Section 4 - Long Term Care Ombudsman Office 1

SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 16BB the following section:-

Section 16CC. (a). As used in this section, the following words shall, unless the context requires otherwise, have the following meanings:-

"Act", any action or decision made by an owner, employee or agent of a long term care facility or assisted living residence, or by a government agency, or any condition within a long term care facility or assisted living residence which affects the service to a resident.

"Administrative action", any action taken to resolve issues through negotiation and mediation with a long term care facility or assisted living residence.

"Assisted living residence", any entity that meets the requirements of chapter 19D and is subject to certification by the department of elder affairs.

"Designee", staff of the long term care ombudsman or a member of a designated local long term care ombudsman program, whether on a compensated or volunteer basis.

"Long term care facility", any facility subject to licensure by the department of public health under section 71 of chapter 111.

"Resident", any person who is receiving treatment or care in a long term care facility or assisted living residence including, but not limited to, application or admission, retention, confinement, commitment, period of residence, transfer, discharge and instances directly related to such status.

(b) The secretary of health and human services shall, subject to appropriation or the receipt of federal funds, establish a statewide long term care ombudsman office for the purpose of advocating on behalf of residents. The statewide long term care ombudsman shall receive, investigate and resolve through administrative action complaints filed by residents, individuals acting on their behalf or any individual organization or government agency that has reason to believe a long term care facility or assisted living residence, organization or government agency has engaged in activities, practices or omissions that constitute violations of applicable statutes or regulations or may have an adverse effect upon the health, safety, welfare or rights of residents of such long term care facilities or assisted living residences. The secretary of health and human services shall appoint an ombudsman to act as the director of the ombudsman office who shall be a person qualified by training and experience to perform the duties of the office. Said ombudsman shall not be subject to section 9A of chapter 30 or chapter 31.

(c) The ombudsman, or a designee, shall be permitted access at any time deemed reasonable and necessary by the ombudsman to any consenting individual resident; provided, that there is neither a commercial purpose nor effect to the access and the purpose is to do any of the following: (i) visit, talk with and make personal, social and legal services available to a resident; (ii) inform residents of their rights and entitlements and their correspondent obligations, under federal and state laws, by means of educational materials and discussion in groups and with individual residents; (iii) assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, or assist residents in action against agencies responsible for such programs, as well as in all other matters in which residents are aggrieved and may include advising litigation; or (iv) engage in other methods of assisting, advising and representing residents so as to extend to them full enjoyment of their rights.

Upon entering, the ombudsman, or designee, shall notify the long term care facility or assisted living residence staff of his or her presence and, upon request, shall produce identification. Prior to entering

the room of an individual resident, the ombudsman, or designee, shall identify himself or herself and explain the purpose of the visit. The ombudsman or designee shall have the right to visit privately with the resident provided the resident has given permission for the visit. The ombudsman, or designee, shall respect the confidentiality of communications and shall not subject the resident to photographing, filming, videotaping or audiotaping without consent. The long term care facility or assisted living residence may not release information in a resident's medical record to the ombudsman, or designee, without consent of the resident or resident's representative.

(d) The ombudsman, or designee, shall have the right of entry into long term care facilities and assisted living residences at any time it is considered necessary and reasonable by the ombudsman, or designee, for the purpose of: (i) investigating and resolving through administrative action complaints made by residents or on their behalf; (ii) interviewing residents, with their consent, in private; (iii) offering the services of the ombudsman or designee to any resident, in private; (iv) interviewing employees or agents of the long term care facility or assisted living residence; (v) consulting regularly with the long term care facility or assisted living residence administration; or (vi) providing services authorized by law or by regulation.

The ombudsman, or designee, shall have access to any resident's records with consent of the resident or the resident's representative, and to records of any public agency necessary to the duties of the office, including records on patient abuse complaints. If the ombudsman, or designee, reasonably believes that a complaint situation exists which may only be resolved by the inspection of the resident's personal, financial or medical records, and if the resident lacks the capacity to give consent, and the resident has no legal representative, or the ombudsman has reason to believe that the resident representative is not acting in the best interest of the resident, the said ombudsman or designee shall have access to the records of the resident without the resident's written authorization.

(e) The ombudsman shall establish procedures to protect the confidentiality of residents' records and files. Such procedures shall meet the following requirements: (i) no information or records maintained by the ombudsman office shall be disclosed unless the ombudsman, or designee, authorizes such disclosure and (ii) the ombudsman, or designee, shall not disclose the identity of any complainant or resident involved in any complaint unless the complainant or resident or a legal representative of either provides consent in writing, or through the use of ancillary aids and services as necessary, or communication of such consent orally or visually, and that consent is documented to allow such disclosure and specifies to whom the identity may be disclosed, or a court orders such disclosure.

The ombudsman, or designee, may initiate an investigation of any long term care facility or assisted living residence even in the absence of a specific complaint.

If the ombudsman, or designee, determines that any act of any long term care facility or assisted living residence may adversely affect the health, safety, welfare or rights of a resident, the ombudsman, or designee, shall make specific recommendations for the elimination or correction of such act. If the ombudsman, or designee, determines that an act of any long term care facility or assisted living residence may constitute a violation of any applicable federal or state statute or regulation, the ombudsman may report such findings and conclusions to the regulatory agency or agencies having jurisdiction to enforce said statute or regulation and to the office of the attorney general.

Within a reasonable period of time after the completion of an investigation the ombudsman may notify the long term care facility or assisted living residence of the findings.

(f) The ombudsman may contract with a local entity to host a local ombudsman program and provide designated staff to act on behalf of the ombudsman in the receipt, investigation and resolution through administrative action of complaints. The ombudsman may contract with any public agency or private nonprofit organization to act on behalf of the ombudsman in the receipt, investigation and resolution through administrative action of complaints. No designee shall be an agency or organization responsible for licensing or certifying long term care facilities or assisted living residences or an

association or an affiliate or agent of an association of long term care facilities or assisted living residences. A designee shall operate in compliance with any rules and regulations established by the ombudsman for the implementation of the ombudsman program. The ombudsman shall carry out the responsibilities of the local program in any area where no local ombudsman program has been established. The ombudsman shall, to the extent practicable, contract with agencies and organizations that agree to carry out such responsibilities on a volunteer basis.

(g) The ombudsman shall: (i) establish and conduct a training program for persons employed by or associated with the ombudsman or any designated local ombudsman program who perform the duties and responsibilities enumerated in section (e) regarding the receipt, investigation and resolution through administrative action of complaints, and certify such persons upon satisfactory completion of such training programs; (ii) provide information to public agencies regarding the problems of residents in long term care facilities and assisted living residences; (iii) ensure that complete records are maintained of complaints received or initiated, actions taken, findings and recommendations in response to such complaints and other action, including the facilities' responses; (iv) maintain a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long term care facilities and assisted living residences for the purpose of identifying and resolving significant problems; (v) file a report of the activities of the long term care ombudsman office and the ombudsman's recommendation concerning long term care facilities and assisted living residences and the protection of the rights of residents with the secretary of health and human services, the governor and the general court within 120 days following the end of each fiscal year, and make such report available to the public, the assistant secretary of the administration for community living, the division of health care facility licensing and certification at the department of health, the assisted living certification unit at the department of elder affairs and other appropriate governmental entities; (vi) carry out other activities consistent with the requirements of 42 U.S.C. 3024(a)(12); (vii) ensure the program operates in compliance with 42 U.S.C. 3001 et seq. and federal regulations; (viii) represent the interests of the residents before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of the residents; and (ix) analyze, comment on and monitor the development and implementation of federal, state and local laws, regulations and other governmental policies and actions that pertain to the health, safety, welfare and rights of the residents, with respect to the adequacy of services provided by long term care facilities and assisted living residences.

(h) The ombudsman, a designee, and any employee of a designated local ombudsman program working directly for such designee, whether on a compensated or volunteer basis, shall not be liable in any civil or criminal action by reason of the good faith performance of official duties. No person shall willfully interfere with a representative of the ombudsman office in the good faith performance of official duties. If such willful interference occurs, the ombudsman may petition the superior court department to enjoin such interference and grant appropriate relief.

No long term care facility, assisted living residence or other entity shall retaliate against any resident or employee of such facility, residence or entity who in good faith filed a complaint with, or provided information to, the ombudsman or designee. A long term care facility or assisted living residence that retaliates against a resident or employee for filing a complaint with, or having provided information to, the ombudsman or designee, shall be liable to the person so retaliated against by a civil action for up to treble damages, costs and attorney's fees.

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

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 5 - DALA Appeal Fees

SECTION 5. The fifth paragraph of section 4H of chapter 7 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following 2 sentences:- The division shall establish a fee structure for all appeals, except for (i) appeals brought through the bureau of special education appeals, pursuant to this section and section 2A of chapter 71B; (ii) appeals from decisions by the commissioner of veterans' services, pursuant to section 2 of chapter 115; and (iii) appeals from the contributory retirement appeal board, pursuant to section 16 of chapter 32. The maximum fee shall not exceed $300 for any appeal and may include a waiver for financial hardship, as determined by the division.

Summary:
This section enables the Division of Administrative Law Appeals to set a schedule of fees for appeals, except for retirement board appeals, veterans' appeals and special education appeals. The schedule may include a waiver for financial hardship, would be approved by the Secretary of Administration and Finance, and would set a limit of $300 for the appeal fees.

Section 6 - Job Order Contracting

SECTION 6. Chapter 7C of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2A. (a) As used in this section, the following words shall have the following meanings unless the context clearly indicates otherwise:-

"Job order", an agreed upon fixed-price order issued by a public agency to a contractor pursuant to a job order contract for the contractor's performance of a specific maintenance, repair, alteration or conversion project consisting solely of tasks, materials and equipment selected from those specified and priced in the job order contract.

"Job order contract", a contract for the performance of a maintenance, repair, alteration and conversion projects, or a subset thereof, that: (i) is limited to a specified term; (ii) includes specifications consisting of technical descriptions of the included various tasks, materials and equipment at stated unit prices but that do not specify the specific projects to be performed by the contractor; (iii) contains a fixed contractor's mark up over the unit prices, as described under clause (ii); and (iv) in accordance with which 1 or more specified state agencies may enter into fixed price job orders with the contractor for the performance of specific projects, consisting solely of combinations of the tasks, materials and equipment specified in the contract and at the unit prices specified in the contract plus the contractor's mark-up.

"Maintenance", day-to-day routine, normally recurring, repairs, equipment adjustments and upkeep.

"Repair", work required to restore a facility or system to a condition in which it may continue to be approximately and effectively used for its designated purpose and anticipated life or to comply with code requirements by overhaul, reprocessing or replacement of constituent parts or materials that do not meet code requirements or have deteriorated by either action of the elements or wear and tear in use.

(b) Notwithstanding any general or special law to the contrary, the commissioner may establish a program for the use of job order contracts by higher education facilities subject to the department of higher education and by the division of capital asset management and maintenance with respect to properties for which it is responsible.

(c) The commissioner may procure contracts for services related to the creation and use of job order contracts including, but not limited to, the creation of task descriptions, specifications and unit prices for use in job order contracts, and agency training and other services related to such contracts. Such procurement may be conducted in accordance with the procedures specified in applicable regulations governing the procurement of commodities or services.

(d) The commissioner may procure job order contracts for use by state agencies, consisting of the division of capital asset management and maintenance and any higher education facilities subject to the department of higher education. Contracts authorized under this section shall: (i) be limited to job orders estimated to cost not more than $1,000,000 each; (ii) have a maximum term of 2 years; and (iii) be procured through the procedures specified in section 39M of chapter 30, except that: (A) the amount of the bid deposit shall be $5,000; (B) a contractor who is awarded a job order under a job order contract shall be certified by the division for the category of work specified in the contract; and (C) the amount of surety bonds required by the contract may be satisfied with respect to each particular job order before the commencement of any work under that job order. The commissioner shall award a job order contract to the eligible and responsible bidder who offers the lowest mark-up over the base unit prices specified in the contract specifications.

(e) Not later than February 1 and July 1 of each year, the commissioner shall biannually prepare and submit a report on the job order contract program to the chairs of the joint committee on state administration and regulatory oversight. The report shall include an analysis of the cost effectiveness of job order contracting and any other public benefits resulting from job order contracts.

Summary:
This section makes permanent the job order contracting pilot program operated by the Division of Capital Asset Management and Maintenance.

Section 7 - Delegation Threshold

SECTION 7. Section 5 of said chapter 7C, as appearing in the 2018 Official Edition, is hereby amended by striking out, in lines 4 and 13, both times it appears, the figure "250,000" and inserting in place thereof the following figure:- 300,000.

Summary:
This section increases the dollar threshold from $250,000 to $300,000 for building projects that state agencies or authorities may control and supervise.

Section 8 - Cashless Lottery Payments

SECTION 8. Section 24 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out, in line 17, the word "agents" and inserting in place thereof the following words:- agents; provided, that said restriction shall not govern the transmittal of lottery information and sales for the purpose of facilitating point of sale transactions, provided, further that said restriction shall govern point of sale transactions involving credit cards as defined in section 1 of chapter 140D and that point of sale transactions under this section shall be subject to the restrictions set forth in subsection (b) of section 5I of chapter 18.

Summary:
The section permits the sale of lottery products by remote methods such as debit cards. The prohibition on the use of credit cards to buy lottery products would remain in effect.

Section 9 - Community Behavioral Health Promotion and Prevention Trust Fund

SECTION 9. Subsection (b) of section 35GGG of said chapter 10, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The fund shall be administered by the secretary of health and human services who may expend monies in the fund, without further appropriation, to support critical public health needs affecting children and young adults, or, in consultation with the community behavioral health promotion and prevention commission established in section 219 of chapter 6, may issue grants from the fund to community organizations to establish or support evidence-based and evidence-informed programs for children and young adults pursuant to subsection (c).

Summary:
This section authorizes spending from the Community Behavioral Health Promotion and Prevention Trust Fund on programs to support critical public health needs affecting children and young adults.

Section 10 - Community Hospital and Health Center Investment Trust Fund 1

SECTION 10. Chapter 12C of the General Laws is hereby amended by striking out section 23 and inserting in place thereof the following section:-

Section 23. Subject to appropriation, the center shall transfer annually $10,000,000 to the Community Hospital and Health Center Investment Trust Fund established in section 2TTTT of chapter 29, not later than June 30; provided, however, that such transfer shall not result in an increase in the assessment calculated under section 7.

Summary:
This section, along with one other, restructure and recapitalize the existing Community Hospital Reinvestment Trust Fund to target independent community hospitals and community health centers and maximize federal financial participation on payments from the fund.

Section 11 - Public Health Council Meetings

SECTION 11. Subsection (f) of section 3 of chapter 17 of the General Laws, as so appearing, is hereby amended by striking out the words "once a month" and inserting in place thereof the following words:- once every 90 days.

Summary:
This section requires the Public Health Council to meet at least once every ninety days.

Section 12 - Child Fatality Review Team Relocation 1

SECTION 12. Chapter 18C of the General Laws is hereby amended by inserting after section 14 the following section:-

Section 15. (a) As used in this section, the following words shall have the following meanings:-

"Child", a person under the age of 18.

"Fatality", any death of a child.

"Local team", a local child fatality review team established pursuant to subsection (c).

"Near fatality", an act that, as certified by a physician, places a child in serious or critical condition.

"State team", the state fatality review team established by subsection (b).

"Team", the state or a local team.

(b) There shall be a state child fatality review team within the office of the child advocate. Notwithstanding section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the child advocate. All members shall serve without compensation for their duties associated with membership on the state team.

The state team shall consist of at least the following members: the child advocate appointed under section 3 of chapter 18C or a designee, who shall co-chair the state team; the commissioner of public health or a designee, who shall co-chair the state team; the chief medical examiner or a designee; the attorney general or a designee; the commissioner of children and families or a designee; the commissioner of elementary and secondary education or a designee; a representative selected by the Massachusetts District Attorneys Association; the colonel of the state police or a designee; the commissioner of mental health or a designee; the commissioner of developmental services or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; the commissioner of youth services or a designee; the commissioner of early education and care or a designee; a representative selected by the Massachusetts chapter of the American Academy of Pediatrics who has experience in diagnosing or treating child abuse and neglect; a representative selected by the Massachusetts Hospital Association; the chief justice of the juvenile division of the trial court or a designee; the president of the Massachusetts Chiefs of Police Association Incorporated or a designee; and any other person, selected by the co-chairs or by majority vote of the members of the state team, with expertise or information relevant to an individual case.

The purpose of the state team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) developing an understanding of the causes and incidence of child fatalities and near fatalities and (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child fatalities and near fatalities.

To achieve its purpose, the state team shall: (i) develop model investigative and data collection protocols for local teams; (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children; (iii) provide training and written materials to local teams to assist them in carrying out their duties; (iv) review reports from local teams; (v) study the incidence and causes of child fatalities and near fatalities in the commonwealth; (vi) analyze community, public and private agency involvement with the children and their families prior to and subsequent to fatalities or near fatalities; (vii) develop a protocol for the collection of data regarding fatalities and near fatalities and provide training to local teams on the protocol; (viii) develop and implement rules and procedures necessary for its own operation; and (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team's findings and recommendations.

(c) There shall be a local child fatality review team in each of the eleven districts headed by a district attorney. Notwithstanding section 172 of chapter 6, members of a local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on a local team.

Each local team shall be comprised of at least the following members: the district attorney of the county, who shall chair the local team; the chief medical examiner or a designee; the commissioner of children and families or a designee; a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team; a local police officer from the municipality where a child fatality or near fatality occurred, appointed by the chief of police of that municipality; a state law enforcement officer, appointed by the colonel of state police; the chief justice of the juvenile division of the trial court or a designee; the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center, or a designee; a representative or representatives from the department of public health or the office of the child advocate; and any other person with expertise or information relevant to an individual case who may attend meetings, on an ad hoc basis, by agreement of the permanent members of each local team. Those other persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of developmental services, mental health, youth services, education and early education and care.

The purpose of each local team shall be to decrease the incidence of preventable child fatalities and near fatalities by: (i) coordinating the collection of information on fatalities and near fatalities; (ii) promoting cooperation and coordination between agencies responding to fatalities and near fatalities and in providing services to family members; (iii) developing an understanding of the causes and incidence of child fatalities and near fatalities in the county; and (iv) advising the state team on changes in law, policy or practice which may affect child fatalities and near fatalities.

To achieve its purpose, each local team shall: (i) review, establish and implement model protocols from the state team; (ii) review, subject to the approval of the local district attorney, all individual fatalities and near fatalities in accordance with the established protocol; (iii) meet periodically, but at least four times per calendar year, to review the status of fatality and near fatality cases and recommend methods of improving coordination of services between member agencies; (iv) collect, maintain and provide confidential data as required by the state team; and (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

At the request of the local district attorney, the local team shall be immediately provided with: (i) information and records relevant to the cause of the fatality or near fatality maintained by providers of medical or other care, treatment or services, including dental and mental health care; (ii) information and records relevant to the cause of the fatality or near fatality maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney; (iii) information and records of any provider of social services, including the state department of children and families, relevant to the child or the child's family, that the local team deems relevant to the review; and (iv) demographic information relevant to the child and the child's immediate family, including but not limited to, address, age, race, gender and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d) Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of chapter 111E, chapters 112, 123, or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair of the state team or a local team. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for a team's review upon the determination of that team's chair that the review of this information is necessary. The chair shall ensure that no information submitted for a team's review is disseminated to parties outside the team. Under no circumstances shall any member of a team violate the confidentiality provisions set forth in the aforementioned statutes.

Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

Team meetings shall be closed to the public. Information and records acquired by the state team or by a local team pursuant to this chapter shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out a team's duties and purposes.

Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(e) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(f) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of a team or are maintained by a team.

(g) Nothing in this section shall limit the powers and duties of the child advocate or district attorneys.

Summary:
This section, along with one other, relocates the state child fatality review team from the Office of the Chief Medical Examiner to the Office of the Child Advocate and modifies the composition of the state and local child fatality review teams.

Section 13 - Long Term Care Ombudsman Office 2

SECTION 13. Sections 27 to 35, inclusive, of chapter 19A of the General Laws are hereby repealed.

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 14 - Long Term Care Ombudsman Office 3

SECTION 14. Section 4 of chapter 19D of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words ", including expansion of the ombudsman program provided for by section seven".

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 15 - Long Term Care Ombudsman Office 4

SECTION 15. Section 7 of said chapter 19D is hereby repealed.

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 16 - Long Term Care Ombudsman Office 5

SECTION 16. Section 9 of said chapter 19D of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out, in line 31, the words "section seven hereof" and inserting in place thereof the following words:- section 16CC of chapter 6A.

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 17 - Long Term Care Ombudsman Office 6

SECTION 17. Said section 9 of said chapter 19D, as so appearing, is hereby further amended by inserting after the words "numbers of the", in line 55, the following words:- statewide long term care.

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 18 - Long Term Care Ombudsman Office 7

SECTION 18. Said section 9 of said chapter 19D, as so appearing, is hereby further amended by inserting after the word "office", in line 56, the following words:- established under section 16CC of chapter 6A.

Summary:
This section, along with six others, removes the Long Term Care Ombudsman Program from the Executive Office of Elder Affairs and establishes a Long Term Care Ombudsman Office within the Executive Office of Health and Human Services.

Section 19 - Gaming Revenue

SECTION 19. Clause (2) of section 59 of chapter 23K of the General Laws, as amended by section 3 of chapter 142 of the acts of 2019, is hereby amended by striking out subclause (j) and inserting in place thereof the following subclause:-

(j) 15 per cent to the Commonwealth Transportation Fund established pursuant to section 2ZZZ of chapter 29;.

Summary:
This section alters the current statutory framework for Category 1 gaming revenue in order to dedicate 15% of Category 1 gaming revenue to the Commonwealth Transportation Fund instead of the Transportation Infrastructure and Development Fund.

Section 20 - Community Hospital and Health Center Investment Trust Fund 2

SECTION 20. Chapter 29 of the General Laws is hereby amending by striking out section 2TTTT and inserting in place thereof the following section:-

Section 2TTTT. (a) There shall be a Community Hospital and Health Center Investment Trust Fund to be expended, without further appropriation, by the secretary of health and human services. The fund shall consist of money from public and private sources, including gifts, grants and donations, interest earned on such money, any other money authorized by the general court and specifically designated to be credited to the fund and any funds provided from other sources. Money in the fund shall be used to provide annual financial support in an amount not to exceed $25,000,000 per fiscal year, consistent with the terms of this section, to eligible acute care hospitals and community health centers. The secretary, as trustee, shall administer the fund and shall make expenditures from the fund consistent with this section.

(b) The secretary may incur expenses and the comptroller may certify amounts for payment in anticipation of expected receipts; provided, however, that, subject to subsection (e), no expenditure shall be made from the fund which shall cause the fund to be deficient at the close of a fiscal year. Subject to subsection (i), revenues deposited in the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the following fiscal year.

(c) The secretary shall periodically direct payments from the fund to eligible acute care hospitals and community health centers. To be eligible to receive payment from the fund, an acute care hospital (1) shall be licensed under section 51 of chapter 111; (2) shall not be or be corporately affiliated with an academic medical center, teaching hospital or specialty hospital; and (3) shall not be a hospital with relative prices that are at or above 90 per cent of the statewide average relative price, as determined by the center for health information analysis. To be eligible to receive payment from the fund, a community health center must be certified as a community health center by the MassHealth program under 101 CMR 405.000 or any successor regulation.

(d) In directing payments in a given fiscal year, the secretary shall allocate payments to eligible acute care hospitals and community health centers in the following manner: (1) 50 per cent of payments shall be directed to eligible acute care hospitals in form of Medicaid supplemental payments or other appropriate mechanism; and (2) 50 per cent of payments shall be directed to community health centers in the following manner and allocation: 25 per cent of the total community health center allocation shall be directed to community health centers in the form of grants, and 75 per cent of the total community health center allocation shall be directed to community health centers in the form of enhanced Medicaid payments. The secretary shall establish by regulation or other appropriate written issuance any further eligibility criteria for allocation of payments pursuant to this subsection.

(e) The secretary may require as a condition of receiving payment from the fund any such reasonable condition of payment that the secretary determines necessary to ensure the availability, to the extent possible, of federal financial participation for the payments, and the secretary may incur expenses and the comptroller may certify amounts for payment in anticipation of expected receipt of federal financial participation for the payments. Subject to appropriation, an amount equal to the total annual anticipated

federal financial participation generated by the payments shall be transferred to the Community Hospital and Health Center Investment Trust Fund not later than June 30.

(f) The executive office of health and human services may promulgate regulations as necessary to carry out this section.

(g) Not later than October 15 of each fiscal year, the secretary shall file a report with the joint committee on health care finance and the house and senate committees on ways and means detailing the allocation and recipient of each payment during the prior fiscal year, including any payments made under subsection (i).

(h) An amount equal to the total receipts from the penalty established under chapter 63D shall be transferred from the General Fund to the Community Hospital and Health Center Investment Trust Fund before the end of each fiscal year.

(i) In the event that the total amount the in the fund in a given fiscal year is sufficient to provide the maximum amount of annual financial support specified in subsection (a) to eligible acute care hospitals and community health centers, any remaining revenues deposited in the fund under subsection (h) shall revert to the general fund to support increased investments in primary care and behavioral health in a manner that maximizes federal financial participation.

Summary:
This section, along with one other, restructure and recapitalize the existing Community Hospital Reinvestment Trust Fund to target independent community hospitals and community health centers and maximize federal financial participation on payments from the fund.

Section 21 - Sick Leave Buy Back 1

SECTION 21. Section 31A of chapter 29 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following 2 subsections:-

(e) No employee of the commonwealth shall accrue more than 1,000 hours of unused sick leave credits.

(f) No employee of a public institution of higher education listed in section 5 of chapter 15A shall accrue more than 1,000 hours of unused sick leave credits.

Summary:
This section, along with three others, limits the accrual of unused sick time to 1,000 hours for executive branch and public higher education employees. It also freezes the accrual of sick time for any employee who has already accrued more than 1,000 hours.

Section 22 - Maintenance Service Contracts 1

SECTION 22. The fourth paragraph of subsection (a) of section 39M of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in line 64, the words “, maintenance”.

Summary:
This section, along with four others, make maintenance service contracts subject to the requirements of Chapter 30, which governs the purchasing of goods, supplies, and services.

Section 23 - Maintenance Service Contracts 2

SECTION 23. Section 51 of said chapter 30, as so appearing, is hereby amended by inserting, in line 1, after the word “services”, the following words:- which shall include maintenance services to a facility or system and replacement of equipment within existing systems as part of a periodic maintenance contract,.

Summary:
This section, along with four others, make maintenance service contracts subject to the requirements of Chapter 30, which governs the purchasing of goods, supplies, and services.

Section 24 - Maintenance Service Contracts 3

SECTION 24. Section 52 of said chapter 30, as so appearing, is hereby amended by inserting, in line 1, after the word “services”, the following words:- which shall include maintenance services to a facility or system and replacement of equipment within existing systems as part of a periodic maintenance contract,.

Summary:
This section, along with four others, make maintenance service contracts subject to the requirements of Chapter 30, which governs the purchasing of goods, supplies, and services.

Section 25 - Regulatory Modernization 1

SECTION 25. Chapter 30A of the General Laws is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Section 1. In this chapter, the following words and phrases shall have the following meaning, unless the context requires otherwise:-

"Adjudicatory proceeding", a proceeding before an agency in which the legal rights, duties or privileges of specifically named persons are required by constitutional right or by any provision of the General Laws to be determined after opportunity for an agency hearing. Without enlarging the scope of this definition, adjudicatory proceeding does not include (a) proceedings solely to determine whether the agency shall institute or recommend institution of proceedings in a court; or (b) proceedings for the arbitration of labor disputes voluntarily submitted by the parties to such disputes; or (c) proceedings for the disposition of grievances of employees of the commonwealth; or (d) proceedings to classify or reclassify, or to allocate or reallocate, appointive offices and positions in the government of the commonwealth; or (e) proceedings to determine the equalized valuations of the several cities and towns; or (f) proceedings for the determination of wages under section 26T of chapter 121.

"Agency" or "state agency", as defined in section 1 of chapter 29; provided that "state agency" or "agency" shall not include the legislative and judicial departments; the governor and council; military or naval boards, commissions or officials; the department of correction; the department of youth services; the parole board; the division of dispute resolution of the division of industrial accidents; the personnel administrator; the civil service commission; and the appellate tax board.

"Executive office", those offices enumerated in section 2 of chapter 6A.

"Interpretive rules", rules or statements issued by an agency to advise the public of the agency's construction of the statutes and regulations which it administers.

"Last known address", the most recent postal address or electronic mail address provided by a person or group.

"Party" to an adjudicatory proceeding means: (a) the specifically named persons whose legal rights, duties or privileges are being determined in the proceeding; and (b) any other person who as a matter of constitutional right or by any provision of the General Laws is entitled to participate fully in the proceeding, and who upon notice as required in paragraph (1) of section 11 makes an appearance; and (c) any other person allowed by the agency to intervene as a party. Agencies may by regulation not inconsistent with this section further define the classes of persons who may become parties.

"Person" includes all political subdivisions of the commonwealth.

"Proposed regulation", a proposal by an agency to adopt, amend or repeal an existing regulation.

"Regulation" includes the whole or any part of every rule, regulation, standard or other requirement of general application and future effect, including the amendment or repeal thereof, adopted by an agency to implement or interpret the law enforced or administered by it, but does not include: (a) advisory rulings issued under section 8; or (b) regulations concerning only the internal management or discipline of the adopting agency or any other agency, and not substantially affecting the rights of or the procedures available to the public or that portion of the public affected by the agency's activities; or (c) interpretive rules; or (d) regulations relating to the use of the public works, including streets and highways, when the substance of such regulations is indicated to the public by means of signs or signals; or (e) decisions issued in adjudicatory proceedings.

"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.

"Substantial evidence", such evidence as a reasonable mind might accept as adequate to support a conclusion.

Summary:
This section, along with seven others, makes updates to the State Administrative Procedure Act (APA), including making the Massachusetts Register available to the public online.

Section 26 - Regulatory Modernization 2

SECTION 26. Section 2 of said chapter 30A, as appearing in the 2018 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following 2 paragraphs:-

Prior to the adoption, amendment or repeal of any regulation as to which a public hearing is required, an agency shall hold a public hearing. Within the time specified by any law, or, if no time is specified, then at least 14 days prior to the date of the public hearing, the agency shall give notice of such hearing by (a) publishing notice of such hearing in such manner as is specified by any law, or, if no manner is specified, then on the website of the agency or executive office and in newspapers, and, where appropriate, in such trade, industry or professional publications as the agency may select; (b) notifying any person to whom specific notice must be given, such notice to be given by delivering or mailing a

copy of the notice to the last known address of the person required to be notified; (c) notifying any person or group filing a written request for notice of agency rule making hearings, such request to be renewed annually in December, such notice to be given by delivering or mailing a copy of the notice to the last known address of the person or group required to be notified; and (d) filing a copy of such notice with the state secretary.

The notice shall refer to the statutory authority under which the action is proposed; give the time and place of the public hearing; either state the express terms or describe the substance of the proposed regulation; where an existing regulation is being amended, provide a copy of the amended regulation which makes clear the changes being proposed and include any additional matter required by any law.

Summary:
This section authorizes electronic publication of a notice of public hearing and requires the publication of a redline where a regulation is being amended.

Section 27 - Regulatory Modernization 3

SECTION 27. Said section 2 of said chapter 30A, as so appearing, is hereby further amended by striking out the fifth and sixth paragraphs and inserting in place thereof the following 2 paragraphs:-

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;

(5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

(6) an analysis of whether the proposed regulation is likely to require small businesses to hire additional employees in order to comply; and

(7) audits, inspections or other regulatory enforcement activities with which the small business will have to comply.

The public hearing shall comply with any requirements imposed by law, but shall not be subject to the provisions of this chapter governing adjudicatory proceedings. The agency shall make available on its website all written comments received by the agency regarding the proposed regulation, or a summary thereof.

Summary:
This section requires additional information to be included in the small business impact statement and requires the electronic publication of comments received.

Section 28 - Regulatory Modernization 4

SECTION 28. Said section 2 of said chapter 30A, as so appearing, is hereby further amended by adding the following paragraph:-

Interpretive rules shall not be subject to the requirements of this section.

Summary:
This section provides that interpretive rules shall not be subject to the requirements of section 2 of the State Administrative Procedure Act (APA).

Section 29 - Regulatory Modernization 5

SECTION 29. Section 3 of said chapter 30A, as so appearing, is hereby amended by striking out the second through sixth paragraphs, inclusive, and inserting in place thereof the following 5 paragraphs:-

The agency shall, within the time specified by law, or, if no time is specified, then at least 14 days prior to its proposed action: (a) publish notice of its proposed action in such manner as is specified by any law, or, if no manner is specified, then on the website of the agency or executive office and in newspapers, and, where appropriate, in such trade, industry or professional publications as the agency may select; (b) notify any person to whom specific notice must be given, such notice to be given by delivering or mailing a copy of the notice to the last known address of the person required to be notified; (c) notify any person or group filing written request for notice of agency rule making proceedings, such request to be renewed annually in December, such notice to be given by delivering or mailing a copy of the notice to the last known address of the person or groups required to be notified; and (d) file a copy of such notice with the state secretary.

The notice shall refer to the statutory authority under which the action is proposed; give the time and place of any public hearing or state the anticipated time of agency action; state the manner in which data, views, or arguments may be submitted to the agency by any interested person; either state the express terms or describe the substance of the proposed action; where an existing regulation is being amended, provide a copy of the amended regulation which makes clear the changes being proposed and include any additional matter required by any law.

A small business impact statement shall be filed with the state secretary on the same day the notice is filed and shall accompany the notice.

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;

(5) an analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the commonwealth;

(6) an analysis of whether the proposed regulation is likely to require small businesses to hire additional employees in order to comply; and

(7) audits, inspections or other regulatory enforcement activities with which the small business will have to comply.

The agency shall afford interested persons an opportunity to present data, views or arguments in regard to the proposed action orally or in writing. If the agency finds that oral presentation is unnecessary or impracticable, it may require that presentation be made in writing. The agency shall make available on its website all written comments received by the agency regarding the proposed regulation, or a summary thereof.

Summary:
This section authorizes electronic publication of a notice of public hearing and requires the publication of a redline where a regulation is being amended. This section also requires additional information to be included in the small business impact statement and requires the electronic publication of comments received.

Section 30 - Regulatory Modernization 6

SECTION 30. Said section 3 of said chapter 30A, as so appearing, is hereby further amended by adding the following paragraph:-

Interpretive rules shall not be subject to the requirements of this section.

Summary:
This section provides that interpretive rules shall not be subject to the requirements of section 3 of the State Administrative Procedure Act (APA).

Section 31 - Regulatory Modernization 7

SECTION 31. Section 4 of said chapter 30A, as so appearing, is hereby amended by inserting, in line 4, after the word "agency", the following words:- , or where an agency is within an executive office, the executive office,.

Summary:
This section clarifies that an interested person may petition an Executive Office for action on regulations.

Section 32 - Regulatory Modernization 8

SECTION 32. Chapter 30A of the General Laws is hereby amended by striking out sections 6 through 6B, inclusive, and inserting in place thereof the following 3 sections:-

Section 6. Documents required or authorized to be published by this section shall be published by the state secretary in a publication entitled the "Massachusetts Register". The Massachusetts Register shall be published on the website of the office of the state secretary where it shall be available to the public at no cost. The state secretary may also contract and arrange, subject to all pertinent statutes,

for the biweekly printing and distribution of the Massachusetts Register. The prices to be charged for the printed version of the Massachusetts Register may be set without reference to the statutory charges for public documents fixed by chapter 262.

There shall be published in the Massachusetts Register the following documents: (1) executive orders, except those not having general applicability and legal effect or effective only against state agencies or persons in their capacity as officers, agents or employees thereof; (2) all regulations filed in accordance with section 5; (3) all notices filed in accordance with sections 2 and 3, except that the secretary may summarize the content of any notice filed; provided, however, that the state secretary indicate that the full text of the notice may be inspected and copied in the office of the state secretary during business hours; and (4) any other item or portion thereof which the state secretary deems to be of sufficient public interest.

The Massachusetts Register shall begin with a table of contents listing the documents contained therein which shall include a brief summary for each document identifying the purpose of any proposed regulations and whether small business is likely to be substantially affected by said regulations.

Each biweekly issue shall contain all documents required or authorized to be published, filed with the state secretary up to the day fixed by the secretary as the deadline for that issue.

Regulations other than emergency regulations, which are adopted under sections 2 or 3, shall become effective only when published online in accordance with this section, or, in the case of any regulation as to which a later effective date is required by any law, or is specified in such regulation by the agency adopting the same, upon such later date or upon such publication, whichever last occurs. Emergency regulations shall become effective when filed with the state secretary, or at such later time as may be required by law or be specified therein, and shall remain in effect no longer than 3 months following filing except as provided in sections 2 and 3.

The state secretary shall make available upon request of any person or group the biweekly issues of the Massachusetts Register and shall transmit, without charge, a copy of each issue thereof to (1) the clerk of the house of representatives; (2) the clerk of the senate; (3) the house counsel and senate counsel; and (4) the state librarian; provided, however, that providing electronic access to the Massachusetts Register shall satisfy these requirements.

The online publication in the Massachusetts Register of a document creates a rebuttable presumption (1) that it was duly issued, prescribed or promulgated; (2) that all the requirements of this chapter and regulations prescribed under it relative to the document have been complied with; and (3) that the text of the regulations as published online in the Massachusetts Register is a true copy of the attested regulation as filed by the agency.

For the purpose of this section and section 6A the word "regulation" shall not include any regulation whose principal purpose and effect is to prescribe or approve rates chargeable for goods, services, or other things by specifically named persons and shall not include any portion of an existing publication which has been adopted as and incorporated by reference in a regulation of any agency, and which the state secretary determines is unnecessary to republish by reason of its already being reasonably available to that portion of the public affected by said agency's activities.

The contents of the Massachusetts Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number.

Section 6A. The state secretary shall cause to be published all currently effective agency regulations in a special publication of the Massachusetts Register on the website of the office of the state secretary, to be designated as the "Code of Massachusetts Regulations".

The Code of Massachusetts Regulations shall be updated by the state secretary on a biweekly basis.

Section 6B. Each agency shall include on its website links to (a) the agency's current regulations within the Code of Massachusetts Regulations, as published on the website of the state secretary, and (b) a list of any proposed regulations with the time and place of any public hearing or the anticipated time of agency action; the manner in which data, views or arguments may be submitted to the agency by any interested person; the substance of the proposed action; and where an existing regulation is being amended, a copy of the amended regulation which makes clear the changes being proposed.

Summary:
This section requires online publication of the Massachusetts Register and the Code of Massachusetts Regulations, while authorizing hard copy publication of those documents.

Section 33 - Pension Transfer Schedule

SECTION 33. Subdivision (1) of section 22C of chapter 32 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

Notwithstanding any general or special law to the contrary, appropriations or transfers made to the Commonwealth's Pension Liability Fund in fiscal years 2021 to 2023, inclusive, shall be made in accordance with the following funding schedule: $3,115,163,858 in fiscal year 2021, $3,415,154,137 in fiscal year 2022 and $3,744,033,480 in fiscal year 2023. Notwithstanding any provision of this subdivision to the contrary, any adjustments to these amounts shall be limited to increases in the schedule amounts for each of the specified years.

Summary:
This section replaces the now-obsolete pension funding schedule that has been in place between fiscal years 2018 and 2020 with a new schedule for fiscal years 2021 through 2023.

Section 34 - Child Fatality Review Team Relocation 2

SECTION 34. Section 2A of chapter 38 of the General Laws is hereby repealed.

Summary:
This section, along with one other, relocates the state child fatality review team from the Office of the Chief Medical Examiner to the Office of the Child Advocate and modifies the composition of the state and local child fatality review teams.

Section 35 - Charitable Deduction Delay

SECTION 35. Subparagraph (13) of paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting, in line 144, after the words “per cent;” the following words:- provided further that no such deduction shall be allowed for the taxable year beginning January 1, 2021;.

Summary:
This section delays the charitable tax deduction currently scheduled to be in effect for the tax year beginning on January 1, 2021 for 1 year.

Section 36 - Disability Employment Tax Credit 1

SECTION 36. Section 6 of chapter 62 of the General Laws, as so appearing, is hereby further amended by adding the following subsection:-

(w)(1) An employer that is not a business corporation subject to the excise under chapter 63, shall be allowed a credit equal to $2,000 or 30 per cent of the wages paid to each qualified employee with a disability in a taxable year, whichever is less, against the tax liability imposed by this chapter. If a credit allowed by this subsection exceeds the tax otherwise due under this chapter, 100 per cent of the balance of such credit may, at the option of the taxpayer, be refundable to the taxpayer. In order to qualify, the employee with a disability must be certified by the Massachusetts rehabilitation commission as meeting the definition of disability in the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.; capable of working independently; physically or mentally impaired in a manner that constitutes or results in a substantial impediment to employment for the individual; and hired by the employer after July 1, 2021.

(2) To be eligible for a credit under this subsection: (a) the primary place of employment and the primary place of residence of the employee must be in the commonwealth, (b) the business shall receive the applicable certification from the Massachusetts rehabilitation commission that the employee qualifies not later than the day the employee begins work; provided, reasonable exceptions to this timeframe may be established through regulation, and (c) the employee must have been employed by the business for a period of at least 18 consecutive months prior to and in the taxable year in which the credit is claimed.

(3) An employer that is eligible for and claims the credit allowed under this subsection in a taxable year with respect to a qualified employee with a disability shall be eligible for a credit of up to $2,000 in the subsequent taxable year with respect to such qualified employee. Any credit allowed under this subsection shall not be transferable.

(4) The secretary of health and human services, in consultation with the commissioner, shall promulgate regulations establishing an application process for the credit.

(5) The credit under this subsection shall be attributed on a pro rata basis to the owners, partners or members of the legal entity entitled to the credit under this subsection, and shall be allowed as a credit against the tax due under this chapter of such owners, partners or members, in a manner determined by the commissioner.

Summary:
This section, along with two others, establishes a tax credit for businesses that employ an individual with a disability for a minimum of eighteen consecutive months.

Section 37 - Sales Tax Modernization 1

SECTION 37. Section 16 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the word "twenty", in lines 74 and 89, and inserting in place thereof, each time it appears, the following figure:- 30.

Summary:
This section allows the Department of Revenue to require that vendors file returns for the sales and use tax, the local option meals excise, and the room occupancy tax within 30 days after the relevant filing period.

Section 38 - Sales Tax Modernization 2

SECTION 38. Said chapter 62C is hereby amended by inserting after section 16A the following section:-

Section 16B. With respect to returns required to be filed under subsections (g) and (h) of section 16, the commissioner, notwithstanding the due date of the return or payment date as set forth in said section 16, or any other provision of law, may promulgate regulations requiring a preliminary remittance of tax collected on account of each tax period prior to the due date of the applicable return, provided that such regulations shall apply only to operators whose cumulative liability in the previous 12 month period with respect to returns filed under said subsection (g) is more than $150,000, and to vendors whose cumulative liability in the previous 12 month period with respect to returns filed under said subsection (h) is more than $150,000.

The commissioner may by regulation provide the manner and conditions under which such preliminary remittances shall be made, including the determination of the groups of vendors from whom preliminary remittances are required.

If any person required by this section or by regulation of the commissioner to make such a preliminary remittance fails to make such payment on or before the date prescribed therefor, there shall be imposed upon such person a penalty of 5 per cent of the amount of the underpayment, unless it is shown that such failure is due to reasonable cause and not to willful neglect. For purposes of this paragraph, the term "underpayment" means the excess of the amount of the preliminary remittance required to be so made over the amount, if any, paid on or before the date prescribed therefor.

Summary:
This section permits the Commissioner of Revenue to require vendors to remit an initial payment of the sales and use tax, the local option meals excise, and room occupancy tax, but exempts vendors who collected $150,000 or less of those taxes in the previous year from such a requirement.

Section 39 - Sales Tax Modernization 3

SECTION 39. Said chapter 62C is hereby further amended by inserting after section 16B the following section:-

Section 16C. (a) As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:-

"Third party payment processor", any person engaged in the business of remitting payments to vendors or operators under chapters 64G, 64H, 64I, 64L or 64N, in association with credit card, debit card or similar payment arrangements that compensate the vendor or operator in transactions subject to the excise under said chapters.

"Vendor or operator", a business that is obliged to file a return under section 16; provided that businesses with gross sales below a certain threshold, to be set by the commissioner in regulation,

shall not be a "vendor or operator" if the business notifies a third party payment processor in writing that it is exempt from the provisions of this section.

(b) Any vendor or operator shall, in connection with seeking payments from or through a third party payment processor, separately identify tax amounts charged in association with the excise under chapters 64G, 64H, 64I, 64L or 64N and non-tax amounts for which payment is sought. Such separate identification shall be conducted in a manner approved by the commissioner, taking into account established industry practices to the extent practicable.

(c) A third party payment processor receiving a request for payment from a vendor or operator shall directly pay the identified tax portion of such request to the commissioner on a daily basis, at substantially the same time that any non-tax balance is paid to the vendor or operator.

(d) A third party payment processor shall report total payments made to the commissioner on a monthly return, in a manner provided by the commissioner, which return shall identify each vendor or operator to whom payments were made during the month and the amount of tax paid to the commissioner during the month in association with transactions with each such vendor or operator during that period.

(e) A third party payment processor shall report to each vendor or operator on a monthly basis, in a manner provided by the commissioner, the total tax remitted to the commissioner with respect to transactions of the particular vendor or operator during the monthly period.

(f) Tax amounts paid to the commissioner by a third party payment processor in association with the processing of transactions of a particular vendor or operator during the month shall be available as a credit to the vendor or operator in the filing of returns showing tax due under chapters 64G, 64H, 64I, 64L or 64N, as applicable.

Summary:
This section requires third party processors (predominantly credit card companies) to remit to the Commonwealth, on a daily basis, the portion of a sale that is attributable to sales tax, with an effective date of July 1, 2024. There would be no change to the current schedule for reporting and remitting the sales tax for cash sales.

Section 40 - Partnership Audits

SECTION 40. Said chapter 62C, as so appearing, is hereby further amended by inserting after section 30A the following section:-

Section 30B (a) Definitions. As used in this section the following terms shall have the following meaning.

“Administrative adjustment”, an administrative adjustment under Code section 6227.

“Approved modification,” a federal modification to an audited partnership’s imputed underpayment, pursuant to Code section 6225(c).

“Audited partnership”, a partnership audited at the partnership level where the result is a federal adjustment.

“Code”, the Internal Revenue Code, as defined and as applicable under chapter 62 or chapter 63.

“Commissioner”, the commissioner of revenue.

“Direct partner”, a partner that holds an interest directly in a partnership or pass-through entity.

“Distributive share,” or “distributive share of the final federal adjustment”, the distributive share of the final federal adjustment attributable to a partner of the partnership that is subject to the partnership-level audit.

“Federal adjustment”, a change to an item or amount determined under the Code that is used by an audited partnership or one or more of its partners to compute amounts owed under chapter 62 or chapter 63, whether resulting from action by the United States Internal Revenue Service or from the filing of an amended federal return or other report, or from a federal refund claim, or from an administrative adjustment request by such partners. A federal adjustment is positive to the extent that it increases state taxable income as determined under chapter 62 or chapter 63 and is negative to the extent that it decreases state taxable income as determined under said chapters.

“Federal adjustments report”, a form or other submission required by the commissioner from an audited partnership to report (1) a final federal adjustment with respect to a partnership-level audit, and (2) the distributive share of the final federal adjustment attributable to each partner.

“Final determination date”, (a) if the federal adjustment results from a federal refund claim or an administrative adjustment, or if the federal adjustment has been reported on an amended federal return or other report pursuant to Code section 6225(c), the final determination date means the day on which (i) the administrative adjustment was made, (ii) the amended return or refund claim was filed, or (iii) such other report was filed or finalized; (b) if the federal adjustment results from an audit or other action by the federal government, the final determination date is the first day on which no federal adjustment arising from that audit or other action remains to be finally determined, whether by (i) a decision by the federal government with respect to which all rights of appeal have been waived or exhausted, (ii) agreement, or, (iii) in the event of an appeal or other contest, by a final decision with respect to which all rights of appeal have been waived or exhausted. In some instances, a single partnership-level audit may result in a final determination under both (a) and (b), in which case the defined term refers to the final determination date under (b), unless the context specifically requires otherwise.

“Final federal adjustment”, a federal adjustment as of the final determination date for that adjustment.

“Imputed underpayment”, the amount determined under the notice of proposed partnership adjustment under Code Section 6231 that would be owed by the partnership as the result of a partnership-level audit.

“Indirect partner”, a partner in a partnership or pass-through entity that itself holds an interest directly, or through another indirect partner, in a partnership or pass-through entity.

“Partner”, a person that holds an interest directly or indirectly in a partnership or other pass-through entity.

“Non-resident partner”, a partner that is an individual, trust or estate that is not a resident partner.

“Partnership”, a partnership as defined in section 1 of chapter 62.

“Partnership-level audit”, an examination by the federal government at the partnership level pursuant to Code sections 6221 – 6242 that results in one or more federal adjustments.

“Pass-through entity”, an entity whose income, gains, losses, deductions or credits pass through to its partners for Massachusetts tax purposes, including a partnership, an S corporation, or certain trusts.

“Resident partner”, a partner that is an individual, trust or estate and that is also a resident within the meaning of section 1 of chapter 62.

“Reviewed year”, the taxable year of a partnership that is subject to a partnership-level audit resulting in one or more federal adjustments.

“Tiered partnership”, a partner that is a partnership or pass-through entity.

(b) (1) Partnership Notifications and Filings. No later than 90 days after the final determination date, an audited partnership must (a) notify the commissioner of the final determination date with respect to a partnership-level audit; (b) file a federal adjustments report with the commissioner; and (c) notify each of its direct partners of their distributive share of the final federal adjustment. The federal adjustments report must (i) identify each partner during the reviewed year, (ii) specify each item addressed by, and amount included in, the final federal adjustment, (iii) explain how the final federal adjustment must be modified for state tax purposes to reflect relevant differences between federal and state law, and (iv) provide other information related to such final determination or modification as the commissioner may require. If the audited partnership has received an approved modification, the audited partnership must notify the commissioner of this approval no later than 90 days after the date of such approval. Any audited partnership that fails to meet the filing requirements stated in this subsection (b) is subject to the non-filer penalties as set forth in chapter 62C. The statute of limitations for assessing a partner or an audited partnership pursuant to this section shall be tolled in any instance in which the audited partnership has not provided the commissioner with the notice and filing required by this subsection.

(2) Assessment of Tax. If from the federal adjustments report, or upon verification or investigation of the report or otherwise, it shall appear that any tax due under chapter 62 or chapter 63 has not been fully assessed to a partner of an audited partnership, or the tax is not otherwise accounted for under subsections (c)-(e) of this section, the commissioner shall assess such partner an additional tax in an amount equal to the unpaid tax, with interest and penalties as provided in chapters 62, 62C, and 63. Such assessment may be made at any time after the expiration of 180 days from the final determination date, without regard to the time limitations of section 26. Such assessment shall be made in the same manner as an assessment under section 30, as may be further clarified or modified by the commissioner by regulation, except that the time limitations of said section shall not apply.

(c) Composite Returns; Partnership Withholding. An audited partnership that originally reported or paid tax on behalf of some or all of its partners, by means of a composite return or through pass-through entity withholding, must amend its return or report, as the case may be, in the form and manner required by the commissioner to account for the distributive share of the final federal adjustment attributable to those partners and pay any additional tax, including applicable interest and penalties, attributable to such partners, no later than 90 days after the final determination date. An audited partnership that fails to meet these requirements shall be jointly and severally liable for the taxes due in connection with such return or report.

(d) Partner Payments. A partner of an audited partnership must report and pay tax due under chapter 62 or chapter 63 with respect to adjustments resulting from a partnership-level audit that the partner reports federally on either an amended federal income tax return or otherwise, including through a return or report filed pursuant to the Code section 6225(c)(2), without including adjustments required to be reported for federal purposes pursuant to Code section 6225(a)(2), no later than 180 days after the final determination date that relates to the adjustment as reported on such return or other report. The requirement to make such report and payment shall be treated as being in response to a federal change within the meaning of section 30 of chapter 62C and will be subject to interest and penalties thereunder. If the final determination date was prior to the effective date of this section, the time for reporting shall be extended to 180 days after such effective date

(e) Partnership Election. (1) An audited partnership may make an election to pay the taxes due from its partners under chapter 62 or chapter 63 when such taxes are not otherwise accounted for under subsections (c) or (d) no later than 90 days after the final determination date. An audited partnership making this election must make such payment no later than 180 days after the final determination date. The tax payment with respect to the distributive shares attributable to the audited partnership’s direct

and tiered partners shall be determined as set forth in subparagraphs (A) through (C), inclusive, of paragraph (1) of subsection (e). This election does not apply to the distributive share attributable to a corporate partner that participated in a combined report under section 32B of chapter 63 for the reviewed year. Such distributive share is not to be included in the computation set forth in subparagraphs (A) through (C), inclusive, of paragraph (1) of this subsection (e), and in such instances the corporate partner must directly account for its taxes owed.

(A) For the distributive shares attributable to direct partners that are not tiered partnerships, the tax payment shall be determined as follows:

(i) exclude from the total distributive share attributable to direct partners the distributive share reported or attributable to each such partner that is not subject to Massachusetts income tax;

(ii) where one or more partners is subject to income tax under chapter 63, including under section 38Y of chapter 63, allocate or apportion such partner's distributive share, as provided under chapter 63 with respect to each such partner, using the allocation or apportionment method applicable to such partner, and multiply the resulting amount by the applicable rate of tax set forth in chapter 63;

(iii) where one or more partners is a Massachusetts resident subject to tax under chapter 62, determine the amount of each such partner's distributive share subject to tax under chapter 62, and multiply the resulting amount by the rate of tax set forth in chapter 62 that is applicable to each item of income; and

(iv) where one or more partners is a nonresident subject to tax under section 5A or 10 of chapter 62, determine the amount of each such partner's distributive share required to be sourced to Massachusetts and subject to tax under section 5A or 10, and multiply the resulting amount by the rate of tax set forth in chapter 62 that is applicable to each item of income.

(B) For the distributive shares attributable to indirect partners, the tax payment shall be determined as follows:

(i) treat all such indirect partners' distributive shares as if attributable to resident direct partners, and determine the tax using the method set forth in clause (iii) of subparagraph (A) except to the extent that certain shares are subject to the calculations set forth in subsection clause (ii) of this subparagraph;

(ii) to the extent that the audited partnership or the commissioner can clearly demonstrate that an indirect partner is subject to income tax under chapter 63, including under section 38Y of chapter 63, calculate the tax owed on such partner's distributive share using the methods set forth in clause (ii) of subparagraph (A);

(iii) to the extent that the audited partnership can clearly demonstrate that an indirect partner is subject to tax under section 5A or section 10 of chapter 62, determine the amount of such partner's distributive share required to be sourced to Massachusetts under section 5A or 10, and calculate the tax owed on such share using the method set forth in clause (iv) of subparagraph (A); and

(iv) to the extent that the audited partnership can clearly demonstrate that an indirect partner is not subject to Massachusetts income tax, exclude from the calculation the distributive share attributable to such partner.

(C) Add the amounts determined in clauses (ii) through (iv), inclusive, of subparagraph (A) and subparagraph (B), and the interest and penalties attributable to the respective partners as determined under chapters 62, 62C and 63 to determine the amount to be paid by the audited partnership on behalf of such partners.

(2) A partnership that makes an election under this subsection (e) that is not otherwise subject to Massachusetts law must consent to be subject to the laws of the commonwealth. A partnership that makes this election is subject to the responsible persons provisions of section 31A of this chapter as if it were an individual.

(3) The election made pursuant to this subsection (e) is irrevocable, unless the commissioner consents to a partnership's request to revoke the election, or unless the commissioner determines that the election was made to avoid the imposition of the proper amount of tax.

(4) If properly reported and paid, the amount determined under this subsection (e) with respect to an audited partnership will be treated as paid on behalf of the partners of the partnership. Such partners may not take any deduction or credit for this amount or based on this amount or claim a refund of this amount. Nothing in this chapter shall preclude a resident partner from claiming a credit against taxes paid to another jurisdiction under subsection (a) of section 6 of chapter 62 for any amount paid by the partnership on the resident partner's behalf to another jurisdiction.

(5) The rules stated in this subsection (e) may be further clarified by the commissioner by regulation.

(f) The direct and indirect partners of an audited partnership that are tiered partnerships, and all of the partners of such tiered partnerships that are subject to tax under chapter 62 or chapter 63, are subject to the reporting and payment requirements of subsections (b), (c), and (d). The indirect partners and their partners must make required reports and payments no later than 90 days after the time for filing and furnishing statements to the indirect partners and their partners consistent with the provisions of Code section 6226 and the rules promulgated or issued thereunder. Where an audited partnership has not made the election under subsection (e), its partners that are tiered partnerships are entitled to make such election, and to pay an amount on behalf of such partners, consistent with such subsection.

(g) An audited partnership, and a partner of such partnership that makes an election pursuant to subsection (e), is a taxpayer for purposes of chapters 62, 62C, and 63, as relevant, with respect to the duties and obligations imposed by, and any rights resulting from, those chapters and this section.

(h) The commissioner may, in his or her discretion, enter into an agreement with an audited partnership, or a tiered partnership, to use an alternative reporting and payment method.

(i) In the event that an audited partnership fails to timely make any payment or file any report required by this section or underpays any taxes due, the commissioner may assess one or more partners for taxes they owe under chapter 62 or chapter 63, including interest and penalties, according to the commissioner's best information and belief.

(j) Nothing in this section shall limit the ability of the commissioner to audit or assess direct partners, indirect partners, or tiered partnerships with respect to items derived from an audited partnership or the ability of the commissioner to inspect books and records of an audited partnership.

(k) For purposes of this section, a partnership representative shall have the sole authority to act on behalf of the audited partnership, and its direct and indirect partners, with respect to actions taken by the audited partnership under this section, and the audited partnership's direct and indirect partners shall be bound by those actions. The partnership representative shall be deemed to be the partnership representative as determined under the Code, provided however that the commissioner may modify that determination and provide additional rules for making that determination through regulations or other guidance.

(l) An audited partnership or a partner of such partnership may make payments to the commissioner as set forth in chapters 62, 62C, or 63 of a tax expected to be due from a pending partnership-level audit prior to the due date of the federal adjustments report. The payments shall be credited against any tax liability ultimately found to be due, and will limit the accrual of further statutory interest on such amount. If these payments exceed the final tax liability, including any interest and penalties, the audited partnership or partner may be entitled to a refund or credit, as the case may be, under chapters 62, 62C, or 63, as relevant, provided the audited partnership or partner files a federal adjustments report or claim for a refund no later than one year following the final determination date.

(m) The commissioner may promulgate regulations and issue other guidance to implement or explain the provisions of this section. Such regulations or other guidance may, inter alia, apply the principles set forth in Code sections 6221 – 6242, and in federal regulations and other guidance promulgated or issued thereunder, to the extent consistent with state law, to prevent the omission or duplication of state tax due as the result of a partnership-level audit and to account for differences between federal and state law.

Summary:
This section would enable the Department of Revenue to collect tax from partnerships, or from individual partners in cases where the partnership accounts for the federal tax as a result of changes in federal partnership auditing rules in order to avoid significant revenue loss.

Section 41 - Sales Tax Integrity

SECTION 41. Said chapter 62C is hereby further amended by inserting after section 35E the following section:-

Section 35F. (a) The following words as used in this section shall, unless the context otherwise requires, have the following meaning:

(1) "Automated sales suppression device" or "zapper", a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

(2) "Phantom-ware", a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(b) Any person who sells, offers for sale, purchases, installs, transfers, maintains or repairs, or possesses in the commonwealth any automated sales suppression device or zapper or phantom-ware, shall, in addition to any other penalty provided by this chapter, be subject to a civil penalty of not more than $10,000 for the first offense, or $25,000 in the case of a seller, and not more than $25,000 for each subsequent offense, or $50,000 in the case of a seller. Such penalty shall be paid upon notice by the commissioner and shall be assessed and collected in the same manner as a tax.

Summary:
This section imposes civil penalties on those who sell or install "zapper" software, which is software that falsifies the electronic records of electronic cash registers and other point-of-sale systems.

Section 42 - Disability Employment Tax Credit 2

SECTION 42. Chapter 63 of the General Laws is hereby amended by inserting after section 38HH the following section:-

Section 38II. (a) A business corporation engaged in business in the commonwealth shall be allowed a credit against its excise due under this chapter in an amount equal to $2,000 or 30 per cent of the wages paid to each qualified employee with a disability in a taxable year, whichever is less. If a credit allowed by this section exceeds the tax otherwise due under this chapter, 100 per cent of the balance

of such credit may, at the option of the taxpayer, be refundable to the taxpayer. In order to qualify, the employee with a disability must be certified by the Massachusetts rehabilitation commission as meeting the definition of disability in the Americans with Disabilities Act, 42 U.S.C. sections 12101 et seq.; capable of working independently; physically or mentally impaired in a manner that constitutes or results in a substantial impediment to employment for the individual; and hired by the employer after July 1, 2021.

(b) To be eligible for a credit under this section: (i) the primary place of employment and the primary place of residence of the employee must be in the commonwealth, (ii) the business shall receive the applicable certification from the Massachusetts rehabilitation commission that the employee qualifies not later than the day the employee begins work; provided, reasonable exceptions to this timeframe may be established through regulation, and (iii) the employee must have been employed by the business for a period of at least 18 consecutive months prior to and in the taxable year in which the credit is claimed.

(c) In the case of a business corporation that is subject to a minimum excise under this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than such minimum excise.

(d) A business corporation that is eligible for and claims the credit allowed under this section in a taxable year with respect to a qualified employee with a disability shall be eligible for a credit of up to $2,000 in the subsequent taxable year with respect to such qualified employee. Any credit allowed under this section shall not be transferable.

(e) The secretary of health and human services, in consultation with the commissioner, shall promulgate regulations establishing an application process for the credit.

Summary:
This section, along with two others, establishes a tax credit for businesses that employ an individual with a disability for a minimum of eighteen consecutive months.

Section 43 - Excise Tax on Opioids & Penalty on Excessive Price Increases

SECTION 43. The General Laws are hereby amended by inserting after chapter 63B the following 2 chapters:-

Chapter 63C. Excise on manufacture and sale of certain opioids for distribution in the commonwealth.

Section 1. “Commissioner”, the commissioner of revenue.

“Gross receipts”, receipts from sales made by a person to a purchaser that is not a related party. In the case of sales to a related party or parties for subsequent resale to an unrelated buyer, the gross receipts are the amount paid for the product by the first unrelated buyer.

“Opioid”, any product included in the pharmacological class category of full opioid agonist, opioid agonist or partial opioid agonist in the National Drug Code (NDC) Directory NDC Product File, except for products approved by the U.S. Food and Drug Administration for the treatment of opioid use disorder.

“Person”, any natural person or legal entity.

“Related parties”, an entity that belongs to the same affiliated group as the person under section 1504 of the Internal Revenue Code, as amended and in effect for the taxable year, or if the entity and the person are otherwise commonly owned and controlled.

Section 2. (a) Any person who manufactures opioids and sells such products, directly or through another person, for distribution in the commonwealth shall pay an excise of 15 per cent of its gross receipts from such sales; provided, however, that gross receipts subject to the excise under this section shall be limited to the sales of opioids that are ultimately dispensed in the commonwealth pursuant to a valid prescription issued under section 18 of chapter 94C.

(b) A person who manufactures opioids and sells such products, directly or through another person, for distribution in the commonwealth as described in subsection (a) shall file a return as provided in subsection (a) of section 4 declaring total sales subject to excise in the immediately preceding calendar quarter. In the event that a person filing such a return pays an excise of 15 per cent of its gross receipts from sales of opioids that are not ultimately dispensed in the commonwealth pursuant to a valid prescription issued under section 18 of chapter 94C, the person may claim a credit for such excise amounts on the return for the tax period during which such sales are ultimately dispensed.

Section 3. The excise under section 2 shall apply only to persons who maintain a place of business in the commonwealth or whose total sales of all products, directly or through another person, for distribution in the commonwealth are more than $25,000 in the calendar quarter to which the excise under section 2 otherwise would apply, or in the case of the 6 months ending December 31, 2020 more than $50,000 for such 6 month period.

Section 4. (a) Any person subject to the excise under section 2 shall file a return with the commissioner and shall pay such excise by the fifteenth day of the third month following the end of each calendar quarter. Such return shall set out the person's total sales subject to excise in the immediately preceding calendar quarter and shall provide such other information as the commissioner may require.

(b) Each person subject to the excise under section 2 shall provide to the commissioner annually, on or before June 1st, a report detailing all opioids sold, directly or through another person, for distribution in the commonwealth in the prior calendar year. Such report shall include:

(i) the person's name, address, phone number, federal Drug Enforcement Administration (DEA) registration number and controlled substance registration number issued by the department;

(ii) the name and NDC of the opioid;

(iii) the unit of measure and quantity of the opioid;

(iv) the name, address and DEA registration number of the first unrelated buyer of the opioid;

(v) the date of the sale of the opioid;

(vi) whether the opioid was ultimately dispensed in the commonwealth pursuant to a valid prescription

issued under section 18 of chapter 94C;

(vii) the gross receipt total, in dollars, of all opioids sold;

(viii) the gross receipt total, in dollars, and quantity by NDC of all opioids ultimately dispensed in the commonwealth pursuant to a valid prescription issued under section 18 of chapter 94C; and

(ix) any other elements required by the commissioner.

Section 5. The excise imposed under this chapter shall be in addition to, and not a substitute for or credit against any other tax or excise imposed under the General Laws.

Section 6. The commissioner may disclose information contained in returns and reports filed under this chapter to the department of public health for purposes of verifying that the appropriate amount of a filer's sales subject to excise are properly declared and that all reporting is otherwise correct. Return and report information so disclosed shall remain confidential and shall not be public record.

Section 7. To the extent that a person subject to excise under section 2 fails to pay amounts due under this chapter, a related party of such person that directly or indirectly distributes the opioid of such person in the commonwealth shall be jointly and severally liable for the excise due.

Section 8. The commissioner may promulgate regulations or issue other guidance for the implementation of this chapter.

Chapter 63D. Penalty on drug manufacturers for excessive price increases

Section 1. “Commissioner”, the commissioner of revenue.

“Consumer price index”, the consumer price index for all urban consumers for Boston, as most recently reported by the federal Bureau of Labor Statistics.

“Drug”, any medication, as identified by a National Drug Code, approved for sale by the U.S. Food and Drug Administration.

“Excessive price,” the price of a drug if it exceeds the sum of (a) the reference price of that drug, as adjusted for any increase or decrease in the consumer price index since the reference price was determined, and (b) an additional two percent of the reference price for each 12 month period that has elapsed since the date on which the reference price was determined. The two percent increment provided in (b) of the preceding sentence shall compound annually on the first day of the first calendar quarter commencing after the end of each 12 month period described therein.

“Excessive price increase”, the amount by which the price of a drug exceeds the sum of (a) the reference price of that drug, as adjusted for any increase or decrease in the consumer price index since the reference price was determined, and (b) an additional two percent of the reference price for each 12 month period that has elapsed since the date on which the reference price was determined. The two percent increment provided in (b) shall compound annually on the first day of the first calendar quarter commencing after the end of each 12 month period described therein.

“Person”, any natural person or legal entity.

“Price”, the wholesale acquisition cost of a drug, per unit, as reported to the First Data Bank or other applicable price compendium designated by the commissioner.

“Reference price”, the price of a drug as of July 1, 2020, or in the case of any drug first commercially marketed in the United States after July 1, 2020, the price of the drug on the date when first marketed.

“Related party”, an entity is a related party with respect to a person if that entity belongs to the same affiliated group as that person under section 1504 of the Internal Revenue Code, as amended and in effect for the taxable year, or if the entity and the person are otherwise under common ownership and control.

“Unit”, the lowest dispensable amount of a drug.

Section 2. (a) Any person who manufactures and sells drugs, directly or through another person, for distribution in the commonwealth and who establishes an excessive price for any such drug directly or in cooperation with a related party, shall pay a per unit penalty on all units of the drug ultimately dispensed or administered in the commonwealth. The penalty for each unit shall be 80 per cent of the excessive price increase for each unit, determined at the beginning of the calendar quarter.

(b) A person who establishes an excessive price for a drug as described in subsection (a) shall file a return as provided in section 4 declaring all units of excessively priced drug sold for distribution in the commonwealth during the quarter. In the event that a person filing such a return pays a penalty with regard to one or more units of drug that are ultimately dispensed or administered outside of the commonwealth, the person may claim a credit for such penalty amounts on the return for the tax period during which such units are ultimately dispensed or administered.

Section 3. The penalty under section 2 shall apply for any calendar quarter only to a person who maintains a place of business in the commonwealth or whose total sales of all products, directly or through another person, for distribution in the commonwealth were more than $100,000 in the prior 12 month period. The penalty shall not apply more than once to any unit of drug sold.

Section 4. Any person subject to the penalty under section 2 shall file a return with the commissioner and shall pay the penalty by the fifteenth day of the third month following the end of each calendar quarter, subject to such reasonable extensions of time for filing as the commissioner may allow. The return shall set out the person's total sales subject to penalty in the immediately preceding calendar quarter and shall provide such other information as the commissioner may require.

Section 5. The penalty imposed under this chapter shall be in addition to, and not a substitute for or credit against, any other penalty, tax or excise imposed under the General Laws.

Section 6. The commissioner may disclose information contained in returns filed under this chapter to the department of public health for purposes of verifying that a filer's sales subject to penalty are properly declared and that all reporting is otherwise correct. Return information so disclosed shall remain confidential and shall not be public record.

Section 7. To the extent that a person subject to penalty under section 2 fails to pay amounts due under this chapter, a related party of such person that directly or indirectly distributes in the commonwealth any drug whose sales are subject to this chapter shall be jointly and severally liable for the penalty due.

Section 8. The commissioner may promulgate regulations or issue other guidance for the implementation of this chapter.

Summary:
This section imposes an excise tax on opioids distributed in the Commonwealth and impose a penalty on drug manufacturers that increase drug prices excessively.

Section 44 - Scope of Illegal Tobacco Task Force 1

SECTION 44. Section 40 of chapter 64C of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out, in lines 2 and 3, the words, "contraband tobacco distribution" and inserting in place thereof the following words:- the distribution of contraband tobacco and tobacco products, as defined in section 6 of chapter 270.

Summary:
This section, along with one other, expands the scope of the Illegal Tobacco Task Force to include vaping products.

Section 45 - Scope of Illegal Tobacco Task Force 2

SECTION 45. Said section 40 of said chapter 64C, as so appearing, is hereby further amended by striking out, in line 16, the words "illegal tobacco distribution" and inserting in place thereof the following words:- the distribution of tobacco and tobacco products, as defined in section 6 of chapter 270.

Summary:
This section, along with one other, expands the scope of the Illegal Tobacco Task Force to include vaping products.

Section 46 - Gas Pipeline Safety 1

SECTION 46. Section 40 of chapter 82 of the General Laws, as amended by section 12 of chapter 142 of the acts of 2019, is hereby amended by inserting, in line 6, after the word "gas", the following words:- water,.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 47 - Gas Pipeline Safety 2

SECTION 47. Said chapter 82 is hereby further amended by striking out section 40Eand inserting in place thereof the following section:-

Section 40E. Any person or company found by the department, after a hearing, to have violated any provision of sections 40A to 40E, inclusive, shall be fined not more than $200,000; provided that nothing herein shall be construed to require the forfeiture of any penal sum by a residential property owner for the failure to premark for an excavation on such person's residential property.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 48 - Roadway Safety

SECTION 48. Chapter 90 of the General Laws, as appearing in the 2018 Official Edition, is hereby further amended by inserting after section 17 the following section:-

Section 17½. (a) For purposes of this section, the term “active construction zone” shall mean an area on a public highway or on the adjacent right of way where construction, repair, maintenance or survey work is being performed by the department, a utility company or a private contractor under contract with the department.

(b) Notwithstanding section 18, the department may establish a speed limit in an active construction zone without conducting an engineering study. A rate of speed in excess of a speed limit posted under this section shall be prima facie evidence that the speed is not reasonable and proper. The operation of a motor vehicle traveling at a rate of speed in excess of a speed limit established under this section shall be subject to a fine of 2 times the amount otherwise in effect for the violation issued. The speed limit shall be effective when signs giving notice of that speed limit are prominently displayed and construction, repair, maintenance or survey work is being performed. The signs may carry either a fixed speed limit or electronic message that displays adjusted speed limits when work is being performed. The signs shall notify motorists that a rate of speed in excess of the posted limit is subject to a fine of 2 times the amount otherwise in effect for the violation issued

Summary:
This section allows the Massachusetts Department of Transportation to establish and post speed limits in active construction zones without conducting an engineering study and allows for double fines if the speed limit is violated in a posted construction zone.

Section 49 - Laboratory Analysis of Cocaine

SECTION 49. Section 31 of chapter 94C of the General Laws, as so appearing, is hereby amended by striking out clause (4) of paragraph (a) of Class B and inserting in place thereof the following clause:- (4) Coca leaves, and the salts, optical and geometric isomers and salts of isomers, excluding coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; of cocaine, ecgonine, pseudococaine, allococaine and pseudoallococaine, their derivatives, their salts, isomers and salts of their isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

Summary:
Current law defines cocaine as coming from a plant, requiring the State Police lab to conduct a separate test to confirm that each sample of cocaine it analyzes is not synthetically produced. This section brings our statutory definition of cocaine in line with that of the majority of states, eliminating the need for that separate test and realizing associated cost, time and resource savings at the lab.

Section 50 - Nuclear Power Plant Assessment 1

SECTION 50. Section 5K of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 65, the words "existing and proposed".

Summary:
This section, along with three others, authorizes the Department of Public Health to assess the operators of nuclear reactors that are in the process of being decommissioned for associated radiation monitoring and emergency planning costs.

Section 51 - Nuclear Power Plant Assessment 2

SECTION 51. Said section 5K of said chapter 111, as so appearing, is hereby further amended by inserting, in line 66, after the word "commonwealth", the following words:- , including a nuclear power plant that is no longer operating, until the U.S. Nuclear Regulatory Commission has approved all areas of the site for unrestricted use, excluding the Independent Spent Fuel Storage Installation licensed by the U.S. Nuclear Regulatory Commission, and the unrestricted use areas meet the radiological release criteria established in regulations promulgated pursuant to section 5N. Such assessments shall be.

Summary:
This section, along with three others, authorizes the Department of Public Health to assess the operators of nuclear reactors that are in the process of being decommissioned for associated radiation monitoring and emergency planning costs.

Section 52 - Nuclear Power Plant Assessment 3

SECTION 52. Subsection (E) of said section 5K of said chapter 111, as so appearing, is hereby amended by striking out the second and third sentences.

Summary:
This section, along with three others, authorizes the Department of Public Health to assess the operators of nuclear reactors that are in the process of being decommissioned for associated radiation monitoring and emergency planning costs.

Section 53 - Nuclear Power Plant Assessment 4

SECTION 53. Said section 5K of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 91 and 92, the words "General Fund and credited to the department" and inserting in place thereof the following words:- Radiation Control Trust account.

Summary:
This section, along with three others, authorizes the Department of Public Health to assess the operators of nuclear reactors that are in the process of being decommissioned for associated radiation monitoring and emergency planning costs.

Section 54 - Long-Term Care Statutory Changes 1

SECTION 54. Said chapter 111, is hereby further amended by striking out section 71 and inserting in place thereof the following section:-

Section 71. For purposes of this section and sections 71A½ to 73, inclusive, the following terms shall have the following meanings unless the context or subject matter clearly requires otherwise:

“Applicant”, any person who applies to the department for a license to establish or maintain and operate a long-term care facility.

“Charitable home for the aged”, any institution, however named, conducted for charitable purposes and maintained for the purpose of providing a retirement home for elderly persons and which may provide nursing care within the home for its residents.

“Convalescent or nursing home or skilled nursing facility”, any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for four or more persons admitted thereto for the purpose of nursing or convalescent care.

“Infirmary maintained in a town”, an infirmary which hitherto the department of public welfare has been directed to visit by section 7 of chapter 121.

“Intermediate care facility for persons with an intellectual disability”, any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the purpose of providing rehabilitative services and active treatment to persons with an intellectual disability or persons with related conditions, as defined in regulations promulgated pursuant to Title XIX of the federal Social Security Act (P.L. 89–97); which is not both owned and operated by a state agency; and which makes application to the department for a license for the purpose of participating in the federal program established by said Title XIX.

“License”, an initial or renewal license to establish or maintain and operate a long-term care facility issued by the department.

“Licensee”, a person to whom a license to establish or maintain and operate a long-term care facility has been issued by the department.

“Long-term care facility”, a charitable home for the aged, a convalescent or nursing home, an infirmary maintained in a town, an intermediate care facility for persons with an intellectual disability or a rest home.

“Owner”, any person owning 5 per cent or more of, with an ownership interest of 5 per cent or more of, or with a controlling interest in an applicant, potential transferee or the real property on which a long-term care facility is located.

“Person”, an individual, a trust, estate, partnership, association, company or corporation.

“Potential transferee”, a person who submits to the department a “notice of intent to acquire” the facility operations of a currently operating long-term care facility.

“Rest home”, any institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing care incident to old age to four or more persons who are ambulatory and who need supervision.
“Transfer of facility operations”, a transfer of the operations of a currently operating long-term care facility from the current licensee of the long-term care facility to a potential transferee, pending licensure, pursuant to a written “transfer of operations” agreement.

To each applicant it deems suitable and responsible to establish or maintain and operate a long-term care facility and which meets all other requirements for long-term care facility licensure, the department shall issue for a term of two years, and shall renew for like terms, a license, subject to the restrictions set forth in this section or revocation by it for cause; provided, however, that each convalescent or nursing home and each intermediate care facility for persons with an intellectual disability shall be inspected at least once a year.

No license shall be issued to establish or maintain an intermediate care facility for persons with an intellectual disability, unless there is a determination by the department that there is a need for such facility at the designated location; provided, however, that in the case of a facility previously licensed as an intermediate care facility for persons with an intellectual disability in which there is a change in ownership, no such determination shall be required and in the case of a facility previously licensed as an intermediate care facility for persons with an intellectual disability in which there is a change in location, such determination shall be limited to consideration of the suitability of the new location.

In the case of the transfer of facility operations of a long-term care facility, a potential transferee shall submit a “notice of intent to acquire” to the department at least 90 days prior to the proposed transfer date. The notice of intent to acquire shall be on a form supplied by the department and shall be deemed complete upon submission of all information which the department requires on the notice of intent form and is reasonably necessary to carry out the purposes of this section.

No license shall be issued to an applicant and no potential transferee may submit an application for a license unless the department makes a determination that the applicant or potential transferee is responsible and suitable for licensure.

For purposes of this section, the department’s determination of responsibility and suitability shall be limited to the following factors:

(i) the criminal or civil history of the applicant or the potential transferee, including their respective owners, which shall include certification by the department of criminal justice information services and which may include a review of any pending or settled litigation or other court proceedings in the commonwealth and in other states;

(ii) the financial capacity of the applicant or potential transferee, including their respective owners, to establish or maintain and operate a long-term care facility, which may include any recorded liens and unpaid fees or taxes in the commonwealth and in other states;

(iii) the history of the applicant or potential transferee, including their respective owners, in providing long-term care in the commonwealth, measured by compliance with applicable statutes and regulations governing the operation of long-term care facilities; and

(iv) the history of the applicant or potential transferee, including their respective owners, in providing long-term care in states other than the commonwealth, if any, measured by compliance with the applicable statutes and regulations governing the operation of long term care facilities in said states.

With respect to potential transferees, upon determination by the department that a potential transferee is responsible and suitable for licensure, the potential transferee may file an application for a license. In the case of a potential transfer of facility operations, the filing of an application for a license shall have the effect of a license until the department takes final action on such application.

If the department determines that an applicant or potential transferee is not suitable and responsible, the department's determination shall take effect on the date of the department's notice. In such cases, the applicant or potential transferee shall upon the filing of a written request with the department be afforded an adjudicatory hearing pursuant to chapter 30A. During the pendency of such appeal, the applicant or potential transferee shall not operate the facility as a licensee, or, without prior approval of the department, manage such facility.

Each applicant, potential transferee and licensee shall keep all information provided to the department current. Promptly after the applicant, potential transferee or licensee becomes aware of any change to information related to information it provided or is required to provide to the department, such person shall submit to the department written notice of the changes. Changes include, but are not limited to, changes in financial status, such as filing for bankruptcy, any default under a lending agreement or lease, the appointment of a receiver or the recording of any lien.

An applicant, potential transferee or licensee and their respective owners shall be in compliance with all applicable federal, state and local laws, rules and regulations.

Prior to engaging a company to manage the long-term care facility, hereinafter a "management company", a licensee shall notify the department in writing of the name of and provide contact information for the proposed management company and any other information on the management company and its personnel that may be reasonably requested by the department. Any such engagement must be pursuant to a written agreement between the licensee and the management company. Such written agreement shall include a requirement that the management company and its personnel shall comply with all applicable federal, state and local laws, regulations and rules. Promptly after the effective date of any such agreement, the licensee shall provide to the department a copy of the valid, fully executed agreement.

With respect to a license issued as a result of a transfer of operations, the department shall not reduce the number of beds that were on the license held by the former licensee, unless the public safety requires it.

No license shall be issued hereunder unless there shall be first submitted to the department by the authorities in charge of the long-term care facility with respect to each building occupied by residents (1) a certificate of inspection of the egresses, the means of preventing the spread of fire and apparatus for extinguishing fire, issued by an inspector of the office of public safety and inspections of the division of professional licensure; provided, however, that with respect to convalescent or nursing homes only, the division of health care quality of the department of public health shall have sole authority to inspect

for and issue such certificate, and (2) a certificate of inspection issued by the head of the local fire department certifying compliance with the local ordinances.

Any applicant who is aggrieved, on the basis of a written disapproval of a certificate of inspection by the head of the local fire department or by the office of public safety and inspections of the division of professional licensure, may, within 30 days from such disapproval, appeal in writing to the division of professional licensure. With respect to certificates of inspection that the division of health care quality of the department of public health has the sole authority to issue, an applicant may, within 30 days from disapproval of a certificate of inspection, appeal in writing to the department of public health only. Failure to either approve or disapprove within 30 days, after a written request by an applicant, shall be deemed a disapproval.

If the division of professional licensure or, where applicable, the department of public health approves the issuance of a certificate of inspection, it shall forthwith be issued by the agency that failed to approve. If said department disapproves, the applicant may appeal therefrom to the superior court. Failure of said department to either approve or disapprove the issuance of a certificate of inspection within 30 days after receipt of an appeal shall be deemed a disapproval. No license shall be issued by the department until issuance of an approved certificate of inspection, as required in this section.

Nothing in this section or in sections 72 or 73 shall be construed to revoke, supersede or otherwise affect any laws, ordinances, by-laws, rules or regulations relating to building, zoning, registration or maintenance of a long-term care facility.

For cause, the department may limit, restrict, suspend or revoke the license. Grounds for cause on which the department may take such action shall include failure or inability to provide adequate care to residents, failure to maintain substantial compliance with applicable statutes, rules and regulations or lack of financial capacity to maintain and operate a long-term care facility. Limits or restrictions include requiring a facility to limit new admissions. Suspension of a license includes suspending the license during a pending license revocation action, or suspending the license to permit the licensee a period of time, not shorter than 60 days, to wind down operations, and discharge and transfer, if applicable, all residents.

The department may, when public necessity and convenience require, or to prevent undue hardship to an applicant or licensee, under such rules and regulations as it may adopt, grant a temporary provisional or probationary license under this section; provided, however, that no such license shall be for a term exceeding 1 year.

With respect to an order to limit, restrict or suspend a license, within 7 days of receipt of the written order, the licensee may file a written request with the department for administrative reconsideration of the order or any portion thereof. Failure of the department to grant, deny or otherwise act upon any such written request within 7 days of its receipt of such a request shall be deemed a denial of the request.

Upon a written request by a licensee who is aggrieved by the revocation of a license or by an applicant who is aggrieved by the refusal of the department to renew a license, the commissioner and the council shall hold a public hearing, after due notice, and thereafter they may modify, affirm or reverse the action of the department; provided, however, that the department may not refuse to renew and may not revoke the license of a long-term care facility until after a hearing before a hearings officer, and any such applicant so aggrieved shall have all the rights provided in chapter 30A with respect to adjudicatory proceedings.

In no case shall the revocation of such a license take effect in less than 30 days after written notification by the department to the licensee.

The fee for a license to establish or maintain or operate a long-term care facility shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7, and the license shall not be transferable or assignable and shall be issued only for the premises named in the application.

Nursing institutions licensed by the department of mental health, or the department of developmental services for persons with intellectual disabilities shall not be licensed or inspected by the department of public health. The inspections herein provided shall be in addition to any other inspections required by law.

In the case of new construction, or major addition, alteration, or repair with respect to any facility subject to this section, preliminary architectural plans and specifications and final architectural plans and specifications shall be submitted to a qualified person designated by the commissioner. Written approval of the final architectural plans and specifications shall be obtained from said person prior to said new construction, or major addition, alteration, or repair.

Notwithstanding any of the foregoing provisions of this section, no license to establish or maintain and operate a long-term care facility shall be issued by the department unless the applicant for such license submits to the department a certificate that each building to be occupied by patients of such convalescent or nursing home or skilled nursing facility meets the construction standards of the state building code, and is of at least type 1–B fireproof construction; provided, however, that this paragraph shall not apply in the instance of a transfer of facility operations of a convalescent or nursing home or skilled nursing facility whose license had not been revoked as of the time of such transfer; and provided, further, that a public medical institution as defined under section 2 of chapter 118E, which meets the construction standards as defined herein, shall not be denied a license as a nursing home under this section because it was not of new construction and designed for the purpose of operating a convalescent or nursing home or skilled nursing facility at the time of application for a license to operate a nursing home. An intermediate care facility for persons with an intellectual disability shall be required to meet the construction standards established for such facilities by Title XIX of the Social Security Act (P.L. 89–97) and any regulations promulgated pursuant thereto, and by regulations promulgated by the department.

Every applicant for a license and every potential transferee shall provide on or with its application or notice of intent to acquire a sworn statement of the names and addresses of any person who owns or has an ownership or control interest in the applicant or potential transferee or in the real property on which the long-term care facility is located. As used herein, the phrase ‘‘person with an ownership or control interest’’ shall have the definition set forth in 42 USC Sec. 1320a–3 of the Social Security Act and in regulations promulgated hereunder by the department.

The department shall notify the secretary of elder affairs forthwith of the pendency of any proceeding of any public hearing or of any action to be taken under this section relating to any convalescent or nursing home, rest home, infirmary maintained in a town, or charitable home for the aged. The department shall notify the commissioner of mental health forthwith of the pendency of any proceeding, public hearing or of any action to be taken under this section relating to any intermediate care facility for persons with an intellectual disability.

Summary:
This section, along with two others, provide the Department of Public Health with greater statutory authority to license and regulate long-term care facilities, including authorizing the restriction or suspension of a license for cause rather than only when an imminent risk of harm exists.

Section 55 - Long-Term Care Statutory Changes 2

SECTION 55. Said chapter 111is hereby further amended by striking out section 72E and inserting in place thereof the following section:-

Section 72E. The department shall, after every inspection by its agent made under authority of section 72 , give the licensee of the inspected long-term care facility notice in writing of every violation of the applicable statutes, rules and regulations of the department found upon said inspection. With respect to the date by which the licensee shall remedy or correct each violation, hereinafter the “correct by date”, the department in such notice shall specify a reasonable time, not more than 60 days after receipt thereof, by which time the licensee shall remedy or correct each violation cited therein or, in the case of any violation which in the opinion of the department is not reasonably capable of correction within 60 days, the department shall require only that the licensee submit a written plan for the timely correction of the violation in a reasonable manner. The department may modify any nonconforming plan upon notice in writing to the licensee.

Absent good faith efforts to remedy or correct, failure to remedy or correct a cited violation by the agreed upon correct by date shall be cause to pursue or impose the remedies or sanctions available to it under sections 71 to 73, inclusive, unless the licensee shall demonstrate to the satisfaction of the department or the court, as the case may be, that such failure was not due to any neglect of its duty and occurred despite an attempt in good faith to make correction by the agreed upon correct by date. The department may pursue or impose any remedy or sanction or combination of remedies or sanctions available to it under said sections 71 to 73, inclusive. An aggrieved licensee may pursue the remedies available to it under said sections 71 to 73, inclusive.

In addition, if the licensee fails to maintain substantial compliance with applicable statutes, rules and regulations, in addition to imposing any of the other remedies or sanctions available to it, the department may require the licensee to engage, at the licensee’s own expense, a temporary manager to assist the licensee with bringing the facility into substantial compliance and with sustaining such compliance. Such manager is subject to the department’s approval, provided that such approval not to be unreasonably withheld. Any such engagement of a temporary manager would be for a period of not less than 6 months and shall be pursuant to a written agreement between the licensee and the management company. A copy of such agreement shall be provided by the licensee to the department promptly after execution.

Nothing in this section shall be construed to prohibit the department from enforcing a statute, rule or regulation, administratively or in court, without first affording formal opportunity to make correction under this section, where, in the opinion of the department, the violation of such statute, rule or regulation jeopardizes the health or safety of residents or the public or seriously limits the capacity of a licensee to provide adequate care, or where the violation of such statute, rule or regulation is the second such violation occurring during a period of 12 full months.

Summary:
This section, along with two others, provide the Department of Public Health with greater statutory authority to license and regulate long-term care facilities, including authorizing the restriction or suspension of a license for cause rather than only when an imminent risk of harm exists.

Section 56 - Long-Term Care Statutory Changes 3

SECTION 56. Said chapter 111is hereby further amended by striking out section 73 and inserting in place thereof the following section:-

Section 73. Whoever advertises, announces, establishes or maintains, or is concerned in establishing or maintaining a long-term care facility, or is engaged in any such business, without a license granted under section 71, or whoever being licensed under said section 71 violates any provision of sections 71 to 73, inclusive, shall for a first offense be punished by a fine of not more than $1,000, and for a subsequent offense by a fine of not more than $2,000 or by imprisonment for not more than two years.

Whoever violates any rule or regulation made under sections 71, 72 and 72C shall be punished by such fine, not to exceed $500, as the department may establish. If any person violates any such rule or regulation by allowing a condition to exist which may be corrected or remedied, the department shall order him, in writing, to correct or remedy such condition, and if such person fails or refuses to comply with such order by the agreed upon correct by date, as defined in section 72E, each day after the agreed upon correct by date during which such failure or refusal to comply continues shall constitute a separate offense. A failure to pay the fine imposed by this section shall be a violation of this section.

Summary:
This section, along with two others, provide the Department of Public Health with greater statutory authority to license and regulate long-term care facilities, including authorizing the restriction or suspension of a license for cause rather than only when an imminent risk of harm exists.

Section 57 - Fees for Certified Nurse Examiner Services 1

SECTION 57. Subsection (a) of section 220 of said chapter 111, as appearing in the 2018 Official Edition, is hereby amended by adding before the definition of “forensic examination” the following definitions:-

“Certified sexual assault nurse examiner”, a registered nurse, nurse practitioner, certified nurse midwife or physician in the commonwealth who has completed the Massachusetts SANE certification program and has been certified by the Massachusetts SANE program within the department.

“Designated SANE site”, a clinical facility that has received official designation as a Massachusetts Sexual Assault Nurse Examiner Site from the Massachusetts SANE program within the department pursuant to subsection (f).

Summary:
This section, along with one other, enable the Department of Public Health’s Sexual Assault Nurse Examiner (SANE) program to become self-sustaining by allowing it to charge fees for services it provides.

Section 58 - Fees for Certified Nurse Examiner Services 2

SECTION 58. Said section 220 of said chapter 111, as so appearing, is hereby further amended by adding the following subsection:-

(i) In consultation with the advisory board, the department shall establish fees to be assessed on designated SANE sites for the provision of certified sexual assault nurse examiner services. Such fees shall be directed to the Sexual Assault Nurse Examiner Trust Fund established in section 2VVVV of chapter 29.

Summary:
This section, along with one other, enable the Department of Public Health's Sexual Assault Nurse Examiner (SANE) program to become self-sustaining by allowing it to charge fees for services it provides.

Section 59 - Catastrophic Illness in Children Relief Fund 1

SECTION 59. Section 5 of chapter 111K of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the figure "5" and inserting in place thereof the following figure:- 10.

Summary:
This section, along with one other, provides the Department of Public Health with additional tools to administer the Catastrophic Illness in Children Relief Fund (CICRF) in years when the CICRF does not receive a transfer or receives a reduced transfer from the Commonwealth Care Trust Fund. This section also raises the cap on administrative expenses from 5% to 10%.

Section 60 - Catastrophic Illness in Children Relief Fund 2

SECTION 60. Said section 5 of said chapter 111K, as so appearing, is hereby further amended by inserting after the word "year", in line 25, the following words:- or 10 per cent of the carry forward balance for any fiscal year with reduced or no transfers into the fund.

Summary:
This section, along with one other, provides the Department of Public Health with additional tools to administer the Catastrophic Illness in Children Relief Fund (CICRF) in years when the CICRF does not receive a transfer or receives a reduced transfer from the Commonwealth Care Trust Fund.

Section 61 - Universal Provider Credentialing Application 1

SECTION 61. Section 12 of chapter 118E of the General Laws, as so appearing, is hereby amended by inserting after the eighth paragraph the following paragraph:-

Such rules and regulations shall also include provisions requiring providers applying to participate in the medical assistance programs established under this chapter to utilize an application specified by the division, such as a standard credentialing form.

Summary:
This section, along with two others, requires insurers, including MassHealth, to use a standardized credentialing form so providers only need to complete one application.

Section 62 - MassHealth Contested Estate Recovery Interest Rate Reduction

SECTION 62. Subsection (g) of section 32 of said chapter 118E, as so appearing, is amended by striking the words " the rate provided under section 6B of chapter 231" each time they appear and inserting in place thereof the words "3.25 per cent per annum".

Summary:
This section reduces the amount of interest charged to the estate on certain contested estate recovery claims from the current rate of 12% to 3.25%.

Section 63 - Nursing Facility Assessment 1

SECTION 63. Subsection (a) of section 63 of said chapter 118E , as so appearing, is hereby amended by adding after the definition of "assessment" the following definition:-

"Licensee", any person holding a license to operate a nursing home. In the case of a licensee which is not a natural person, licensee shall also mean any shareholder owning 5 per cent or more, any officer and any director of any corporate licensee; any limited partner owning 5 per cent or more and any general partner of a partnership licensee; any trustee of any trust licensee; any sole proprietor of any licensee which is a sole proprietorship; any mortgagee in possession and any executor or administrator of any licensee which is an estate.

Summary:
This section adds the definition of Licensee, as defined by the Department of Public Health in regulation, to the nursing facility assessment statute.

Section 64 - Nursing Facility Assessment 2

SECTION 64. Subsection (f) of said section 63 of said chapter 118E, as so appearing, is hereby amended by adding the following words:- , or impose a limitation on new admissions for any nursing home that fails to remit delinquent fees, as directed by the executive office. The secretary of the executive office may also enforce this section by offsetting payments from the office of Medicaid on the claims of the nursing home, those of a nursing home with a common licensee, or those of any successor in interest to the nursing home, in the amount of the delinquent fees owed, including any interest and penalties, and to transfer such funds into the General Fund; by imposing, after demand, a lien in an amount not to exceed the amount of the delinquent fees owed, including any interest and penalties, in favor of the commonwealth upon any and all property of the nursing home or its licensee; or by such other appropriate mechanism as the executive office may establish by regulation under subsection (g).

Summary:
This section allows the Department of Public Health to enforce compliance with the nursing facility assessment by imposing a freeze on new admissions to a facility rather than revocation of licensure. This section also allows the Executive Office of Health and Human Services to enforce compliance with the assessment by means similar to those available to enforce compliance with other provider assessments.

Section 65 - Reasonable and Prudent Parent Standard for Congregate Care Providers 1

SECTION 65. Section 21 of chapter 119 of the General Laws, as so appearing, is hereby amended by inserting the after the definition of “Parent” the following new definition:-

“Reasonable and Prudent Parent Standard”, means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. Factors to be considered include, but not limited to the child’s age, mental and behavioral health, and other factors that may affect the child’s safety and well-being.

Summary:
This section, along with one other, are required under the Federal Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). These sections establish and apply the reasonable and prudent parent standard for congregate care providers in the Commonwealth.

Section 66 - Reasonable and Prudent Parent Standard for Congregate Care Providers 2

SECTION 66. Said chapter 119 is hereby further amended by inserting after section 33B, the following section:-

Section 33C.

(a) Congregate care programs under contract to provide foster care to children in the care or custody of the department of children and families shall implement the reasonable and prudent parent standard in accordance with this section.

(b) Such congregate care programs shall ensure the presence on-site of at least one individual who, with respect to any child placed at the congregate care program, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard.

(c) A congregate care employee who has been authorized and trained to apply the reasonable and prudent parent standard and his employer shall be immune with respect to tort claims against such employee related to the employee’s decision to allow a foster child to participate in age or developmentally-appropriate activities; provided that the employee acted in accordance with the reasonable and prudent parent standard. The immunity provided in this subsection shall not apply if the harm claimed was caused by an act or omission constituting gross negligence, recklessness or conduct with an intent to harm or to discriminate based on race, ethnicity, national origin, religion, disability, sexual orientation or gender identity.

Summary:
This section, along with one other, are required under the Federal Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). These sections establish and apply the reasonable and prudent parent standard for congregate care providers in the Commonwealth.

Section 67 - Closed Season for Crab Catching Repeal

SECTION 67. Section 40 of chapter 130 of the General Laws is hereby repealed.

Summary:
This section repeals the current prohibition on taking or catching of edible crabs from coastal waters from Jan 1st to April 30th, which is unnecessary for any fisheries management purpose.

Section 68 - Sunday Hunting

SECTION 68. Section 57 of chapter 131 of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by adding the following sentence:- This section shall not prohibit the director, with the approval of the fisheries and wildlife board, from authorizing the hunting of deer by bow and arrow on any Sunday, and shall not render unlawful the possession or carrying of a bow and arrow for the purpose of hunting deer, as authorized by the director with the approval of the fisheries and wildlife board.

Summary:
This section authorizes the Director of Fish and Game, with the approval of the Fisheries and Wildlife Board, to allow the hunting of deer by bow and arrow on Sundays.

Section 69 - Maintenance Service Contracts 4

SECTION 69. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, each time it appears, in lines 48, 60, 99, 111, and lines 136 and 137, the word “, maintenance”.

Summary:
This section, along with four others, make maintenance service contracts subject to the requirements of Chapter 30, which governs the purchasing of goods, supplies, and services.

Section 70 - Maintenance Service Contracts 5

SECTION 70. Subsection (a) of section 44A½ of said chapter 149, as so appearing, is hereby amended by striking out, in line 6, the word “, maintenance”.

Summary:
This section, along with four others, make maintenance service contracts subject to the requirements of Chapter 30, which governs the purchasing of goods, supplies, and services.

Section 71 - MBTA Project Delivery 1

SECTION 71. Subsection (f) of section 3 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in line 45, the word “or”.

Summary:
This section, along with two others, would provide the MBTA with authorization to utilize the Design, Build, Finance, Operate, Maintain project delivery method.

Section 72 - MBTA Project Delivery 2

SECTION 72. Said subsection (f) of said section 3 of said chapter 161A is hereby further amended by inserting, after the word “authority”, in line 48, the following words:- ; or (v) for the utilization of alternative procurement methods to procure and enter into contracts for the engineering, designing, building, financing, operation, and maintenance of infrastructure, technology and services, or any combination of the foregoing; provided that such procurement process includes a procedure to solicit and award a contract for any of the foregoing purposes on the basis of a best-value selection process.

Summary:
This section, along with two others, would provide the MBTA with authorization to utilize the Design, Build, Finance, Operate, Maintain project delivery method.

Section 73 - MBTA Project Delivery 3

SECTION 73. Clause (ii) of subsection (c) of section 5 of said chapter 161A, as so appearing, is hereby amended by adding the following sentence:- Any agreement related to any concession or lease of property may require that the developer construct, design, build, finance, operate, and maintain, or any combination thereof, mass transportation facilities or any related facility or component thereof for the authority, so long as the authority shall state in its bid documentation that such mass transportation facilities or related facility or component thereof will be accepted or required as a part of any such agreement. No further procurement or advertising requirements shall be required, except as required by subsection (b) and this subsection.

Summary:
This section, along with two others, would provide the MBTA with authorization to utilize the Design, Build, Finance, Operate, Maintain project delivery method.

Section 74 - RTA Operating Assistance

SECTION 74. Section 23 of chapter 161B of the General Laws, as so appearing, is hereby amended by striking the first and second paragraphs and inserting in place thereof the following 2 paragraphs:-

The commonwealth, acting by and through the executive office for administration and finance, shall provide funding to the authorities created pursuant to this chapter as determined by a formula that is

based upon clearly established metrics and principles, that all the authorities have agreed to in writing, and that the department has approved.

The funding amounts to be distributed to the authorities will be determined upon final adoption of the state fiscal year appropriation. Such amount, not to be assessed in accordance with section 9 and section 9A shall be called operating assistance. Such operating assistance shall be provided by the commonwealth and shall be overseen by the department.

Summary:
This section replaces the current structure of contract assistance for Regional Transit Authorities (RTAs) with a system whereby the funding amount is based on clearly established metrics and principles agreed to between the RTAs and the Massachusetts Department of Transportation.

Section 75 - Gas Pipeline Safety 3

SECTION 75. Section 1J of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the figure "250,000" and inserting in place thereof the following figure:- 500,000.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 76 - Gas Pipeline Safety 4

SECTION 76. Said section 1J of said chapter 164, as so appearing, is hereby further amended by striking out, in line 8, the figure "20,000,000" and inserting in place thereof the following figure:- 50,000,000.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 77 - Gas Pipeline Safety 5

SECTION 77. Section 105A of said chapter 164, as so appearing, is hereby amended by striking out, in lines 21 to 23, inclusive, the words "as specified in 49 U.S.C. section 60122(a)(1) or any successor statute enacted into federal law for the same purposes as said section 60122(a)(1)" and inserting in place thereof the following words:- of not more than $500,000 for each violation; provided, however, that the maximum civil penalty under this section for a related series of violations shall be $10,000,000; and, provided further that the dollar limits in this sentence shall be doubled in the event that the department determines that the violator has engaged in one or more similar violations in the 3 years preceding the violation. A separate violation occurs for each day the violation continues.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 78 - Gas Pipeline Safety 6

SECTION 78. Section 145 of said chapter 164, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) A gas company shall file with the department a plan to address aging or leaking natural gas infrastructure within the commonwealth and the leak rate on the gas company's natural gas infrastructure in the interest of public safety and reducing lost and unaccounted for natural gas through a reduction in natural gas system leaks. Each company's gas infrastructure plan shall include interim targets for the department's review. The department shall review these interim targets to ensure each gas company is meeting the appropriate pace to reduce the leak rate on and to replace the gas company's natural gas infrastructure in a safe and timely manner. The interim targets shall be for periods of not to exceed five years. The gas companies shall incorporate these interim targets into timelines for removing all leak-prone infrastructure filed pursuant to subsection(c) and may update them based on overall progress. The department may levy a penalty against any gas company which fails to meet its interim target in an amount up to and including the equivalent of 2.5 per cent of such gas company's transmission and distribution service revenues for the previous calendar year.

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 79 - Gas Pipeline Safety 7

SECTION 79. The second paragraph of subsection (c) of said section 145 of said chapter 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

As part of each plan filed under this section, a gas company shall include a timeline for removing all leak-prone infrastructure on an accelerated basis specifying an annual replacement pace and program end date with a target end date of either (i) not more than 20 years from the filing of a gas company's initial plan, or (ii) a reasonable target end date considering the allowable recovery cap established pursuant to subsection (f).

Summary:
This section, along with six others, increases the safety of the Commonwealth's gas pipeline infrastructure by requiring gas companies to file plans to address aging or leaking natural gas infrastructure, requiring municipal water companies to comply with Dig Safe regulations, and increasing the penalties for violations of various safety regulations.

Section 80 - Same-day Billing 1

SECTION 80. Subsection (i) of section 47B of chapter 175 of the General Laws, as so appearing, is hereby amended by adding the following 2 paragraphs:-

A carrier may not deny coverage for any behavioral health service or any evaluation and management office visit solely because the 2 services were delivered on the same day in the same practice or facility, provided that the 2 services are not delivered by the same provider, or providers of the same specialty.

The division shall provide guidance relative to implementation of this section.

Summary:
This section, along with three others, prohibit carriers from denying coverage or imposing additional costs for same-day behavioral health and certain medical visits.

Section 81 - Same-day Billing 2

SECTION 81. Subsection (i) of section 8A of chapter 176A of the General Laws, as so appearing, is hereby amended by adding the following 2 paragraphs:-

A carrier may not deny coverage for any behavioral health service or any evaluation and management office visit solely because the 2 services were delivered on the same day in the same practice or facility, provided that the 2 services are not delivered by the same provider, or providers of the same specialty.

The division shall provide guidance relative to implementation of this section.

Summary:
This section, along with three others, prohibit carriers from denying coverage or imposing additional costs for same-day behavioral health and certain medical visits.

Section 82 - Same-day Billing 3

SECTION 82. Subsection (i) of section 4A of chapter 176B of the General Laws, as so appearing, is hereby amended by adding the following 2 paragraphs:-

A carrier may not deny coverage for any behavioral health service or any evaluation and management office visit solely because the 2 services were delivered on the same day in the same practice or facility, provided that the 2 services are not delivered by the same provider, or providers of the same specialty.

The division shall provide guidance relative to implementation of this section.

Summary:
This section, along with three others, prohibit carriers from denying coverage or imposing additional costs for same-day behavioral health and certain medical visits.

Section 83 - Same-day Billing 4

SECTION 83. Subsection (i) of section 4M of chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following 2 paragraphs:-

A carrier may not deny coverage for any behavioral health service or any evaluation and management office visit solely because the 2 services were delivered on the same day in the same practice or facility, provided that the 2 services are not delivered by the same provider, or providers of the same specialty.

The division shall provide guidance relative to implementation of this section.

Summary:
This section, along with three others, prohibit carriers from denying coverage or imposing additional costs for same-day behavioral health and certain medical visits.

Section 84 - Universal Provider Credentialing Application 2

SECTION 84. Chapter 176O of the General Laws is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. (a) There is hereby established within the division a bureau of managed care. The bureau shall by regulation establish minimum standards for the accreditation of carriers in the following areas:

(1) utilization review;

(2) quality management and improvement;

(3) credentialing;

(4) preventive health services; and

(5) compliance with sections 2 to 12, inclusive.

(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.

Accreditation by the bureau shall be valid for a period of 24 months. For the purposes of accreditation review in the area of pain management, the division shall consult with the health policy commission, established under chapter 6D, for assistance in determining appropriate standards for evidence-based pain management, including non-opioid pain management products and services, and shall publish guidelines to assist and evaluate carriers' development and submission of pain management access plans as required under clause (5) of the second sentence of subsection (a).

The bureau shall develop and implement standard credentialing forms for health care providers, and any entities acting for an insurance carrier under contract shall use the uniform form designated by the division for the health care provider. Six months after the full set of forms has been developed, every

insurance carrier shall accept the standard credentialing form for contracting providers as sufficient information necessary to conduct its credentialing process.

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 a health care provider type that is licensed under chapter 112 and that provides identical services. Such uniform standards and methodologies for credentialing of providers shall include but not be limited to the following requirements:

(i) An insurance carrier or any entity acting for an insurance carrier, when conducting a credentialing review of a health care provider, shall use and accept only the credentialing forms designated by the commissioner;

(ii) An insurance carrier or an entity acting for an insurance carrier, when conducting a credentialing review of a health care provider, shall review a submitted credentialing form for a health care provider and respond to the health care provider within 20 business days after receiving a completed credentialing request; and

(iii) Nothing in this section shall prohibit an insurance carrier or an entity acting for an insurance carrier, when conducting a credentialing review of a health care provider from using a credentialing methodology that utilizes an internet webpage, internet webpage portal or similar electronic, internet and web-based system in lieu of a paper form, provided that a carrier shall make a paper credentialing form available to a health care provide, upon request.

(c) Regulations promulgated by the bureau shall be consistent with and not duplicate or overlap with the regulations promulgated by the office of patient protection in the health policy commission established by section 16 of chapter 6D.

(d) A carrier that contracts with another entity to perform some or all of the functions governed by this chapter shall be responsible for ensuring compliance by the contracted entity with the provisions of this chapter. Any failure by the contracted entity to meet the requirements of this chapter shall be the responsibility of the carrier to remedy and shall subject the carrier to enforcement actions, including financial penalties, authorized under this chapter.

(e) A carrier that contracts with a pharmacy benefit manager shall (i) be responsible for coordinating an audit, at least once per year, of the operations of the pharmacy benefit manager to ensure compliance with the provisions of this chapter and to examine the pricing and rebates applicable to prescription drugs that are provided to the carrier’s covered persons; and (ii) require that the pharmacies with which the pharmacy benefit manager contracts have systems in place to ensure that the insured, at the point of sale for any prescription, is charged the lower of: the applicable cost sharing amount under the terms of the insured’s health benefit plan; the pharmacy benefits manager’s contracted rate of payment to the pharmacy for the prescription drug; or the retail price of the prescription drug if purchased without insurance.

(f) A carrier may apply to the bureau for deemed accreditation status. A carrier may be deemed to be in compliance with the bureau’s standards, and may be so accredited by the bureau, only if the carrier, or an entity with which it contracts: (1) is accredited by a national accreditation organization; (2) is in compliance with all of the requirements of this chapter; and (3) demonstrates compliance with, and has obtained the highest possible rating from the national accreditation organization for: (i) utilization review, (ii) quality management, and (iii) member rights and responsibilities, as promulgated by the bureau pursuant to this chapter. The bureau shall publish by regulation the highest possible rating level in each such category used by every national accreditation organization recognized by the bureau. Nothing in this subsection shall be construed to require a carrier, as a condition of certification, to be in compliance at the highest possible rating with each of the accreditation requirements of a national accreditation organization.

(g) A carrier which is not accredited by the bureau pursuant to this section, and is not otherwise exempt from accreditation, shall not offer for sale, provide or arrange for the provision of a defined set of health

care services to insureds through affiliated and contracting providers or employ utilization review in making decisions about whether services are covered benefits under a health benefit plan.

(h) A carrier shall be exempt from accreditation if in the written opinion of the attorney general, the commissioner of insurance and the commissioner of public health, the health and safety of health care consumers would be materially jeopardized by requiring accreditation of the carrier. Before publishing such written exemption, the attorney general, the commissioner of insurance and the commissioner of public health shall jointly hold at least one public hearing at which testimony from interested parties on the subject of the exemption shall be solicited. A carrier granted such an exemption shall be provisionally accredited and, during such provisional accreditation, shall be subject to review not less than every 4 months and shall be subject to those requirements of this chapter as deemed appropriate by the commissioner of insurance.

(i) Nothing in this chapter shall relieve any carrier of its obligations pursuant to the applicable provisions of chapters 175, 176A, 176B, 176G and 176I. Compliance with such applicable provisions of chapter 175, 176A, 176B, 176G and 176I shall be a condition of accreditation.

Summary:
This section, along with two others, requires insurers, including MassHealth, to use a standardized credentialing form so providers only need to complete one application.

Section 85 - Universal Provider Credentialing Application 3

SECTION 85. Said chapter 176Ois hereby further amended by adding the following section:-

Section 28. The bureau of managed care shall develop and implement standard credentialing forms for health care providers, and any entities acting for an insurance carrier under contract shall use the uniform form designated by the division for the health care provider. Six months after the full set of forms has been developed, every insurance carrier shall accept the standard credentialing form for contracting providers as sufficient information necessary to conduct its credentialing process.

Summary:
This section, along with two others, requires insurers, including MassHealth, to use a standardized credentialing form so providers only need to complete one application.

Section 86 - CPCS Hour Caps

SECTION 86. Section 11 of chapter 211D of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following subsection:-

(c) Notwithstanding the billable hour limitation in subsection (b), the chief counsel of the committee may waive the annual cap on billable hours for private counsel appointed or assigned to indigent cases if the chief counsel finds that: (i) there is limited availability of qualified counsel in that practice area; (ii) there is limited availability of qualified counsel in a geographic area; or (iii) increasing the limit would improve efficiency and quality of service; provided, however, that counsel appointed or assigned to such cases within the private counsel division shall not be paid for any time billed in excess of 2,000 billable hours. It shall be the responsibility of private counsel to manage their billable hours.

Summary:
This section repeals the existing "intermediate" cap that precludes private counsel from accepting new cases once they have reached an intermediate limit of 1,350 hours. In addition, it expands the authority of the Chief Counsel of CPCS to waive the billable hours caps for overall billing for indigent cases. The overall hours cap after a waiver would be 2,000 hours instead of the current 1,800 hours.

Section 87 - CPCS Billing Change

SECTION 87. Section 12 of said chapter 211D, as so appearing, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following 2 subsections:-

(a) The committee shall establish policies and procedures to provide fair compensation to private counsel and vendors, which shall include a remedy for an attorney aggrieved by the amount of payment. The committee shall also establish an audit and oversight department to monitor billing and private attorney and vendor compensation. All private attorney bills shall be processed for payment within 30 days of receipt by the chief counsel, excluding any bills held for review or audit. Bills shall be submitted to the committee within 30 days from conclusion of a case or within 30 days after the end of such fiscal year during which the legal services were provided whichever date is earlier. Bills submitted after such dates need not be processed for payment within 30 days. The amount of payment for bills received by the chief counsel more than 30 days but less than 60 days from conclusion of a case, or after the end of such fiscal year during which the legal services were provided, whichever date is earlier, shall be reduced by 10 per cent. All bills submitted after 60 days shall not be processed for payment; provided, however, that the chief counsel may authorize the payment of such bills, either in whole or in part, upon a determination that the delay was due to extraordinary circumstances beyond the control of the attorney.

(b) Bills shall be submitted to the committee for services provided under sections 27A to 27G, inclusive, of chapter 261 within 30 days of the last date of service or within 30 days after the end of such fiscal year during which the services were provided, whichever date is earlier. The amount of payment for invoices received by the chief counsel more than 30 days but less than 60 days from the last date of service, or after the end of such fiscal year during which services were provided, whichever date is earlier, shall be reduced by 10 per cent. All bills submitted after 60 days shall not be processed for payment; provided, however, that the chief counsel may authorize the payment of such bills either in whole or in part upon a determination that the delay was due to extraordinary circumstances beyond the control of the vendor.

Summary:
This section shortens the time period in which bills can be submitted by private bar advocates to CPCS for reimbursement after the end of a case so as to have the same time period apply for both end-of-case and end-of-fiscal year billing.

Section 88 - Court Obsolete or Useless Papers

SECTION 88. Subdivision (1) of section 27A of chapter 221 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The supreme judicial court may by rule or order make exceptions to the 10 year retention requirement set forth in this subdivision for papers filed in or relating to matters involving alleged violations of laws, rules or regulations regarding motor vehicle civil infractions, motor vehicle parking, littering, bicycles, pedestrians, municipal dog control or non-criminal dispositions of municipal ordinance or by-law violations, or other non-criminal regulatory offenses.

Summary:
This section allows the Supreme Judicial Court to issue an order or rule that would establish an exception for the 10-year record retention requirement for papers related to minor offenses such as parking tickets.

Section 89 - Electronic Publication of Mass Decisions 1

SECTION 89. Section 64A of said chapter 221, as so appearing, is hereby amended by inserting, in line 2, after the word "binding" the following words:- , or for the execution of the publication in electronic format.

Summary:
This section, along with two others, statutorily designates the electronic version as the official version of the Reports of Decisions of the Supreme Judicial Court and the Appeals Court.

Section 90 - Electronic Publication of Mass Decisions 2

SECTION 90. Said section 64A of said chapter 221, as so appearing, is hereby further amended by inserting, in line 6, after the word "binding" the following words:- or for publication in electronic format.

Summary:
This section, along with two others, statutorily designates the electronic version as the official version of the Reports of Decisions of the Supreme Judicial Court and the Appeals Court.

Section 91 - Electronic Publication of Mass Decisions 3

SECTION 91. Said section 64A of said chapter 221, as so appearing, is hereby further amended by inserting, in line 14, after the word "printing" the following words:- or publication in electronic format.

Summary:
This section, along with two others, statutorily designates the electronic version as the official version of the Reports of Decisions of the Supreme Judicial Court and the Appeals Court.

Section 92 - Inspection of Abandoned Dams

SECTION 92 Section 46 of chapter 253 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

Prior to any transfer of legal title of a dam registered under section 45 or the parcel on which it is located, or any division or subdivision of said parcel, or approval or endorsement of a plan under sections 81K to 81GG, inclusive, of chapter 41, whether by the act or failure to act of the planning board, the dam shall be inspected, and either it shall be determined to be in good condition by the commissioner or the owner shall establish a financial assurance mechanism to secure the timely funding to remove or repair the dam to a condition acceptable to the department in accordance with regulations promulgated by the department. The commissioner may promulgate regulations to implement this paragraph, including without limitation for the purpose of identifying transactions subject

to the inspection requirement, identifying appropriate exemptions and establishing the requirements for financial assurance mechanisms, such as bonds. Any transfer of legal title, division, subdivision or plan approval or endorsement without compliance with the requirements of this paragraph shall be void.

Summary:
This section requires any dam registered with DCR to be inspected by the owner prior to any transfer of title of the dam or subdivision of the underlying land parcel.

Section 93 - TNC Assessment Distribution 1

SECTION 93. The first sentence of subsection (b) of section 8 of chapter 187 of the acts of 2016 is hereby amended by striking out the figure "0.20" and inserting in place thereof the following figure:- 1.

Summary:
This section increases the TNC per-ride assessment to $1.00, of which $0.70 would be dedicated to the Commonwealth Transportation Fund and $0.30 to municipalities.

Section 94 - TNC Assessment Distribution 2

SECTION 94. Said chapter 187 of the acts of 2016 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. Section 8 is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following 2 subsections:-

(c) The division shall: (i) proportionately distribute 30 per cent of the amount collected to a city or town based on the number of rides from the previous calendar year that originated within that city or town to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation and if the amount of the distribution to a city or town is $25,000 or less, the chief executive officer as defined in section 7 of chapter 4 of the General Laws, may expend such funds for these purposes without further appropriation; and (ii) distribute 70 per cent of the amount collected to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

(d) (i) By December 31 of each year in which a city or town receives a disbursement of more than $25,000 from the Transportation Infrastructure Enhancement Trust Fund, that city or town shall submit a report to the director of the division that details the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c).

(ii) By December 31 of the year in which a city or town receives a cumulative total of more than $25,000 in disbursements from the Transportation Infrastructure Enhancement Trust Fund since its last report to director of the division, that city or town shall submit a report to the director of the division that details the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c) for each disbursement from Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the director of the division.

(iii) For a city or town whose cumulative total disbursements from the Transportation Infrastructure Enhancement Trust Fund have not exceeded $25,000 in the five years since its last report to the

director of the division, that city or town shall submit a report to the director of the division by December 31 of the fifth year since its last report to the director of the division. That report shall detail the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c) for each annual disbursement from Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the director of the division.

(iv) The division shall withhold future disbursements from the Transportation Infrastructure Enhancement Trust Fund from any city or town that does not comply with the reporting requirements of this subsection (d). The withheld funds shall be disbursed when the city or town complies with the requirements of this subsection (d).

(v) On an annual basis, the director shall compile the reports and post the projects and amounts of money used on the website of the division.

Summary:
This section ensures that, of the $1.00 per-ride assessment, $0.70 would be dedicated to the Commonwealth Transportation Fund and $0.30 to municipalities. In addition, this section adjusts the requirements for municipalities that receive a per-ride assessment of less than $25,000 based on the number of rides in that municipality, giving flexibility to those municipalities to spend such small sums without further appropriation.

Section 95 - TNC Assessment Distribution 3

SECTION 95. Section 17 of said chapter 187 of the acts of 2016 is hereby amended by striking out the figure "2022" and inserting in place thereof the following figure:- 2021.

Summary:
This section ends the current TNC per-ride assessment distribution model on January 1, 2021, instead of January 1, 2022.

Section 96- FY 2021 Stabilization Fund Transfer

SECTION 96. Notwithstanding any general or special law to the contrary, the comptroller shall, during fiscal year 2021, but prior to the calculation of the fiscal year 2021 consolidated net surplus in accordance with Section 5C of Chapter 29 of the Massachusetts General Laws, transfer up to $1,350,000,000 to the General Fund from the Commonwealth Stabilization Fund, established by section 2H of chapter 29 of the General Laws, upon the written request of the secretary of administration and finance.

Summary:
This section establishes a ceiling of $1.35 billion on the amount that may be transferred from the Stabilization Fund to the General Fund to support the operating budget for fiscal year 2021.

Section 97 - Other Post-Employment Benefits Liability

SECTION 97. (a) Notwithstanding any general or special law to the contrary, the unexpended balances in items 0699-0015 and 0699-9100 of section 2 shall be deposited into the State Retiree Benefits Trust Fund established in section 24 of chapter 32A of the General Laws before the certification of the fiscal

year 2021 consolidated net surplus under section 5C of chapter 29 of the General Laws. The amount deposited shall be an amount equal to 10 per cent of all payments received by the commonwealth in fiscal year 2021 under the master settlement agreement in Commonwealth of Massachusetts v. Philip Morris, Inc. et al., Middlesex Superior Court, No. 95-7378; provided, however, that if in fiscal year 2021 the unexpended balances of said items 0699-0015 and 0699-9100 of said section 2 are less than 10 per cent of all payments received by the commonwealth in fiscal year 2021 under the master settlement agreement payments, an amount equal to the difference shall be transferred to the State Retiree Benefits Trust Fund from payments received by the commonwealth under the master settlement agreement.

(b) Notwithstanding any general or special law to the contrary, the payment percentage set forth in section 152 of chapter 68 of the acts of 2011 shall not apply in fiscal year 2021.

Summary:
This section authorizes the use of debt service reversions to pay for OPEB funding. If debt service reversions are insufficient to cover the required funding, tobacco settlement proceeds would be used to make up that deficiency.

Section 98 - Pension Cost of Living Adjustment

SECTION 98. Notwithstanding any general or special law to the contrary, the amounts transferred pursuant to subdivision (1) of section 22C of chapter 32 of the General Laws shall be made available for the Commonwealth's Pension Liability Fund established in section 22 of said chapter 32. The amounts transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 shall meet the commonwealth's obligations pursuant to said section 22C of said chapter 32, including retirement benefits payable by the state employees' retirement system and the state teachers' retirement system, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, for the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32 and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. The state board of retirement and each city, town, county and district shall verify these costs, subject to rules that shall be adopted by the state treasurer. The state treasurer may make payments upon a transfer of funds to reimburse certain cities and towns for pensions of retired teachers, including any other obligation that the commonwealth has assumed on behalf of a retirement system other than the state employees' retirement system or state teachers' retirement system, including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32. The payments under this section shall be made only pursuant to distribution of money from the Commonwealth's Pension Liability Fund and any distribution, and the payments for which distributions are required, shall be detailed in a written report filed quarterly by the secretary of administration and finance with the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on public service in advance of the distribution. Distributions shall not be made in advance of the date on which a payment is actually to be made. If the amount transferred pursuant to said subdivision (1) of said section 22C of said chapter 32 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund established in subdivision (8) of said section 22 of said chapter 32 to reduce the unfunded pension liability of the commonwealth.

Summary:
This section explains how the Commonwealth is fulfilling its various obligations to the state retirement system, including the obligation to fund a 3% cost-of-living adjustment on the first $13,000 of a retiree's annual retirement allowance.

Section 99 - Sick Leave Buy Back 2

SECTION 99. Notwithstanding any general or special law to the contrary, section 21 shall take effect for any employee of the commonwealth and any employee at public institutions of higher education listed in section 5 of chapter 15A of the General Laws who has accrued not more than 1,000 hours of unused sick leave credits, on the effective date of this act. Any such employee who has accrued more than 1,000 hours of unused sick leave credits as of the effective date of this act shall not accrue credits in excess of those credits, but may accrue credits to replenish any sick time that is used after the effective date of this act, up to the maximum of 1,000 hours set forth above.

Summary:
This section, along with three others, limits the accrual of unused sick time to 1,000 hours for executive branch and public higher education employees. It also freezes the accrual of sick time for any employee who has already accrued more than 1,000 hours.

Section 100 - Sick Leave Buy Back 3

SECTION 100. Notwithstanding any general or special law to the contrary, the personnel administrator shall promulgate revised rules under the second paragraph of section 28 of chapter 7 of the General Laws to incorporate the changes enacted in subsection (e) of section 31A of chapter 29 of the General Laws and section 99 of this act, which revisions shall take effect as soon as practicable after the effective date of this act.

Summary:
This section, along with three others, limits the accrual of unused sick time to 1,000 hours for executive branch and public higher education employees. It also freezes the accrual of sick time for any employee who has already accrued more than 1,000 hours.

Section 101 - Sick Leave Buy Back 4

SECTION 101. Notwithstanding any general or special law to the contrary, the department of higher education and the University of Massachusetts shall revise the necessary rules and policies in order to incorporate the changes enacted in subsection (f) of section 31A of chapter 29 of the General Laws and section 99 of this act, which revisions shall take effect as soon as practicable after the effective date of this act.

Summary:
This section, along with three others, limits the accrual of unused sick time to 1,000 hours for executive branch and public higher education employees. It also freezes the accrual of sick time for any employee who has already accrued more than 1,000 hours.

Section 102 - TNC Assessment Distribution 4

SECTION 102. Notwithstanding any general or special law to the contrary, the amounts of the transportation network company per ride assessment established under subsection (b) of section 8 of chapter 187 of the acts of 2016, that have been collected and transferred before January 1, 2021 to the Massachusetts Development Finance Agency established in section 2 of chapter 23G of the General Laws, shall remain available to provide financial assistance to small businesses operating in the

taxicab, livery or hackney industries to encourage the adoption of new technologies and advanced service, safety and operational capabilities and support workforce development.

Summary:
This section provides that the portion of the TNC per-ride assessment collected and transferred to the Massachusetts Development Finance Agency prior to January 1, 2021 shall remain available to provide financial assistance to small businesses operating in the taxicab, livery, or hackney industries.

Section 103 - Expanded Medicare Savings Program Transfer

SECTION 103. Notwithstanding any general or special law to the contrary, the secretary of administration and finance, in consultation with the secretary of health and human services, may transfer from the prescription advantage program in item 9110-1455 of section 2 and the Health Safety Net Trust Fund established in section 66 of chapter 118E of the General Laws in fiscal year 2021, the amount necessary to support the Medicare Savings or Medicare Buy-In programs established in section 25A of chapter 118E of the General Laws; provided, however, that the secretary of health and human services shall certify to the senate and house committees on ways and means, not less than 45 days in advance of the transfer, in writing, the amount to be transferred and an explanation of the amount of expected savings to those programs resulting from the transfer.

Summary:
This section authorizes the transfer of funds from the Prescription Advantage programs and the Health Safety Net Trust Fund in order to fund the non-federal share of the Medicare Savings Program.

Section 104 - Direct Negotiations for Rebates on Certain Drugs and Non-Drug Products

SECTION 104. Notwithstanding any general or special law to the contrary, the executive office of health and human services may directly negotiate rebate agreements with manufacturers of non-drug products and drugs that are not covered outpatient drugs under 42 U.S.C. s. 1396r-8, provided that such agreements maximize value to the commonwealth. Such agreements may be based on the value, efficacy or outcomes of the non-drug product or drug.

Summary:
This section will allow MassHealth to directly negotiate rebate agreements for drugs not subject to the Medicaid Drug Rebate Program and for certain non-drug products such as durable medical equipment.

Section 105 - Parent Fee Schedule

SECTION 105. Notwithstanding any general or special law to the contrary, the commissioner of the department of early education and care, with approval from the board of early education and care, shall have the authority, until February 28, 2021, to establish and implement a revised sliding fee scale prior to a public hearing under chapter 30A. The department shall initiate a public hearing under chapter 30A within 30 days of implementation of the revised sliding fee scale, and it shall remain in effect for a period not to exceed six months.

Summary:
This section would provide EEC with authority to implement a new parent fee scale for families participating in subsidized programs, effective through July 2021.

Section 106 - Inspector General's Health Care Audits

SECTION 106. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2021, the office of inspector general may expend a total of $1,000,000 from the Health Safety Net Trust Fund established in section 66 of chapter 118E of the General Laws for costs associated with maintaining a health safety net audit unit within the office. The unit shall continue to oversee and examine the practices in hospitals including, but not limited to, the care of the uninsured and the resulting free charges. The unit shall also study and review the Medicaid program under said chapter 118E including, but not limited to, a review of the program's eligibility requirements, utilization, claims administration and compliance with federal mandates. The inspector general shall submit a report to the chairs of the senate and house committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2022.

Summary:
This section authorizes the Inspector General's Office to conduct audits of the Health Safety Net and the MassHealth program, at a cost of $1 million for fiscal year 2021. As in past years, this cost will be borne by the Health Safety Net Trust Fund.

Section 107 - Transfers Between Health Funds

SECTION 107. Notwithstanding any general or special law to the contrary, the executive office for administration and finance may transfer up to $15,000,000 from the Commonwealth Care Trust Fund established in section 2OOO of chapter 29 of the General Laws to the Health Safety Net Trust Fund established in section 66 of chapter 118E of the General Laws.

Summary:
This section authorizes the Secretary of Administration and Finance to transfer up to $15 million from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund.

Section 108 - FY21 RTA Funding Distribution

SECTION 108. Notwithstanding any special or general law to the contrary, for fiscal year 2021, $87,00,000 of the amount transferred in item 1595-6370 of section 2E shall be considered operating assistance and distributed to regional transit authorities as determined by a formula that is based upon clearly established metrics and principles and that has been agreed to by each RTA and approved by the Massachusetts Department of Transportation, hereinafter referred to as the department. The operating assistance amount shall be spent to advance the goals and targets in the FY20 Bilateral Memorandum of Understanding between each regional transit authority and the department. The remaining $3,500,000 of the amount under item 1595-6370 of section 2E shall be distributed as performance grants to regional transit authorities. The performance grants shall be distributed to regional transit authorities that best demonstrate compliance with or a commitment to the service decisions, quality of service and environmental sustainability recommendations from the report of the task force on regional transit authority performance and funding established pursuant to section 72 of chapter 154 of the acts of 2018. The department may require each regional transit authority to provide data on ridership, customer service and satisfaction, asset management and financial performance, including farebox recovery, and shall compile collected data into a report on the performance of regional transit authorities and each authority's progress toward meeting the performance metrics established in the memorandum of understanding.

Summary:
This section sets forth the fiscal year 2021 Regional Transit Authorities funding distribution.

Section 109 - MassCAN FY21 Funding Transfer

SECTION 109. Notwithstanding the provisions of section 6I of chapter 40J of the General Laws and item 7007-1202 of section 2 of chapter 47 of the acts of 2017 and said item 7007-1202 of section 2 of chapter 154 of the acts of 2018, the balance of any funding previously appropriated to the Massachusetts Technology Park Corporation under said items shall be made available to the department of elementary and secondary education to effectuate the purposes set forth in item 7010-1202 of section 2 of this act.

Summary:
This section transfers available funds from the MassTech Collaborative to the Department of Elementary and Secondary Education to fund the Massachusetts Digital Literacy Now grant program in fiscal year 2021.

Section 110 - Early Education COVID Recovery Fund

SECTION 110. (a) There shall be an Early Education COVID Recovery Fund, which shall be administered by the commissioner of early education and care, hereinafter the commissioner, in consultation with the secretary of education. The commissioner, or a designee, shall serve as the trustee of the fund.
(b) There shall be credited to the fund: (i) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (ii) interest earned on such revenues; and (iii) funds from public and private sources, including, but not limited to, gifts, grants and donations, to support state, philanthropic and private partnership efforts supporting Massachusetts childcare providers. Amounts credit to the fund that are unexpended at the end of a fiscal year shall not revert to the General Fund except upon the expiration of the fund.

(c) Amounts credited to the fund may be expended, without further appropriation, by the commissioner for the following purposes:

(i) to promote the safe supervision of school-aged children, particularly in low-income neighborhoods where the regular school day has been disrupted due to COVID-19;

(ii) to address the needs of licensed childcare providers during the reopening and recovery period connected to the COVID-19 pandemic, with priority given to programs serving families eligible for subsidized child care; and

(iii) to address the childcare needs of families during the reopening and recovery period connected to the COVID-19 pandemic, with priority given to families eligible for subsidized child care.

(d) The commissioner shall submit a spending plan annually to the secretary of administration and finance and the house and senate committees on ways and means. The spending plan shall include the specific programs that shall be supported through the fund. The spending plan shall include the fund balance at the start of the current fiscal year and expenditures and incomes from the prior fiscal year. Spending from the fund shall be subject to approval of the secretary of administration and finance. The commissioner shall report annually the secretary of administration and finance and the house and senate committees on ways and means on how the funds have been expended and how expenditures have differed from the spending plan submitted. For the purpose of accommodating discrepancies

between the receipt of revenues and related expenditures, the commissioner may incur obligations and the comptroller may certify payment amounts not to exceed the most recent revenue estimate submitted by the commissioner and approved by the secretary of administration and finance but the fund shall be in balance by the close of each fiscal year.

(e) The commissioner shall determine eligibility and benefit levels for programs supported by the fund. Any funds expended on programs that are also funded through the general appropriations act shall follow all eligibility and program requirements as described in the item language for each such program.

(f) Eligible grantees of the fund shall include, but are not limited to: programs approved or licensed by the department of early education and care to deliver remote learning support services, as authorized by COVID-19 Executive Order 49.

(g) This fund shall expire on June 30, 2024, and the balance of the fund shall revert to the General Fund on that date.

Summary: This section establishes the Early Education COVID Recovery Fund.

Section 111 - Regulatory Modernization Effective Date

SECTION 111. Section 32 shall take effect on January 1, 2022.

Summary:
This section sets a January 1, 2022 effective date for the provisions that require online publication of the Massachusetts Register and the Code of Massachusetts Regulations, while authorizing hard copy publication of those documents.

Section 112 - Disability Employment Tax Credit Effective Date

SECTION 112. The credit authorized in sections 36 and 42 shall be available for qualified employees with a disability who are hired after July 1, 2021 and shall be available for the tax year beginning on January 1, 2023 and for subsequent tax years.

Summary:
This section, along with two others, establishes a tax credit for businesses that employ an individual with a disability for a minimum of eighteen consecutive months. This section is the effective date for the tax credit.

Section 113 - Sales Tax Modernization Effective Date

SECTION 113. Section 39 shall take effect on July 1, 2024.

Summary:
This section sets an effective date of July 1, 2024 for real-time sales tax collection.

Section 114 - Excise Tax on Opioids Effective Date

SECTION 114. Chapter 63C of the General Laws, as inserted by section 43,shall apply to all sales commencing on or after a date 6 months after the enactment date of this act. The commissioner of revenue shall issue regulations or other guidance regarding the timing of returns required under said chapter 63C, as so inserted, not later than 6 months after the enactment date of this act.

Summary:
This section sets an effective date for the excise on opioids.

Section 115 - Penalty on Excessive Price Increases Effective Date

SECTION 115. Chapter 63D of the General Laws, as inserted by section 43, shall apply to sales commencing on or after the enactment date of this act. The commissioner of revenue shall issue regulations or other guidance regarding the reporting and payment of the penalty as soon as practicable after the enactment date of this act.

Summary:
This section sets an effective date for the penalty on excessive price increases.

Section 116 - Effective Date 1

SECTION 116. Sections 4, 7 and 8, sections 10 to 18, inclusive, sections 20 to 32, inclusive, sections 34, 40, sections 46 to 49, inclusive, sections 54 to 58, inclusive, sections 61 to 73, inclusive, sections 75 to 85, inclusive, sections 88 to 95, inclusive, sections 99 to 101, inclusive, and sections 104 and 105 shall take effect upon their enactment.

Summary:
This section provides that certain sections shall take effect upon the enactment date of this act.

Section 117 - Effective Date 2

SECTION 117. Sections 5, 40, 41, 44 and 45 shall take effect on January 1, 2021.

Summary:
This section provides that certain sections shall take effect on January 1, 2021.

Section 118 - Effective Date 3

SECTION 118. Except as otherwise specified, this act shall take effect on July 1, 2020.

Summary:
This section provides that the budget shall take effect on July 1, 2020.