§ 7A inserted, 2010, 258 § 2

§ 14 amended, 2010, 240 § 150

§ 47 repealed, 2010, 234 § 1

CHAPTER 167A - Bank Holding Companies.

CHAPTER 167B - Electronic Branches and Electronic Fund Transfers.

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§ 2, subparagraph 1 revised, 2010, 234 § 2

§ 6 revised, 2010, 273

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CHAPTER 167F - Investments and Other Powers.

§ 2, paragraph 30A inserted, 2010, 240 § 151

CHAPTER 167G - Trust Department.

CHAPTER 167H - Mutual Holding Companies.

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CHAPTER 169 - Deposits with Others than Banks.

CHAPTER 169A - Licensing of Check Cashers.

CHAPTER 170 - Co-operative Banks.

CHAPTER 171 - Credit Unions.

§ 30 revised, 2010, 284 § 1

§ 32 amended, 2010, 284 § 2

§ 33 revised, 2010, 284 § 3

§ 34 amended, 2010, 284 § 4

§ 65C½ inserted, 2010, 258 § 3

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(Chapter repealed, 2004, 461 § 24)

CHAPTER 173 - Mortgage Loan Investment Companies.

CHAPTER 174 - Bond and Investment Companies.

(Chapter repealed, 1950, 822 § 1)

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and Rating Organizations.**

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CHAPTER 174C - Vehicle Protection Product Warranties Act.

CHAPTER 175 - Insurance.

§ 47C amended, 2009, 27 § 83; third paragraph amended, 2010, 131 § 94 (See 2010, 131 § 202)

§ 47H amended, 2010, 288 § 15

§ 47AA inserted, 2010, 207 § 2 (See 2010, 207 § 7)

§ 113B, 14th paragraph, Amended, 2010, 155 § 12

§ 113H, second paragraph of subsection (A) amended, 2010, 237 § 1; first paragraph of subsection (B) revised, 2010, 237 § 2; second paragraph inserted in subsection (D) inserted, 2010, 237 § 3

§ 168, first paragraph amended, 2010, 240 § 152; amended, 2010, 249 §§ 153, 154

§ 168A inserted, 2010, 240 § 155

§ 180A revised, 2010, 235 § 1

§ 180L½ inserted, 2010, 235 § 2

§193T amended, 2010, 239 § 59

CHAPTER 175A - Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.

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CHAPTER 175C - Urban Area Insurance Placement Facility.

CHAPTER 175D - Massachusetts Insurers Insolvency Fund.

CHAPTER 175E - Regulation of Rates for Optional Motor Vehicle Insurance.

§ 1, definition of "Board" inserted, 2009, 9 § 1

§ 7A inserted, 2009, 9 § 2

CHAPTER 175F - Medical Malpractice Self-insurance Trust Funds.

CHAPTER 175G - Pollution Liability Reinsurance Corporation.

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CHAPTER 175J - Administrative Supervision and Hazardous Financial Conditions of Insurities.

CHAPTER 175K - Insurance Compact.

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CHAPTER 176A - Non Profit Hospital Service Corporations.

§ 8B amended, 2009, 27 § 84; third paragraph amended, 2010, 131 § 95 (See 2010, 131 § 202)

§ 8K amended, 2010, 288 § 16

§ 8DD inserted, 2010, 207 § 3 (See 2010, 207 § 7)

CHAPTER 176B - Medical Service Corporations.

§ 4C third paragraph amended, 2009, 27 § 85; third paragraph amended, 2010, 131 § 96 (See 2010, 131 § 202)

§ 4J amended, 2010, 288 § 17

§ 4DD inserted, 2010, 207 § 4 (See 2010, 207 § 7)

CHAPTER 176C - Non Profit Medical Service Plans.

CHAPTER 176D - Unfair Practices and Unfair Deception Acts and Practices in the Business of Insurance.

§ 3, clause (4) revised, 2010, 288 § 18

§ 3A revised, 2010, 288 § 19

CHAPTER 176E - Dental Service Corporations.

CHAPTER 176F - Optometric Service Corporations.

CHAPTER 176G - Health Maintenance Organizations.

§ 4 amended, 2009, 27 § 86; second paragraph amended, 2010, 131 § 97 (See 2010, 131 § 202)

§ 4V inserted, 2010, 207 § 5 (See 2010, 207 § 7)

§ 14, second paragraph revised, 2010, 251

CHAPTER 176H - Legal Service Plans.

CHAPTER 176I - Preferred Provider Arrangements.

CHAPTER 176J - Small Group Health Insurance.

- § 1, definition of “Eligible individual” inserted, 2010, 288 § 20; definition of “Qualified association” inserted, 2010, 288 § 21; definition of “Small business group purchasing cooperative” inserted, 2010, 288 § 22; definition of “Wellness program”, or “health management program” inserted, 2010, 288 § 23
- § 3, subsection (a) amended, 2010, 288 § 24; subsection (f) added, 2010, 288 § 25
- § 4, subsection (a) amended, 2010, 288 § 26 (See 2010, 288 § 55); subsection (a) amended, 2010, 288 § 27; subsection (b) amended, 2010, 288 § 28
- § 6 revised, 2010, 288 § 29 (See 2010, 288 § 50); amended (as appearing in § 29), 2010, 288 §§ 30, 31; subsection (c) amended, 2010, 359 § 31A; clause (i) of subsection (d) amended, 2010, 359 § 31B
- § 11 added, 2010, 288 § 32; revised, 2010, 288 § 33
- § 12 added, 2010, 288 § 34; subsection (b) amended, 2010, 359 § 32
- § 13 added, 2010, 288 § 34

CHAPTER 176K - Medicare Supplement Insurance Plans.

CHAPTER 176L - Risk Retention and Risk Purchasing Groups.

CHAPTER 176M - Nongroup Health Insurance.

- § 2 amended, 2010, 288 § 35
- § 3, subsection (d) revised, 2010, 288 § 36

CHAPTER 176N - Portability of Health Insurance.

CHAPTER 176O - Health Insurance Consumer Protections.

- § 2, subsection (b) revised, 2010, 288 § 37
- § 7, subsection (a) amended, 2010, 288 § 38
- § 9A inserted, 2010, 288 § 39
- § 21 added, 2010, 288 § 40 (See 2010, 288 § 50)

CHAPTER 176P - Limited Societies.

CHAPTER 176Q- Commonwealth Health Insurance Connector.

- § 1, definition of “Eligible individuals” revised, 2010, 288 § 41
- § 2, subsection (b) revised, 2010, 288 § 42
- § 3 amended, 2010, 288 § 43
- § 7A inserted, 2010, 288 § 44
- § 8 amended, 2010, 288 § 45

CHAPTER 176R - Consumer Choice of Nurse Practitioner Services.

CHAPTER 177 - Assessment Insurance.
(Chapter repealed, 1924, 406 § 17; 1929, 24, § 1)

CHAPTER 178 - Savings Bank Life Insurance.
(Chapter repealed, 1990, 499 § 22) (See 1990, 499 § 24)

CHAPTER 178A - Savings Bank Life Insurance.
(Chapter repealed, 2010, 176 § 1 (See § 4))

CHAPTER 179 - Proprietors of Wharves, Real Estate Lying in Common, and General Fields.

CHAPTER 180 - Corporations for Charitable and Certain Other Purposes.

§ 17G amended, 2009, 45 § 1 (See 45 § 2)
§ 28 revised, 2009, 169 § 14

CHAPTER 180A - Uniform Prudent Management of Institutional Funds.
(Chapter revised, 2009, 29 § 1)

CHAPTER 181 - Foreign Corporations.
(Chapter repealed, 2004, 65 § 26 (See 2004, 65 § 56)

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CHAPTER 183 - Alienation of Land.

§ 54, definition of "Mortgagee" revised, 2010, 282 § 1
§ 54B revised, 2010, 282 § 2
§ 54C amended, 2010, 282 § 3
§ 55 amended, 2010, 282 § 4; paragraph (7) of subsection (g) revised, 2010, 282 § 5
§ 67 revised, 2010, 258 § 4

CHAPTER 183A - Condominiums.

§ 5 amended, 2010, 183 §§ 1, 2
§ 6, paragraph (i) of subsection (a) amended, 2010, 183 § 3
§ 14 amended, 2010, 188 § 64

CHAPTER 183B - Real Estate Time-shares.

§ 2, definitions of “Forfeiture” and “Forfeiture proceedings” inserted, 2010, 350 § 1;
definitions of “Recorded” and “Registry of deeds” inserted, 2010, 350 § 2; definition of
“Time-share instrument” revised, 2010, 350 § 3
§ 20, clause (8) of subsection (a) revised, 2010, 350 § 4
§ 29 revised, 2010, 350 § 5
§ 29A inserted, 2010, 350 § 6
§ 29B inserted, 2010, 350 § 7

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CHAPTER 184A - The Rule Against Perpetuities.

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CHAPTER 185 - The Land Court and Registration of Title to Land.

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CHAPTER 185B - Housing Court of the County of Hampden, Jurisdiction and Powers.

CHAPTER 185C - Housing Court Department.

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§ 13A amended, 2010, 258 § 5

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(Chapter inserted, 2010, 258 § 6)**

CHAPTER 187 - Easements.

CHAPTER 188 - Homesteads.

**CHAPTER 189 - Dower and Curtesy.
(Chapter repealed, 2008, 521 § 6)**

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(Chapter repealed, 2008, 521 § 7)**

CHAPTER 190A - Effect of Apparently Simultaneous Deaths Upon Devolution and Disposition of Property, including Proceeds of Insurance.
(Chapter repealed, 2008, 521 § 8)

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§ 3, subsection (b) paragraph 1 revised, 2010, 256 § 110; amended, 2010, 256 §§ 111, 112;
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§ 31 definition of “Matter” revised, 2010, 74 § 2; definition of “visual material” amended, 2010, 74 § 3

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