

HOUSE DOCKET, NO. 03527

**HOUSE . . . . . No.**  
**00037**

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*(House – [Enter text], 01/26/2011)*

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**The Commonwealth of Massachusetts**

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IN THE YEAR TWO THOUSAND ELEVEN  
\_\_\_\_\_

*[Enter main body text]*

**HOUSE . . . . . No. 00037**

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The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Eleven.  
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Whereas, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2011 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2011, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

DISTRICT ATTORNEYS

Middle District Attorney

0340-0420            \$253,000

SHERIFFS

Hampden Sheriff's Department

8910-0102            \$325,117

Worcester Sheriff's Department

8910-0105            \$201,706

Middlesex Sheriff's Department

8910-0107            \$298,073

Franklin Sheriff's Department

8910-0108            \$43,506

Hampshire Sheriff's Department

8910-0110            \$58,463

Essex Sheriff's Department

8910-0619            \$221,190

Berkshire Sheriff's Department

8910-0145            \$71,465

Bristol Sheriff's Department

8910-8300            \$133,556

Dukes Sheriff's Department

8910-8400            \$12,582

Nantucket Sheriff's Department

8910-8500            \$3,835

Norfolk Sheriff's Department

8910-8600            \$113,982

Plymouth Sheriff's Department

8910-8700            \$118,396

Suffolk Sheriff's Department

8910-8800            \$424,781

TREASURER AND RECEIVER-GENERAL

Office of the Treasurer and Receiver-General

0612-0105            \$100,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1599-4420            \$180,032

Bureau of State Office Buildings

1102-3302            \$1,300,000

Department of Revenue

1232-0100            \$25,000,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Department of Transitional Assistance

4403-2000            \$8,900,000

4405-2000            \$5,500,000

Department of Developmental Services

5930-1000            \$8,200,000

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

Department of Housing and Community Development

7004-0101            \$6,000,000

EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

Department of Workforce Development

7002-0012            \$4,000,000

EXECUTIVE OFFICE OF EDUCATION

Department of Elementary and Secondary Education

7027-0019            \$1,500,000

EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Office of the Secretary of Public Safety and Security

8100-0111            \$2,500,000

Military Division

8700-0001            \$250,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2011. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary of Administration and Finance

1599-1973 For a reserve for the hired equipment, materials and vehicle repairs costs associated with snow and ice removal on highways and roads throughout the commonwealth            \$25,000,000

Commonwealth Transportation Fund            100 %

1599-1982 For a reserve to meet the fiscal year 2011 and 2012 costs of salary adjustments and other economic benefits authorized by a collective bargaining agreement between the administrative office of the trial court and the OPEIU Local 6; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine these adjustments and benefits for the confidential employees in accordance with the collective bargaining agreement then in effect which otherwise would cover these positions; provided further, the secretary may transfer from the sum appropriated in this item to other items of appropriation and allocation thereof for fiscal year 2011 and fiscal year 2012 amounts that are necessary to meet these costs where amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; and provided further, that any unexpended funds from this item shall not revert but shall made available until June 30, 2012            \$32,611,200

1599-2004 For a reserve to fund the additional administrative costs associated with the design and implementation of initiatives to promote cost containment, transparency, and efficiency in the delivery of quality health care; provide, that allowable expenses

from this items shall include, but not limited to, personnel expenditures, professional services and information technology needed to support the medicaid delivery model commission and the provider price reform commission, costs of personnel and overtime, contracts and the purchase of new information technologies \$2,900,000

1599-4227 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Commonwealth of Massachusetts and the Massachusetts Nurses Association, Unit 7  
\$775,443

1599-4253 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Commonwealth of Massachusetts and NEPBA, DOC Captains \$48,399

1599-4304 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Barnstable sheriff's department and the Barnstable Correctional Officers \$63,828

1599-4334 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the American Federation of State, County and Municipal Employees/AFL-CIO, Council 93, Locals 3643/3967 \$32,921

1599-4335 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the American Federation of State, County and Municipal Employees/AFL-CIO, Council 93, Local RN \$4,582

1599-4341 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Suffolk county sheriff's department and the Jail Officers and Employees Association of Suffolk County \$142,243

1599-4354 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Plymouth sheriff's department and the NCEU 104, Superior Officers \$18,310

1599-4355 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Plymouth sheriff's department and the Plymouth Investigators MCOFU (BCI) \$4,426

1599-4357 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the

Plymouth sheriff's department and the Plymouth Investigators MCOFU C-Med  
(Communications Staff) \$5,712

1599-4358 For a reserve to meet the fiscal year 2011 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Plymouth sheriff's department and the NCEU 301, Plymouth Admin/Tech (Clerical)  
\$21,988

## EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

### Department of Elder Affairs

9110-2500 The department of elder affairs may not expend more than \$450,000 from revenues from federal reimbursements received for the purpose of operating the Veterans Independence Plus Initiative, a joint initiative of the United States Department of Veterans' Affairs and the United States Administration on Aging \$450,000

### Sex Offender Registry Board Composition

SECTION 3. (A) Section 178K of chapter 6 of the General Laws is hereby amended by striking out, in line 8, as appearing in the 2008 Official Edition, the words "psychologists or psychiatrists" and inserting in place thereof the following words:- mental health professionals

(B) Said section 178K of chapter 6, as so appearing, is hereby amended by striking, in line 10, the words "psychologist or psychiatrist" and inserting in place thereof the following words:- mental health professional

### Technical Changes to In-state Purchasing Preference Law

SECTION 4. Chapter 7 of the General Laws is hereby amended by striking out section 22O, inserted by section 7 of chapter 240 of the acts of 2010, and inserting in place thereof the following section:-

Section 22O. Notwithstanding any general or special law to the contrary and to the extent permitted by federal law, a state agency or authority may establish a preference for the procurement of products or services from businesses, as defined in section 3A of chapter 23A, with their principal place of business in the commonwealth. In addition, the operational services division shall endeavor to ensure that in any fiscal year no less than 15 per cent of statewide procurement contracts are entered with businesses, as so defined, which (i) are independently owned and operated; (ii) have a principal place of business in the commonwealth; and (iii) would be defined as a small business by the division pursuant to the small business purchasing program.

## State Retiree Benefits Trust Fund Amendments

SECTION 5. (A) Section 24 of chapter 32A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “system”, in line 16, the following words:- and for depositing, investing and disbursing amounts transferred to it under paragraph (d).

(B) Said section 24 of said chapter 32A, as so appearing, is hereby further amended by striking out paragraph (d) and inserting in place thereof the following paragraph: -

(d) Upon authorization by the board, any political subdivision, municipality, county, or agency or authority of the commonwealth may participate in the fund using procedures and criteria to be adopted by the board.

(C) Chapter 32B of the General Laws is hereby amended by striking out section 20, as so appearing, and inserting in place thereof the following section:-

Section 20. (a) A city, town, district, county or municipal lighting plant that accepts this section may establish a separate fund, to be known as an Other Post-Employment Benefits Liability Trust Fund, and may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant or (ii) the treasurer of any other governmental unit, or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the Health Care Security Trust board of trustees established under section 4 of chapter 29D, provided that the board of trustees accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule set forth in chapter 203C, and may, with the approval of the Health Care Security Trust Board of Trustees, be invested in the State Retiree Benefits Trust Fund established by section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter by vote of the city council; in any other city by vote of the city council and approval of the mayor; in a town by vote of the town at a town meeting; in a district by vote of the governing board; in a municipal lighting plant by vote of the board; and in a county by vote of the county commissioners.



(d) Nothing in this section shall affect the validity of any action, taken before July 1, 2011, by any city or town to authorize the contributory retirement system of which the employees of the city or town are members to be the custodian of such a fund.

(e) Every city, town, district, county and municipal lighting plant shall submit to the public employee retirement administration commission, no later than December 31 of each year, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. Not later than June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform with the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance, and the board of trustees of the Health Care Security Trust.

#### EOHED Designees on Certain Boards

SECTION 6. (A) [Mass. Technology Development Corp.] The first sentence of the fourth paragraph of section 2 of chapter 40G of the General Laws is hereby amended by inserting after the word "development", inserted by section 82 of chapter 240 of the acts of 2010, the following words:- or his designee.

(B) [Community Economic Development Assistance Corp] The first sentence of subsection (b) of section 3 of chapter 40H of the General Laws is hereby amended by inserting after the word "development" , inserted by section 90 of said chapter 240, the following words:- or his designee.

(C) [Mass. Broadband Institute] The first sentence of subsection (c) of section 6B of chapter 40J of the General Laws is hereby amended by inserting after the word "development", inserted by section 95 of said chapter 240,, the following words:- or his designee.

(D) [Mass. Technology Transfer Center] The first sentence of subsection (c) of section 45 of chapter 75 of the General Laws is hereby amended by inserting after the word "development" , inserted by section 130 of said chapter 240, the following words:- or his designee.

#### DOR Administrative and Technical Changes

SECTION 7. (A) Clause Third of section 5 of chapter 59 of the General Laws is hereby amended by striking out the second paragraph, as amended by section 1 of chapter 258 of the acts of 2010, and inserting in place thereof the following 2 paragraphs:-

In any city or town that accepts this paragraph, subsection (c) shall not apply to any charitable non-residential mental health facility organized under chapter 180 which provides clinical, therapeutic, diagnostic and counseling services to persons with mental disorders.

In any city or town that accepts this paragraph, any real estate owned by, or held in trust for, a charitable organization for the purpose of creating community housing, as defined in section 2 of chapter 44B, that was purchased from an entity that acquired the property pursuant to section 14 of chapter 244 shall be exempt until that real estate is leased, rented or otherwise disposed of, but not for more than 7 years after that purchase.

(B) Paragraph (3) of clause Sixteenth of said section 5 of said chapter 59 is hereby amended by striking out the last sentence, as appearing in section 108 of chapter 240 of the acts of 2010, and inserting in place thereof the following 2 sentences:- This clause as it applies to a research and development corporation, as defined in section 42B of said chapter 63, shall take effect in a city or town only upon acceptance of this sentence by the city or town. This clause as it applies to a limited liability company that is a disregarded entity and whose sole member is a manufacturing corporation or a research and development corporation shall take effect in a city or town only upon acceptance of this sentence by the city or town.

(C) Section 9 of chapter 62C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence, and inserting in place thereof the following sentence:- If a person, corporation, employer, or vendor fails to file a return required by section 6, 7, 10 or 11, or subsection (h) of section 16, a justice of the supreme judicial court or the superior court, on petition of the commissioner, shall issue an order in the nature of mandamus requiring that person, corporation, employer, or vendor to file that return.

(D) Subsection (k) of section 16 of said chapter 62C, as so appearing, is hereby amended by adding the following 5 sentences:- In addition, each such person shall on or before March 20 of each year file an information return for the prior calendar year containing the information and in the form that the commissioner may by rule or regulation require, including but not limited to the total monthly sales amount to each person to whom it has made sales, exclusive of deposits required by sections 321 to 327, inclusive, of chapter 94, and identifying information for those purchasers. If a person fails to file the information return required by this subsection, he shall be liable for a penalty of \$1,000 for each such failure. The penalty shall be considered assessed by the

commissioner's issuance of a notice to the taxpayer setting out the amount of the penalty and the period for which the information return was due. No other notice nor any demand for payment shall be required as a prerequisite to the imposition or collection of a penalty imposed under this subsection, which shall be collected in the same manner as a tax. A penalty imposed by the commissioner for a failure to file an information return under this subsection shall be subject to subsection (f) of section 33 relative to waiver of penalties.

(E) Section 16 of said chapter 62C, as amended by sections 32 and 33 of chapter 27 of the acts of 2009, is hereby further amended by adding the following subsection:-

(m) Every franchisor that has at least 1 franchisee required to be registered under section 67 as a sales tax vendor under chapter 64H, 64I or 64L shall on or before March 20 of each year file an information return for the prior calendar year containing such information and in such form as the commissioner may require, including but not limited to the total monthly transactions between the franchisor and each such person to whom he has made sales and identifying information for such purchasers. If any franchisor fails to file the information return required by this subsection, he shall be liable for a penalty of \$1,000 for each such failure. The penalty shall be considered assessed by the issuance by the commissioner of a notice to the taxpayer setting out the amount of the penalty and the period for which the information return was due. No other notice nor any demand for payment shall be required as a prerequisite to the imposition or collection of a penalty imposed under this subsection, which shall be collected in the same manner as a tax. A penalty imposed by the commissioner for a failure to file an information return under this section shall bear interest as determined under subsection (a) of section 32 and be subject to subsection (f) of section 33 relative to waiver of penalties.

(F) The first paragraph of section 24 of said chapter 62C, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:-

If the commissioner determines that in more than half of the tax periods open to assessment under subsection (b) of section 26 of chapter 62C, there has been an omission from income or tax exceeding 25 percent as described in subsections (h) and (i) of section 26, a presumption shall arise that there has also been such an omission in additional periods which may be assessed under subsections (h) and (i). The presumption may be rebutted only by the production of adequate books, papers, records and other data of that taxpayer relating to those periods. The taxpayer shall provide to the commissioner all accounting records and information in electronic format, as requested by the commissioner, to the extent that the taxpayer maintains such records in electronic format.

(G) Subsection (b) of section 32 of said chapter 62C, as so appearing, is hereby amended by adding the following 2 sentences: -Except as specified in this paragraph, this

interest shall be determined without offset or deduction from the assessed tax any abatement or overpayment by the taxpayer that is attributable to any other taxable period. But, for purposes of this interest calculation, the commissioner may adopt regulations providing for an offset or deduction from the assessed tax of an abatement or overpayment attributable to another taxable period to the extent that this assessed tax and this abatement or overpayment both relate to the appropriate timing between taxable periods of a claim for the same item of income, deduction or credit.

(H) The first paragraph of section 36 of said chapter 62C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Interest on the overpayment shall be determined in accordance with section 40. Interest on unpaid amounts of other taxes due shall be determined in accordance with section 32.

(I) Said first paragraph of said section 36 of said chapter 62C, as so appearing, is hereby further amended by striking out the last sentence.

(J) Section 37 of chapter 62C of the General Laws, as amended by section 37 of chapter 27 of the acts of 2009, is hereby further amended by inserting after the fourth paragraph the following paragraph:-

If the commissioner determines that any tax has been abated improperly because of departmental clerical error or for any other reason, he may, in his discretion, correct such error within 60 days after the erroneous abatement notice. At his option, the commissioner shall either continue to consider the previously pending application or shall deny the application. In either case, the commissioner shall notify in writing the person to whom the abatement was issued of the erroneous abatement and shall state whether the commissioner is still considering the application or whether the application is denied. When the commissioner corrects an erroneous abatement by providing the notice described in this section, the assessment that was the subject of the erroneous abatement shall continue in effect as if the erroneous abatement had not occurred.

(K) Section 37C of said chapter 62C, as appearing in the 2008 Official Edition, is hereby amended by adding the following paragraph:-

(g) Communications between or among employees or contractors of the department of revenue with regard to proposed or completed settlements under this section shall be confidential and not subject to disclosure to the taxpayer or any other party, but these communications may be disclosed to the attorney general in conjunction with the review or reporting of settlements as provided in this section.

(L) Section 70 of said chapter 62C, as so appearing, is hereby amended by striking the second sentence and inserting in place thereof the following sentence:- These summonses shall be served in the same manner as summonses for witnesses in criminal

cases issued on behalf of the commonwealth, and all laws relative to summonses in those cases, including but not limited to the attorney work-product rules applicable under criminal procedure, shall apply to summonses issued under this section.

(M) Section 71 of chapter 62C of the General Laws, as so appearing, is hereby amended by adding the following 2 sentences:- But if a person has consented to electronic notification, any notice authorized or required under this chapter may be given electronically to that person in the manner provided in regulations issued by the commissioner. Such an electronic notice shall have the same effect as a properly issued paper notice.

(N) Paragraph 9 of section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following paragraph:-

Notwithstanding paragraph 8, the net worth of a business corporation taxable under clause (1) of subsection (a) of section 39 that is a qualified real estate investment trust shall be that portion of the book value of its total assets less its liabilities on the last day of the taxable year that the book value of its tangible assets situated within the commonwealth on that date and not subject to local taxation plus the amount of its intangible assets on that date allocable to this commonwealth, as determined by this paragraph, bear to the book value of its total assets on that date.

(O) Subsection (a) of section 38M of said chapter 63, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The terms “qualified research expenses”, “base amount”, “qualified organization base period amount”, “basic research”, and any other terms affecting the calculation of this credit shall, unless the context otherwise requires, have the same meanings as under said section 41 of the Code as amended and in effect on August 12, 1991, but shall apply only to expenditures for research conducted in the commonwealth; and with respect to the term “base amount”, the term “fixed-base percentage” shall mean a fraction, the numerator of which is the aggregate qualified research expenses of the corporation for the 4 taxable years preceding the taxable year for which the credit is being determined, and the denominator of which is the aggregate gross receipts of the corporation for the 4 taxable years preceding the taxable year for which the credit is being determined.

(P) Section 38Z of said chapter 63 is hereby amended by striking out subsection (a), as so appearing, and inserting in place thereof the following subsection:-

(a) There shall be a dairy farm tax credit program under which a business corporation that holds a certificate of registration as a dairy farm pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced

and sold. The credit may be claimed against the taxes due pursuant to this chapter. The credit shall be established to offset the cyclical downturns in milk prices paid to dairy farmers and shall be based on the United States Federal Milk Marketing Order for the applicable market such that, if the United States Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year, the business corporation may receive the tax credit.

(Q) The first paragraph of section 39A of said chapter 63, as so appearing, is hereby amended by striking the first sentence of and inserting in place thereof the following sentence:- The net income of a business corporation which is a subsidiary or parent corporation of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or subsidiary or affiliated corporations in excess of fair value, and by including fair compensation to such business corporation for all commodities sold to or services performed for the parent corporation or subsidiary or affiliated corporations.

(R) Said section 39A of said chapter 63 of the General Laws, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

If, in the opinion of the commissioner, the capital of a business corporation, which is a subsidiary or parent corporation of another corporation or closely affiliated therewith by stock ownership, is inadequate for its business needs apart from credit extended or indebtedness guaranteed by the parent or subsidiary or an affiliated corporation, the commissioner shall, in determining net worth under paragraph 9 of section 30, determine the value of its net worth properly taxable thereunder, and consider such value the taxable net worth, disregarding its indebtedness owed or guaranteed by the parent or subsidiary or an affiliated corporation.

(S) Said chapter 63, is hereby further amended by striking out section 42A and inserting in place thereof the following section:-

Section 42A . The taxable net income of a business corporation subject to tax under section 39 that is allocated or apportioned to this commonwealth under section 38 shall be its net income subject to the tax under this chapter.

(T) Section 2 of chapter 64E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the fourth paragraph.

(U) Subsections (N), (P), (Q), (R), and (S) shall be effective for tax years beginning on or after January 1, 2009.

(V) Subsection (O) shall apply to taxable years beginning on or after January 1, 2012.

## Align Federal and State Tax Treatment of Employer-provided

### Health Care Coverage for Employee's Adult Child

SECTION 8. (A) Paragraph (c) of section 1 of chapter 62 of the General Laws, as amended by section 26 of chapter 27 of the acts of 2009, is hereby further amended by inserting after the figure "72" the following figures:- , 105, 106".

(B) Subsection (A) shall be effective for tax years beginning on or after January 1, 2010.

### Board of Real Estate Brokers and Salespersons:

#### Usual Enforcement Authority

SECTION 9. Section 87DDD of chapter 112 of the General Laws is hereby repealed.

### All Payer Claims Database

SECTION 10. The third paragraph of section 6 of chapter 118G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- The division shall adopt regulations to require private and public health care payers to submit claims data, member data, and provider data for the purpose of developing and maintaining an all payer claims database.

### Time for Certain DHCFP Reports

SECTION 11. (A) Section 6½ of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 83 and 84, the words "no later than December 31st."

(B) The last sentence of section 304 of chapter 149 of the acts of 2004 is hereby amended by striking out the words "on February 1".

### Allow DOC to Close Facilities

SECTION 12. Section 1 of chapter 124 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 6 to 9, the words "; provided that no state or county correctional facility named in paragraph (n) of section one of chapter 125 shall be discontinued without specific authorization and approval of the General Court".

### Transportation of Inmates

SECTION 13. Section 3 of chapter 125 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following sentence:- The duties of a correction officer or correctional program officer shall include the duty to transport

inmates outside of a correctional facility and to prevent their escape, and no special state police officer appointment under section 127 of chapter 127 is necessary for these purposes.

#### Optional Electronic Notification of Firearms License Expiration

SECTION 14. (A) Section 129B of chapter 140 of the General Laws is hereby amended by inserting after the word "send", in line 174, as appearing in the 2008 Official Edition, the following words :- "electronically or".

(B) Clause (9) of said section 129B of said chapter 140, as so appearing, is hereby further amended by adding the following 3 sentences:- The commissioner of the department of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department for the purpose of providing electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

(C) Section 131 of said chapter 140 is hereby amended by inserting after the word "send", in line 292, as so appearing, the following words:- "electronically or"

(D) Subsection (l) of said section 131 of said chapter 140, as so appearing, is hereby further amended by adding the following 3 sentences :- The commissioner of the department of criminal justice information services shall provide electronic notice of expiration only upon the request of a cardholder. A request for electronic notice of expiration shall be forwarded to the department on a form furnished by the commissioner. Any electronic address maintained by the department for the purpose of providing electronic notice of expiration shall be considered a firearms record and shall not be disclosed except as provided in section 10 of chapter 66.

#### Delegation of Medical Security Plan

SECTION 15. Section 14G of chapter 151A of the General Laws is hereby amended by inserting after the word "agency", in line 208, the following words:- or state authority.

#### Professional Court Administrator

SECTION 16. (A) Section 3 of chapter 211 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 19 to 28, the words, "and provided, further that general superintendence also shall not include the authority or power to exercise or supersede any of the powers, duties and responsibilities of the chief justice for administration and management, as established by section one of chapter two hundred and eleven B, in any general or special law except under extraordinary



circumstances leading to a severe, adverse impact on the administration of justice; provided, that the majority of the supreme judicial court shall issue a written order that sets forth the basis for a finding that, absent such action, there would be a severe and adverse impact on the administration of justice in the commonwealth.”

(B) Section 26 of said chapter 211, as so appearing, is hereby amended by striking out, in line 2, the words “justice for administration and management” and inserting in place thereof the following word:- administrator.

(C) Section 26A of said chapter 211, as so appearing, is hereby amended by striking out, in line 16, the words “justice for administration and management” and inserting in place thereof the following word:- administrator.

(D) Section 1 of chapter 211B of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words “justice for administration and management”, and inserting in place thereof the following word:- administrator.

(E) Section 4 of said chapter 211B, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The chief administrator shall receive a salary to be fixed by the supreme judicial court.

(F) Said section 4 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 30, the words “justice for administration and management”, and inserting in place thereof the following word:- administrator.

(G) Said section 4 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 43, the words “or chief administrative justice”.

(H) Section 5 of said chapter 211B, as so appearing, is hereby amended by striking out the second, third and fourth sentences and inserting in place thereof the following 2 sentences:- The office of chief justice of a department of the trial court shall be filled by appointment, from among the justices appointed to the particular department, by the chief administrator. A chief justice shall serve at the will of the chief administrator, and may be removed by the chief administrator at the chief’s discretion.

(I) Said chapter 211B is hereby further amended by striking out section 6, and inserting in place thereof the following section:-

Section 6. The office of chief administrator, as provided in section 1, shall not be deemed a judicial office as comprehended under Article I of Chapter III of Part the Second of the Constitution. The chief administrator shall be accountable to the supreme judicial court. The supreme judicial court shall have the power to appoint and remove the chief administrator, for a term of 5 years. Prior judicial appointment shall not be a

requirement for appointment to the office of chief administrator. The chief administrator shall be appointed based on professional management qualifications.

(J) Section 6A of said chapter 211B, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 2 and 3, 18 and 19, and 22, the words “justice for administration and management” and inserting in place thereof the following word:- administrator.

(K) Section 7 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “justice for administration and management”, and inserting in place thereof the following word:- administrator.

(L) Said section 7 of said chapter 211B, as so appearing, is hereby further amended by striking out the second paragraph.

(M) Section 8 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 3, 8 and 9, 16 and 17, and 33 and 34 the words “justice for administration and management” and inserting in place thereof the following word:- administrator.

(N) The first paragraph of section 9 of said chapter 211B, as so appearing, is hereby amended by adding the following sentence:- It shall be the chief administrator’s responsibility to carry out the judiciary’s mission and goals as established by the supreme judicial court under the leadership of the chief justice.

(O) Said section 9 of said chapter 211B, as so appearing, is hereby further amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(P) Section 9A of said chapter 211B, as so appearing, is hereby amended by striking out”, wherever they appear, the words “justice for administration and finance” and inserting in place thereof the following word:- administrator.

(Q) Section 10 of said chapter 211B, as so appearing, is hereby amended by striking out, in line 5, the words “and the administrative authority of the chief justice for administration and management,”.

(R) Section 10 of said chapter 211B, as so appearing, is hereby further amended by striking the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(S) Section 10 of chapter 211B, as so appearing, is hereby further amended by striking out, in lines 149 to 152, the words “Whenever the term “chief justice” or “administrative justice” appears in any general or special law, it shall mean the chief justice described in section one for the department to which, in context, reference is made. The chief justice

shall be provided with suitable offices. He may appoint”, and inserting in place thereof the following words:- The chief administrator shall be provided with suitable offices. The chief justice may appoint.

(T) Section 10A of said chapter 211B, as so appearing, is hereby amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(U) Section 10B of said chapter 211B, as so appearing, is hereby amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(V) Section 10C of said chapter 211B, as so appearing, is hereby amended by striking out, in line 2, the words “justice for administration and management” and inserting in place thereof the following word:- administrator.

(W) Section 12 of said chapter 211B, as so appearing, is hereby amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(X) Section 13 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 16, 23, 29, the words “administrative justice”, and inserting in place thereof the following word:- administrator.

(Y) Section 14 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “justice for administration and management”, and inserting in place thereof the following word:- administrator.

(Z) Section 16 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 1, 13, 17-18, 21-22, the words “justice of administration and management”, and inserting in place thereof the following word:- administrator.

(AA) Section 17 of said chapter 211B, as so appearing, is hereby amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(BB) Section 17 of said chapter 211B, as so appearing, is hereby further amended by striking out, in line 17, the word “justice” and inserting in place thereof the following word:- administrator.

(CC) Section 19 of said chapter 211B, as so appearing, is hereby amended by striking out the words “justice for administration and management”, wherever they appear, and inserting in place thereof the following word:- administrator.

(DD) Section 20 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 2, 12, and 14 and 15, the words “justice for administration and management”, and inserting in place thereof the following word:- administrator.

(EE) Whenever the term “chief justice for administration and management” appears in any general or special law, regulation, contract or other document, it shall be taken to mean the chief administrator of the courts, as established by this section.

Correction of Moral Obligation Bonds for

Community Hospitals and Health Centers

SECTION 17 . Section 10 of chapter 614 of the acts of 1968 is hereby amended by striking out paragraph (g), as inserted by section 48 of chapter 288 of the acts of 2010, and inserting in place thereof the following paragraph:-

(g)(i) For the benefit of nonprofit community hospitals and nonprofit community health centers licensed by the department of public health and meeting the definition of a community health center under 114.6 CMR 13.00 as either a community health center or a hospital licensed health center, the authority may create and establish special funds to be known as Community Hospital and Community Health Center Capital Reserve Funds and, to the extent so created, shall pay into each such fund any monies appropriated and made available by the commonwealth for the purposes of such fund, any proceeds from the sale of notes or bonds to the extent provided in the resolution, trust agreement or indenture of the authority authorizing issuance thereof, any other monies or funds from either public or private sources and any other monies which may be available to the authority only for the purpose of such fund from any other source or sources. All monies held in the fund, except as hereinafter provided, shall be used solely for the payment of bonds of the authority which are secured by any such fund , which herein shall include becoming payable at maturity or by sinking fund installment, the purchase or tender price of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided however, that, monies in a Community Hospital and Community Health Center Capital Reserve Fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the fund to less than the maximum amount of principal and interest maturing or becoming due in any succeeding calendar year on outstanding bonds which are secured by the fund, except for the purpose of paying the principal of and interest on such bonds maturing or becoming due or for the retirement of such bonds in accordance with the terms of the trust agreement or other document providing for the issuance of such bonds by the authority and for the payment of which other monies pledged to secure such bonds are not available. Any income or interest earned by, or increment to, a

Community Hospital and Community Health Center Capital Reserve Fund due to the investment thereof shall be used by the authority for the purposes of this section.

(ii) The authority shall not issue bonds which will be secured by a Community Hospital and Community Health Center Capital Reserve Fund at any time if the maximum amount of principal and interest maturing or becoming due in any succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the authority which are secured by such fund will exceed the amount of such Community Hospital and Community Health Center Capital Reserve Fund at the time of issuance unless the authority, at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in the fund, will be not less than the maximum amount of principal and interest maturing or becoming due in any succeeding calendar year on such bonds then to be issued and on all other outstanding bonds of the authority which are secured by any such fund.

(iii) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this act, provision is made in subparagraph (i) for the accumulation in a Community Hospital and Community Health Center Capital Reserve Fund of an amount equal to the maximum amount of principal and interest maturing or becoming due in any succeeding calendar year on all outstanding bonds which are secured by any such fund. In order to further assure the maintenance of a Community Hospital and Community Health Center Capital Reserve Fund, there shall be appropriated annually and paid to the authority for deposit in the fund such sum, if any, as shall be certified by the executive director of the authority to the secretary of administration and finance as necessary to restore the fund to an amount equal to the maximum amount of principal and interest maturing or becoming due in any succeeding calendar year on the outstanding bonds which are secured by any such fund. The executive director of the authority shall annually, on or before December 1, make and deliver to the secretary of administration and finance a certificate stating the amount, if any, required to restore a Community Hospital and Community Health Center Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the authority for deposit to such fund during the then current fiscal year of the commonwealth.

(iv) For the purposes of this paragraph, in computing the amount of a Community Hospital and Community Health Center Capital Reserve Fund, securities in which all or a portion of the fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority unless otherwise provided in the resolution, trust agreement or indenture authorizing the issuance of bonds secured by the fund.

(v) For the purposes of this paragraph, the amount of a letter of credit, insurance contract, surety bond or similar financial instrument available to be drawn upon and

applied to obligations to which money in the Community Hospital and Community Health Center Capital Reserve Fund may be applied shall be counted as money in the fund. For the purposes of this paragraph, in calculating the maximum amount of interest due in the future on variable rate bonds or bonds with respect to which the interest rate is not at the time of calculation determinable, the interest rate shall be calculated at the maximum interest rate payable on such bonds as provided in the trust agreement or other document providing for the issuance of such bonds by the authority.

(vi) Bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund shall be issued by the authority solely for the benefit of nonprofit community hospitals and nonprofit community health centers licensed by the department of public health and meeting the definition of a community health center under 114.6 CMR 13.00 as either a community health center or a hospital licensed health center.

(vii) Notwithstanding any provision of this act to the contrary, no loan shall be made by the authority to a nonprofit community hospital or nonprofit community health center from the proceeds of bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund established under this paragraph unless: (a) the project to be financed by the loan has been approved by the secretary of health and human services; and (b) the loan and the issuance and terms of the related bonds have been approved by the secretary of administration and finance. In connection with any loan to a nonprofit community hospital or nonprofit community health center under this paragraph, the secretary of health and human services and the secretary of administration and finance may enter into an agreement with the authority and the nonprofit community hospital or nonprofit community health center to: (1) require that the nonprofit community hospital or nonprofit community health center provide financial statements or other information relevant to the financial condition of the nonprofit community hospital or nonprofit community health center and its compliance with the terms of the loan; (2) require that the nonprofit community hospital or nonprofit community health center reimburse the commonwealth for any amounts the commonwealth transfers to the fund under subparagraph (iii) to replenish the fund as a result of a loan payment default by the nonprofit community hospital or nonprofit community health center; and (3) require compliance by the nonprofit community hospital or nonprofit community health center or the authority with any other terms and conditions that the secretary of health and human services and the secretary of administration and finance consider appropriate in connection with the loan.

(viii) When the authority notifies the secretary of administration and finance in writing that an institution that is the recipient of a loan of the proceeds of bonds secured by a Community Hospital and Community Health Center Capital Reserve Fund under this paragraph is in default as to the payment of principal or interest on such loan, the secretary of administration and finance shall direct the comptroller to withhold any funds

in the comptroller's custody that are due or payable to the institution until the amount of the principal and interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders. Funds subject to withholding under this subparagraph shall include, but not be limited to, federal and state grants, contracts, allocations and appropriations.

(ix) If the authority further notifies the secretary of administration and finance in writing that no other arrangements are satisfactory, the secretary shall direct the comptroller to make available to the authority without further appropriation any funds withheld from the institution under subparagraph (viii). The authority shall apply the funds to the amounts due from the institution, including payments required to be made to the authority or trustee for any bondholders of debt service on any loan of the proceeds of bonds issued by the authority for the institution, or payments required to replenish the Community Hospital and Community Health Center Capital Reserve Fund or otherwise required by the terms of the loan or any other law or contract governing the loan or the bonds issued on behalf of the institution upon failure or default, or upon reasonable expectation of failure or default, of the institution to pay the principal or interest on its loan when due.

(x) The secretary of administration and finance may notify any other agency, department or authority of state government that exercises regulatory, supervisory or statutory control over the operations of the institution. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the institution of the money due or the steps that the agencies of the commonwealth, other than the comptroller or the authority, should take to assure the continued prudent operation of the institution or provision of services to the people served by the institution.

(xi) Notwithstanding any general or special law to the contrary, in the event that a nonprofit community hospital or nonprofit community health center fails to reimburse the commonwealth for any transfers made by the commonwealth to the authority to replenish the Community Hospital and Community Health Center Capital Reserve Fund under subparagraph (iii) within 6 months after any such transfer and as otherwise provided under the terms of the agreement among the nonprofit community hospital or nonprofit community health center, the authority and the commonwealth authorized under subparagraph (vii), the secretary of administration and finance may, in the secretary's sole discretion, direct the comptroller to withhold any funds in the comptroller's custody that are due or payable to the nonprofit community hospital or nonprofit community health center to cover all or a portion of the amount the nonprofit community hospital or nonprofit community health center has failed to pay to the commonwealth to reimburse the commonwealth for any such transfers. All contracts issued by the group insurance commission, the commonwealth health insurance connector authority and MassHealth to

a third party for the purposes of providing health care insurance paid for by the commonwealth shall provide that, at the direction of the secretary of administration and finance, the third party shall withhold payments to a nonprofit community hospital or nonprofit community health center which fails to reimburse the commonwealth under the agreement authorized under subparagraph (vii) and shall transfer the withheld amount to the commonwealth. Any such withheld and transferred amounts shall be considered to have been paid to the nonprofit community hospital or nonprofit community health center for all other purposes of law, and the nonprofit community hospital or nonprofit community health center shall be considered to have reimbursed the commonwealth in an amount equal to such withheld and transferred funds for purposes of the agreement authorized under said subparagraph (vii).

(xii) For the purposes of this paragraph, a community hospital or community health center shall not include a hospital where the ratio of the number of physician residents-in-training to the number of inpatient beds exceeds 0.25.

#### Delay Provider Rate Schedule and Related Procurements

SECTION 18. (A) Chapter 257 of the acts of 2008 is hereby amended by striking out section 15.

(B) Section 16 of said chapter 257 is hereby amended by striking out the date “October 1, 2010” and inserting in place thereof the following date:- January 1, 2012.

(C) Section 17 of said chapter 257 is hereby amended by striking out the date “October 1, 2011” and inserting in place thereof the following date:- January 1, 2013.

(D) Section 18 of said chapter 257 is hereby amended by striking out the date “October 1, 2012” and inserting in place thereof the following date:- January 1, 2014.

(E) Except as this subsection provides otherwise, a governmental unit shall not procure a new contract or extend an existing contract for a social service program subject to the prospective rate setting process required by section 7 of chapter 118G of the General Laws until after the rate has been set in accordance with the dates set forth in subsections (A) to (D), inclusive. After that rate has been set, that rate shall apply to any contract or contract extension that becomes effective on or after the following July 1, though the rate may be applied earlier. Notwithstanding any general or special law to the contrary, to the extent necessary to continue a social service program until a rate has been set in accordance with this subsection and the dates set forth in subsections (A) to (D), inclusive, the governmental unit may extend an existing contract for such a social service program, subject to only minor modifications as the governmental unit determines. A governmental unit may procure a new contract before such a rate has been set only with the prior written approval of the secretary of health and human services, including the



secretary's written finding that the new contract is necessary to assure (1) continuity of consumer health, safety or access, (2) program integrity, where a new contract is necessary to replace an existing contract that terminated early due to unanticipated circumstances, or (3) compliance with a court order, settlement agreement, or statutory requirement.

#### Conform to Federal Law for Extended Unemployment Benefits

SECTION 19. Section 45 of chapter 30 of the acts of 2009 is hereby amended by adding the following subsection:-

(f) Notwithstanding paragraphs (d) and (e) of subsection (1) of section 30A of chapter 151A of the General Laws and paragraphs (1) and (2) of subsection (b):

(1) with respect to weeks of unemployment beginning on or after the effective date of enactment of Public Law 111-312 and ending on or before December 31, 2011 or the date established in federal law permitting this provision: (A) there is a state "on" indicator under paragraph (d) of subsection (1) of section 30A of chapter 151A for a week: (i) if the average rate of insured unemployment for the period consisting of such week and the immediately preceding twelve weeks equals or exceeds 5 per cent, and (ii) the average rate of insured unemployment for the period consisting of such week and the immediately preceding twelve weeks equals or exceeds 120 per cent of the average of such rates for the corresponding 13-week period ending in each of the preceding 3 calendar years; (B) there is a state "off" indicator for a week based on the rate of insured unemployment only if for the period consisting of such week and the immediately preceding twelve weeks, clause (A) of paragraph (1) does not result in an "on" indicator.

(2) with respect to the weeks of unemployment referred to in paragraph (1) : (A)(i) there is a state "on" indicator for a week if the average rate of total unemployment , seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of such week equals or exceeds 6.5 per cent , but 8.0 percent in a "high unemployment period" as defined in clause (A) of paragraph (3) of subsection (b), and (ii) the average rate of total unemployment in the state, seasonally adjusted, as determined by the United States Secretary of Labor, for the 3-month period referred to in clause (i), equals or exceeds 110 per cent of such average for any or all of the corresponding 3-month periods in the 3 preceding calendar years; (B) there is a state "off" indicator for a week based on the rate of total unemployment only if for the period consisting of the most recent 3 months for which the data for all states are published before the close of such week, clause (A) of paragraph (2) does not result in an "on" indicator.

#### Debt Service Fund Split

SECTION 20. Item 0699-0015 of section 2 of chapter 131 of the acts of 2010 is hereby amended by adding the following words:- ;provided further, that notwithstanding any general or special law to the contrary or other provisions of this item, the comptroller may charge the payments authorized in the item to the appropriate budgetary or other fund subject to a plan which the comptroller shall file 10 days in advance with the house and senate committees on ways and means; and provided further, that the comptroller shall transfer from this item to the Government Land Bank Fund an amount equal to the amount by which debt service charged to the fund exceeds revenue deposited to the fund.

Underground Storage Tank PAC

SECTION 21. Item 1232-0100 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; and provided further, that any unexpended funds in this item shall not revert and shall be made available for the purposes of this item until June 30, 2012.

Increase Environmental Police Retained Revenue

SECTION 22. Said section 2 of said chapter 131 is hereby further amended by striking out item 2030-1004 and inserting in place thereof the following item:-

2030-1004 For environmental police private details; provided, that the office may expend revenues of up to \$300,000 collected from the fees charged for private details; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system ..... \$300,000

Amend EEC Transferability

SECTION 23. (A) Item 3000-4050 of said section 2 of said chapter 131 of the Acts of 2010 is hereby amended by striking out the words “provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000 and 3000-4060, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 30 days before the transfer; and provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2011” and inserting in place thereof the following words:— “and provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000, 3000-3050 and 3000-4060, as necessary, pursuant to an allocation plan which shall detail by object class the distribution of the

funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 15 days before the transfer”.

(B) Item 3000-4060 of said section 2 of said chapter 131 is hereby amended by striking out the words “provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000 and 3000-4050, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 30 days before the transfer; provided further, that not more than 3 per cent of any item may be transferred in fiscal year 2011” and inserting in place thereof the following words:— “provided further, that the commissioner of early education and care may transfer funds to this item from items 3000-1000, 3000-3050 and 3000-4050, as necessary, pursuant to an allocation plan which shall detail by object class the distribution of the funds to be transferred and which the commissioner shall file with the house and senate committees on ways and means at least 15 days before the transfer; “

#### Connecting Activities PAC

SECTION 24 . Item 7027-0018 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; and provided further, that any unexpended funds in this item shall not revert and shall be made available for the purposes of this item until June 30, 2012.

#### Shannon Grants PAC

SECTION 25. Item 8100-0111 of said section 2 of said chapter 131 is hereby amended by adding the following words:- ; and provided further, that any unexpended funds in this item shall not revert and shall be made available for the purposes of this item until June 30, 2012.

#### Medical Assistance Trust Fund Ceiling

SECTION 26. Section 2E of said chapter 131 is hereby amended by striking out item 1595-1068 and inserting in place thereof the following item:-

1595-1068 For an operating transfer to the MassHealth provider payment account in the Medical Assistance Trust Fund established in section 2QQQ of chapter 29 of the General Laws, notwithstanding the requirement that transfers be completed no later than June 30, 2011 in the introductory paragraph of this section; provided, that these funds shall be expended only for services provided during state or federal fiscal year 2011, and no amounts previously or subsequently transferred into the Medical Assistance Trust Fund shall be expended on payments described in the section 1115 demonstration waiver

for services provided during state fiscal year 2010 and 2011, or payments described in the state plan for services provided during federal fiscal year 2011; provided further, that all payments from the Medical Assistance Trust Fund shall be subject to the availability of federal financial participation, shall be made only in accordance with federally-approved payment methods, shall be consistent with federal funding requirements and all federal payment limits as determined by the secretary of health and human services and shall be subject to the terms and conditions of an agreement with the executive office of health and human services; provided further, that any increase in payment made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2011 shall be made only after the secretary of health and human services certifies that any increase in payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver spending; provided further, that the secretary of health and human services shall notify, in writing, the house and senate committees on ways and means and the joint committee on health care financing of any increases in payments within 15 days; provided further, that the secretary of health and human services shall make a payment of up to \$383,263,923 from the Medical Assistance Trust Fund to the Cambridge Public Health Commission for dates of service in state and federal fiscal year 2010 and 2011, only after the Cambridge Public Health Commission transfers up to \$147,211,673 of its funds to the Medical Assistance Trust Fund using a federally-permissible source of funds which shall fully satisfy the nonfederal share of such payment; and provided further, that the secretary of health and human services shall make payments from the Medical Assistance Trust Fund totaling an amount not to exceed \$230,000,000 to privately owned acute hospitals in the commonwealth for purposes of transitional relief. Such transitional relief payments shall be in addition to payments from the Medical Assistance Trust Fund made pursuant to supplemental payment agreements entered into between the executive office of health and human services and hospitals designated by the commonwealth as Essential MassHealth Hospitals and Public Service Hospitals; provided further, that transitional relief payments shall be subject to approval by the Centers for Medicare and Medicaid Services of the amendment to the MassHealth Section 1115 Demonstration as submitted by the commonwealth on March 1, 2010, and in accordance with the methodology approved in that amendment; provided further, that such payments may be made only pursuant to written certification to the comptroller and the house and senate committees on ways and means by the secretary of administration and finance that sufficient state revenue is available to fund the non-federal share for such payments, consistent with the requirement for a balanced budget; and provided further, that payments and transfers from this appropriation in fiscal year 2011 may also be used for fiscal year 2010 hospital payments..... \$870,601,088

Extend Study Commissions

SECTION 27. (A) The last sentence of the second paragraph of section 178 of said chapter 131 is hereby amended by striking out the date “January 15” and inserting in place thereof the following date:- September 30.

(B) The last sentence of subsection (e) of section 67 of chapter 288 of the acts of 2010 is hereby amended by striking out the date “February 1” and inserting in place thereof the following date:- September 30.

#### BABS Fund Split

SECTION 28. Item 0699-0005 of section 2A of chapter 359 of the acts of 2010 is hereby amended by adding the following words:- ;provided further, that notwithstanding any general or special law to the contrary or other provisions of this item, the comptroller may charge the payments authorized in the item to the appropriate budgetary or other fund subject to a plan which the comptroller shall file 10 days in advance with the house and senate committees on ways and means; and provided further, that the comptroller shall transfer from this item to the Government Land Bank Fund an amount equal to the amount by which debt service charged to the fund exceeds revenue deposited to the fund.

#### Transfers to Reimburse Transportation Trust Funds

SECTION 29 . (a) Notwithstanding any general or special law to the contrary, the comptroller shall transfer \$46,279.00 from the General Fund to the Central Artery and Statewide Road and Bridge Infrastructure Fund, established in section 63½ of chapter 10 of the General Laws, to reimburse that Fund for interest earned on settlement monies recovered by the commonwealth and received by the state treasurer. This transfer shall also include any interest earned to date on the \$46,279.00 as identified by the state treasurer.

(b) Notwithstanding any general or special law to the contrary, the comptroller shall transfer \$1,056,550.00 from the General Fund to the Central Artery/Tunnel Project Repair and Maintenance Trust Fund, established in section 63A of chapter 10 of the General Laws, to reimburse that Fund for interest earned between January 4, 2008 and February 22, 2008 on settlement monies recovered for the Central Artery/Ted Williams Tunnel Project and received by the state treasurer. This transfer shall also include any interest earned to date on the \$1,056,550.00 as identified by the state treasurer.

#### Pilot Program for State Use of Job Order Contracting

SECTION 30. (a) As used in this section, the following words shall have the following meanings:

"Alteration", work required to modify or adjust the interior space arrangement or other physical characteristics of an existing facility so that it may be more effectively utilized for its presently designated functional purpose;

"Commissioner", the commissioner of capital asset management and maintenance;

"Conversion", work required to modify or adjust the interior space arrangement or other physical characteristics of an existing facility so that it may be effectively utilized for a new functional purpose;

"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 that job order contract.

"Job order contract", a contract for the performance of maintenance, repair, alteration and conversion projects, or a subset thereof, (1) that is limited to a specified term, (2) in which the contract specifications consist of technical descriptions of various tasks, materials and equipment at stated unit prices but do not specify the specific projects to be performed by the contractor, (3) which contains a fixed contractor's mark up over the unit prices stated in the specifications, (4) 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, at the unit prices specified therein 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 which have deteriorated by action of the elements or wear and tear in use, or which do not meet code requirements.

(b) Notwithstanding section 38C of chapter 7, section 44A of chapter 149, or section 39M of chapter 30 of the General Laws or any other general or special law to the contrary, the commissioner may establish a pilot program for the use of job order contracts by higher education facilities subject to the department of higher education, by 1 or more agencies within the department of correction, and by the division of capital asset management and maintenance with respect to properties for which it is responsible.

(c) As part of the pilot program, the commissioner may procure contracts for services related to the creation and use of job order contracts, including without limitation 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 801 CMR 21.00.

(d) The commissioner may procure job order contracts for use by one or more state agencies consisting of the division of capital asset management and maintenance, the department of correction, and one or more higher education facilities subject to the department of higher education. These contracts shall be limited to job orders estimated to cost not more than \$100,000 each and shall be procured through the procedures specified in section 39M of chapter 30 of the General Laws except that (1) the amount of the bid deposit shall be \$5,000, (2) contractors who are awarded job orders under any job order contract must be certified by the division for the category of work specified in the contract, and (3) the amounts 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. Such job order contracts shall have a maximum term of 2 years.

(e) The authority granted to the commissioner by this section shall expire on January 1, 2016, but any job order contract awarded before that date may be executed and continue in effect for a maximum term, including any extensions or renewals, of 2 years from the date of its execution and delivery.

(f) Not later than June 30, 2016, the commissioner shall prepare and submit a report on his findings resulting from the pilot 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, and shall contain a recommendation as to whether the General Laws should be amended to permit the use of job order contracts by public agencies and the extent to which use of such contracts should be limited.

#### MassHealth Transferability

SECTION 31. Notwithstanding any general or special law to the contrary, the secretary of health and human services, with the written approval of the secretary of administration and finance, may authorize transfers of surplus among items 4000-0320, 4000-0430, 4000-0500, 4000-0600, 4000-0640, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400, 4000-1405, 4000-1420 of section 2 of chapter 131 of the acts of 2010 for the purpose of reducing any deficiency in these items, but any such transfer shall take place not later than June 30, 2011.

#### DDS Transferability

SECTION 32. Notwithstanding any general or special law to the contrary, the secretary of health and human services, with the written approval of the secretary of administration and finance, may authorize transfers from items 5911-1003, 5911-2000, 5920-2000, 5920-2010, 5920-2025, 5920-3000, 5920-3010 of section 2 of chapter 131 of the acts of 2010 to item 5930-1000 of said section 2 for the purpose of reducing any deficiency in said item 5930-1000 of said section 2, but any such transfer shall take place not later than June 30, 2011

#### Discretionary Deposit in Stabilization Fund

SECTION 33. Notwithstanding any general or special law to the contrary, during fiscal year 2011 the comptroller shall not transfer 0.5 per cent of the total revenue from taxes in the preceding fiscal year to the Commonwealth Stabilization Fund, as otherwise required pursuant to clause (a) of section 5C of chapter 29 of the General Laws. But upon written certification by the secretary of administration and finance that there are sufficient funds to make some or all of the transfer required under said clause (a), the comptroller shall so transfer the amount certified. The comptroller in consultation with the secretary may take the overall cash flow needs of the commonwealth into consideration in determining the timing of any transfer of funds under this subsection. The comptroller shall provide a schedule of transfers to the secretary of administration and finance and to the house and senate committees on ways and means.

#### Convey Certain Surplus Land Parcels

SECTION 34. (a) Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, in order to facilitate the reuse of the properties identified in subsection (b) and to generate non-tax revenues for the commonwealth, the commissioner of capital asset management and maintenance may sell, lease for terms up to 99 years including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in any of those properties, or portions thereof, subject to this section and on the terms and conditions that the commissioner considers appropriate. The commissioner shall dispose of each property, or portions thereof, using appropriate competitive bidding processes and procedures. At least 30 days before the date on which bids, proposals or other offers to purchase or lease a property, or any portion thereof, are due, the commissioner shall place a notice in the central register published by the state secretary under section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive bidding process and other information that he considers relevant, including the time, place and manner for the submission of bids and proposals and the opening of the bids or proposals.

(b) This section shall apply to the following properties:-



- (1) Those certain parcels of land located in the town of Belchertown at 47 State street, or portions thereof, containing approximately 5.4 acres, together with any buildings or structures thereon, known as the John Patrick center.
- (2) Those certain parcels of land located in the Brighton section of the city of Boston at the intersection of Western avenue and Soldiers Field road, or portions thereof, together with any buildings and structures thereon, formerly known as the speedway headquarters and stables
- (3) Those certain parcels of land located in the Roxbury section of the city of Boston at 167 Centre street, or portions thereof, containing approximately 8,496 square feet, together with any buildings and structures thereon, shown as Assessor's Block 55 bounded by Columbus avenue, New Heath street and Penryth street and as Assessor's Block 56 bounded by Columbus avenue, Centre street, and Penryth street.
- (4) That certain parcel of land located in the city of New Bedford at 593 Kempton street, together with any buildings and structures thereon, formerly known as the Bristol county jail, described in book 2659, page 15 recorded with the Bristol county registry of deeds, and further shown on New Bedford assessors map 57, lot 201.
- (5) That certain parcel of land located in the city of New Bedford at 5 Sycamore street, together with any buildings and structures thereon, formerly known as the New Bedford armory.
- (6) Those certain parcels of land located in the city of Northampton behind the property used as a department of mental health center for children and families at 78 Pomeroy terrace, or portions thereof, containing approximately 6 acres, together with any buildings and structures thereon, used as a department of mental health center for children and families.
- (7) Those certain parcels of land located in the town of Oak Bluffs between the northeasterly side of Eastville avenue and the southeasterly side of Temahigan avenue, or portions thereof, containing approximately 1.7 acres, together with any buildings and structures thereon, used as a mental health center, described in book 303, page 516 recorded with the Dukes county registry of deeds and shown on the Oak Bluffs assessors map 4, lot 151.
- (8) Those certain parcel of lands located in the city of Taunton on Stanley avenue or portions thereof, containing approximately .32 acres, together with any buildings and structures thereon.

(9) Those certain parcels of land located in the city of Taunton at the Taunton state hospital, or portions thereof, containing approximately 26.5 acres in the aggregate, together with any buildings or structures thereon.

(c) The exact boundaries of the parcels described in subsection (b) shall be determined by the commissioner of capital asset management and maintenance after completion of a survey.

(d) Notwithstanding any general or special law to the contrary, the grantee or lessee of any property identified in subsection (b) shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the conveyances and transfers authorized in this section as such costs may be determined by the commissioner of capital asset management and maintenance.

(e) The commissioner may retain or grant rights of way or easements for access, egress, utilities and drainage across any of the parcels and across other commonwealth property contiguous to any of the parcels, and the commonwealth may accept from a developer such rights of way or easements in roadways or across any of the parcels to be conveyed or transferred for access, egress, drainage and utilities as the commissioner considers necessary and appropriate to carry out this section.

(f) No agreement for the sale, lease, transfer or other disposition of the properties listed in subsection (b), and no deed executed by or on behalf of the commonwealth, shall be valid unless the agreement or deed contains the following certification, signed by the commissioner:—

“The undersigned certifies under penalties of perjury that I have fully complied with Section \_\_\_\_ of Chapter \_\_\_\_ of the Acts of \_\_\_\_ in connection with the property described in this document.”

(g) Each parcel shall be conveyed or leased without warranties or representations by the commonwealth. Notwithstanding any general or special law to the contrary, the proceeds of all conveyances and transfers under this section shall be deposited in the General Fund.

(h) Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws, or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may transfer care, custody and control of a portion of the state-owned land described in subsection (b)(8) from the department of mental health to the department of state police.

(i) Notwithstanding sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may sell, lease for a term up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to the town of Belchertown, for nominal consideration, a parcel of land containing approximately 2.2 acres located adjacent to the John Patrick center at 47 State street. The exact boundaries of the parcel shall be determined by the commissioner of capital asset management and maintenance after completion of a survey. The parcel shall be used by the town of Belchertown for recreational activities and facilities.

(j) If for any reason the parcel described in subsection (i) ceases to be used solely for the purposes described in subsection (i), the commissioner of capital asset management and maintenance may, after giving notice and an opportunity to the town of Belchertown, cause title to the parcel to revert to the commonwealth.

(k) The town of Belchertown shall be responsible for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals and deed preparation related to the conveyance authorized in this section as such costs may be determined by the commissioner of capital asset management and maintenance.

(l) The commissioner may retain or grant rights of way or easements for access, egress, utilities and drainage across the parcel and across other commonwealth property contiguous to the parcel, and the commonwealth may accept from the town such rights of way or easements in roadways or across the parcel to be conveyed or transferred for access, egress, drainage and utilities as the commissioner considers necessary and appropriate to carry out this section.

(m) The parcel shall be conveyed without warranties or representations by the commonwealth. Notwithstanding any general or special law to the contrary, the proceeds of all conveyances and transfers under this section shall be deposited in the General Fund.

#### SDW Payments to Stabilization Fund

SECTION 35. Payments by the United States to the commonwealth during fiscal year 2011 or 2012, resulting from the failure of the Social Security Administration to make proper eligibility determinations in connection with its Special Disability Workload database, shall be deposited in the Commonwealth Stabilization Fund.

#### Study Public Health Hospitals

SECTION 36. (a) There shall be a special commission to review the commonwealth's investment in public health hospitals. The commission shall review the care and services

provided by these hospitals, document the needs of the communities and individuals they serve, and make recommendations regarding the most efficient and effective investment of public resources in meeting these needs.

(b) The commission shall include the following officers or their designees: the secretary of health and human services, who shall chair the commission, the secretary of administration and finance, the commissioner of public health, the commissioner of mental health, the director of MassHealth, the secretary of public safety and security, and the commissioner of capital asset management;; 2 members of the senate appointed by the president; 2 members of the house of representatives appointed by the speaker; 1 member of the senate appointed by the minority leader; 1 member of the house of representatives appointed by the minority leader; and the following additional members appointed by the governor: 2 individuals who themselves or for a whom a family member has been or currently is served by a public health hospital; 1 expert in the provision of facility-based long term care services, and 2 clinicians, 1 with expertise in care for disabled children and adolescents, and 1 with expertise in care for adults with complex chronic illness. Members not otherwise subject to chapter 268A of the General Laws by virtue of their public positions shall not be considered to be special state employees for purposes of said chapter 268A by virtue of their service on the commission.

(c) The commission shall report its findings and recommendations to the governor and the clerks of the house of representatives and the senate not later than November 1, 2011.