

SENATE No. 2342

The Commonwealth of Massachusetts

The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill to improve the administration of state government and finance (Senate, No. 1940) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 3949), reports, a Bill entitled “An Act to improve the administration of state government and finance” (Senate, No. 2342).

KAREN E. SPILKA
KENNETH J. DONNELLY
MICHAEL R. KNAPIK

PETER V. KOCOT
STEPHEN KULIK
RANDY HUNT

SENATE No. 2342

Senate, July 11, 2012 -- The committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill to improve the administration of state government and finance (Senate, No. 1940) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 3949), reports, a Bill entitled "An Act to improve the administration of state government and finance" (Senate, No. 2342).

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act to improve the administration of state government and finance.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to update forthwith the state financing laws, facilitate the measurement of the performance of all budgeted agencies and to enable better programmatic decision-making, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. Chapter 3 of the General Laws, as appearing in the 2010 Official Edition, is
2 hereby amended by striking out section 8 and inserting in place thereof the following section:-

3 Section 8. When evaluating a petition by a city or town to borrow money in excess of the
4 statutory limit of indebtedness under section 10 of chapter 44, the legislative committee to which
5 that petition may be referred shall solicit a report on the financial condition of the city or town
6 from the division of local services, which shall deliver the report as soon as possible.

7 SECTION 2. Said chapter 3 is hereby further amended by inserting after section 12A the
8 following section:-

9 Section 12B. The clerks of the 2 branches shall in every odd-numbered year prepare a
10 manual for the general court. Such number of copies of the manual as the committees on rules
11 shall determine shall be printed under the direction of the clerks of the 2 branches.

12 SECTION 3. Said chapter 3 is hereby further amended by striking out sections 14 to 16,
13 inclusive, and inserting in place thereof the following 3 sections:-

14 Section 14. The chaplain of the house of representatives shall receive such salary as may
15 be established by the committee on rules of the house of representatives, as the case may be.

16 Section 15. The general court shall choose a sergeant-at-arms who shall hold office until
17 removed or until another is chosen. The sergeant-at-arms may be removed by the general court.
18 The sergeant-at-arms shall receive such salary as may be established by the committees on rules
19 of the 2 branches of the general court acting concurrently.

20 The house of representatives may choose a sergeant-at-arms of the house of
21 representatives who shall perform such duties as may be prescribed by the committee on rules of
22 the house, and in case of the disability or necessary absence of the sergeant-at-arms of the
23 general court, the sergeant-at-arms of the house of representatives shall perform the duties of the
24 sergeant-at-arms during such disability or absence. The sergeant-at-arms of the house of
25 representatives shall receive such salary as may be established by the committee on rules of the
26 house.

27 Section 16. In case of the disability or necessary absence of the sergeant-at-arms of the
28 general court and of the sergeant-at-arms of the house of representatives, the sergeant-at-arms
29 may appoint, with the approval of the presiding officers of the 2 branches of the general court, an
30 assistant sergeant-at-arms to perform the duties of the sergeant-at-arms during such disability or
31 absence. The compensation of the assistant sergeant-at-arms shall be paid by the sergeant-at-
32 arms, who shall be responsible for the assistant's fidelity and good conduct in office; but for
33 misconduct or other sufficient cause the assistant may be removed by the general court

34 SECTION 4. Said chapter 3 is hereby further amended by striking out sections 18 to 20A,
35 inclusive, and inserting in place thereof the following 3 sections:-

36 Section 18. There shall be 2 chief general court officers for each branch, each with the
37 title of assistant sergeant-at-arms, and such assistant chief general court officers, general court
38 officers and pages as shall be established by the committees on rules of the 2 branches of the
39 general court acting concurrently. Such employees shall receive such compensation as may be
40 established by said committees acting concurrently.

41 Section 19. The number of chief general court officers, assistant chief general court
42 officers, general court officers and pages of the senate and of the house shall not exceed 92 in all.

43 Section 20A. Subject to appropriation, the sergeant-at-arms may purchase uniforms for
44 the sergeant-at-arms, general court officers and pages as the sergeant-at-arms may determine.

45 SECTION 5. Said chapter 3 is hereby further amended by striking out sections 22 and 23,
46 and inserting in place thereof the following 3 sections:-

47 Section 22. The journals, files and papers of the senate and of the house of
48 representatives shall be in the custody of their respective clerks during the session to which they
49 relate and after that session they shall be in the custody of the state secretary. The clerk of each
50 branch shall at all times have access to the journals, files and papers. Copies of such journals,
51 files and papers, certified by the clerk of the branch to which they originally appertained or by
52 the state secretary, shall be evidence in like manner as the originals.

53 Section 22A. Such number of copies of the journals of the senate and of the house of
54 representatives as the committees on rules shall determine shall be printed annually under the
55 direction of the clerks of the 2 branches.

56 Section 23. Bills and resolves passed to be engrossed by the general court, and bills for
57 which initiative petitions are completed under the constitution of the commonwealth, shall, under
58 the direction of the committees on rules of the 2 branches, acting concurrently, be fairly
59 engrossed in such manner and by utilizing such equipment as said committees shall determine.
60 The enacting clause of bills for which initiative petitions are completed shall be in the form
61 prescribed by section 3 of chapter 4. The state secretary shall cause the acts and resolves of each
62 session to be neatly and strongly bound in separate volumes of convenient size and lettered on
63 the back with a designation of the contents and the legislative year. If acts or resolves are

64 becoming illegible, the state secretary shall cause copies of the acts or resolves, similar to the
65 originals, to be prepared and shall attest them. Such attested copies shall have the same force and
66 effect as the originals.

67 If the clerk of the senate, with the approval of the president of the senate and the
68 speaker of the house, determines that it would expedite the business of the general court, the
69 legislative engrossing division shall prepare for final passage by the general court an exact copy
70 of any bill specified by said clerk, as passed to be engrossed by both branches, so far as possible
71 by pasting a printed copy of said bill, as so passed, on the kind and size of paper designated by
72 said committees on rules and the copy so prepared shall be deemed to have been fairly
73 engrossed.

74 SECTION 6. Said chapter 3 is hereby further amended by striking out sections 32A to
75 38B, inclusive, and inserting in place thereof the following 5 sections:-

76 Section 32A. No special commission, no special or standing committee of the general
77 court or of either branch of the general court and no sub-committee of any such commission or
78 committee shall travel either within or without the commonwealth except by a vote of a majority
79 of the total membership of such commission or committee, nor until the written approval of the
80 presiding officers of both branches of the general court or of the presiding officer of the
81 appropriate branch has been received. Such written approval shall specify the purpose of the trip,
82 the places to be visited, the time within which such travel is to be completed and the names of all
83 members or other persons authorized to travel.

84 Section 33. The committees on rules of the 2 branches, acting concurrently, shall publish
85 electronically during each regular session of the general court bulletins of committee hearings.

86 Section 35. Advertisements of hearings of legislative committees shall be published on
87 the official website of the general court and may be published in additional publications if the
88 chairs of the committee determine that additional publication is necessary to reach those with a
89 substantial interest in a matter pending at the hearing.

90 Section 38A. Joint committees of the general court, the house and senate committees on
91 ways and means and the house and senate committees on bonding, capital expenditures and state

92 assets when reporting favorably on bills referred to them shall include with that report a fiscal
93 note prepared under section 3A of chapter 29 showing the estimated cost or fiscal effect of the
94 proposed legislation, if the cost of the legislation exceeds \$100,000. Such fiscal notes shall be
95 printed in the daily calendars of each branch whenever said bills appear on the calendar and shall
96 be made available on the official website of the general court.

97 Section 38B. The committee on ways and means of each branch of the general court shall
98 conduct public hearings on all requests and recommendations for appropriations for the
99 executive, judicial and legislative branches of the state government submitted under section 2 of
100 Article LXIII of the Amendments to the Constitution. The house and senate committees on
101 bonding, capital expenditures and state assets, or a committee of the general court having
102 primary jurisdiction over requests and recommendations for capital outlay programs and projects
103 which the governor submits to the general court, shall hold a hearing on such requests and
104 recommendations. Any committee referred to in this section shall give 5 days public notice prior
105 to holding such public hearings.

106 SECTION 7. Sections 56 to 61, inclusive of said chapter 3 are hereby repealed.

107 SECTION 8. Section 65 of said chapter 3, as appearing in the 2010 Official Edition, is
108 hereby amended by striking out in lines 4 and 5 the words, “three shall be members of The Doric
109 Dames,” and inserting in place thereof the following words:- 1 may be a member of The Doric
110 Docents.

111 SECTION 9. Said section 65 of said chapter 3, as so appearing, is hereby further
112 amended by striking out the second paragraph and inserting in place thereof the following
113 paragraph:-

114 The committee may consider and advise the senate relative to any matter germane
115 to the upgrading and restoration of the quarters in the state house used by the members of the
116 senate and its employees, with particular attention to the historical and artistic qualities of said
117 quarters. The committee may file recommendations from time to time with the clerk of the
118 senate.

119 SECTION 10. Chapter 5 of the General Laws is hereby repealed.

120 SECTION 11. Chapter 6 of the General Laws is hereby amended by striking out section
121 5, as appearing in the 2010 Official Edition, and inserting in place thereof the following section:
122 -

123 Section 5. The governor may appoint such employees as may be necessary, who shall
124 hold office during the pleasure of the governor, and shall receive such salaries as may be
125 approved by the governor.

126 SECTION 12. Sections 6 to 7, inclusive, of said chapter 6 are hereby repealed.

127 SECTION 13. Section 10 of said chapter 6, as appearing in the 2010 Official Edition, is
128 hereby amended by striking out the last sentence.

129 SECTION 14. Section 11 of said chapter 6 is hereby repealed.

130 SECTION 15. Section 12 of said chapter 6, as appearing in the 2010 Official Edition, is
131 hereby amended by striking out, in lines 3 and 4, the words “, and council, who shall approve
132 such claims before they are sent to the comptroller”.

133 SECTION 16. Section 17 of said chapter 6, as so appearing, is hereby amended by
134 striking out, in line 11, the words “finance advisory board” and inserting in place thereof the
135 following words:- state finance and governance board established under section 97 of chapter 6.

136 SECTION 17. Said chapter 6 is hereby further amended by striking out sections 97 and
137 98, as so appearing, and inserting in place thereof the following 2 sections:-

138 Section 97. (a) As used in this section and section 98, the following words shall have the
139 following meanings:

140 "Board", the state finance and governance board established by subsection (b).

141 "Derivative financial products", financial instruments with values derived from or based
142 upon the value of other assets or on the level of an interest rate index including, but not limited
143 to, detached call options, interest rate swaps or swaptions, caps, floors and collars, but not
144 including bond insurance or other credit or liquidity enhancement of bonds or notes or
145 agreements related to the lending or investment of the proceeds of bonds or notes.

146 "State entity", the commonwealth, a state authority or another state entity with
147 responsibility for managing and overseeing public funds.

148 "Secretary", the secretary of administration and finance.

149 (b) There shall be a state finance and governance board consisting of 5 members: 3 of
150 whom shall be appointed by the governor and 2 of whom shall be appointed by the state
151 treasurer. Upon the expiration of the term of a member, a successor shall be appointed for a term
152 of 4 years. At least 2 members appointed by the governor shall be persons with expert
153 knowledge of the field of public finance. The governor shall designate 1 of the members to serve
154 as chair. The members shall serve without compensation but shall receive their necessary
155 expenses incurred in the discharge of their official duties. The secretary shall provide the board
156 with appropriate staff and other assistance and may engage professionals to advise the board.

157 Section 98. (a) The board shall promote transparency, public accountability and
158 adherence to best practices by all state entities with respect to proper governance of state entities
159 and investments, borrowing or other financial transactions made or entered into by state entities
160 and involving public funds, including tax supported debt. The board shall make an annual written
161 report to the secretary, the state treasurer, the state auditor, the house and senate committees on
162 ways and means and the senate and house committees on bonding, capital expenditures and state
163 assets with respect to its findings regarding investments, borrowing and other financial
164 transactions carried out by state entities and its activities to promote proper governance,
165 transparency, public accountability and best practices. If the board so requests, the secretary shall
166 provide the board with copies of reports and other information about the accountability and
167 transparency of state authorities, provided to the secretary under section 29K of chapter 29.

168 (b) The board shall conduct a review, before its execution, of any transaction relating to
169 derivative financial products, proposed to be entered into by a state entity. All state entities shall
170 submit to the board the terms of the proposed transaction and any supporting documents. The
171 board shall complete its review of the proposed transaction and notify the submitting entity of its
172 conclusions within a reasonable period of time after receiving the proposal.

173 (c) In order to carry out its duties, the board may:

174 (1) adopt regulations or guidelines requiring state entities to report, adopt
175 appropriate policies and adhere to best practices with respect to governance, investments,
176 borrowing and other financial transactions;

177 (2) make recommendations to state entities or state officers and propose
178 legislative changes to improve governance practices or the management of public funds;

179 (3) conduct oversight hearings with respect to governance practices, investment,
180 borrowing and other financial transactions made or entered into by state entities; and

181 (4) conduct meetings, conferences, or training sessions, maintain a website,
182 publish materials or other activities to disseminate best practices to state officials, board
183 members and managers of state entities and the public.

184 SECTION 19. Section 1 of chapter 6A of the General Laws, as so appearing, is hereby
185 amended by striking out the definition of “State agency” and inserting in place thereof the
186 following definition:-

187 “State agency”, as defined in section 1 of chapter 29.

188 SECTION 20. Section 4 of said chapter 6A, as so appearing, is hereby amended by
189 striking out, in lines 13 and 14, the words “in accordance with sections two C, three, three A,
190 four, nine B and twenty-nine of chapter twenty-nine” and inserting in place thereof the following
191 words:- under chapter 29.

192 SECTION 21. Said chapter 6A is hereby further amended by inserting after section 4 the
193 following section:-

194 Section 4A. Each secretary shall develop a strategic plan and establish an office of
195 performance management that will execute the strategic plan as part of implementing a
196 performance management program for the agencies within the executive office. Through the
197 implementation of strategic plans, said offices shall define missions and visions, establish
198 measurable strategic and program goals, determine actions for achieving those goals, measure
199 program performance against those goals and relate them to budget development. Each secretary

200 shall report publicly on progress to achieve goals and implement actions to improve the
201 effectiveness of the programs offered by the agencies within the executive office.

202 SECTION 22. Section 6 of said chapter 6A, as appearing in the 2010 Official Edition, is
203 hereby amended by striking out, in lines 1 and 2, the words “commissioner of administration”
204 and inserting in place thereof the following words:- secretary of administration and finance.

205 SECTION 23. Said section 6 of said chapter 6A, as so appearing, is hereby further
206 amended by striking out the last sentence and inserting in place thereof the following sentence:-
207 All such funds may be expended by the secretary under chapter 29 and any rules or regulations
208 promulgated under that chapter.

209 SECTION 24. Section 16 of said chapter 6A, as so appearing, is hereby amended by
210 striking out the seventh paragraph.

211 SECTION 25. Section 1 of chapter 7 of the General Laws, as so appearing, is hereby
212 amended by striking out the definitions of “Commissioner” and “Finance committee”.

213 SECTION 26. Said section 1 of said chapter 7, as so appearing, is hereby further
214 amended by adding the following definition:-

215 “Secretary”, the secretary of administration and finance.

216 SECTION 27. Said chapter 7 is hereby amended by striking out section 2, as so
217 appearing, and inserting in place thereof the following section:-

218 Section 2. There shall be an executive office for administration and finance, which shall
219 serve directly under the governor.

220 SECTION 28. Section 3B of said chapter 7, as so appearing, is hereby amended by
221 striking out the first 3 paragraphs.

222 SECTION 29. Said section 3B of said chapter 7, as so appearing, is hereby further
223 amended by striking out in lines 26 to 28, inclusive, the words “Notwithstanding any other
224 general or special law to the contrary, for the period beginning March first, nineteen hundred and
225 ninety-one, the secretary of administration” and inserting in place thereof the following words:-
226 Each fiscal year, under a schedule promulgated by the secretary, the secretary:.

227 SECTION 30. Said section 3B of said chapter 7, as so appearing, is hereby further
228 amended by striking out, in line 45, the words “of administration and finance”.

229 SECTION 31. The fourth paragraph of said section 3B of said chapter 7, as so appearing,
230 is hereby amended by striking out the last sentence.

231 SECTION 32. Said chapter 7 is hereby further amended by inserting after section 3B the
232 following 3 sections:-

233 Section 3D. The state purchasing agent shall supervise the state printing and all
234 publications by the commonwealth shall be printed under the agent’s direction; provided, that
235 this section shall not apply to topographic maps issued by state departments, to legislative
236 printing or to publications required to be issued by the state secretary under sections 2 to 4,
237 inclusive, or under chapter 90 of the resolves of 1920 or any other special law. All publications
238 by the commonwealth shall be distributed under the direction of the state secretary unless
239 otherwise provided.

240 Section 3E. All reports required to be made by permanent state departments, officers and
241 commissions may, subject to the approval of the secretary and except as otherwise provided, be
242 printed annually or otherwise published in electronic form.

243 Section 3F. Each state agency shall also provide 2 copies of its publication, as defined in
244 section 39 of chapter 6 to the state secretary, 1 of which shall be retained for 2 years as a
245 reference copy. The state secretary shall determine which publications are of sufficient public
246 interest and may then either provide for electronic availability of such publications, reproduce

247 the publications in appropriate quantities or acquire the publications in appropriate quantities
248 directly from the issuing agency, at the cost of printing, for distribution by said secretary.

249 SECTION 33. Section 4 of said chapter 7, as appearing in the 2010 Official Edition, is
250 hereby amended by striking out the first sentence and inserting in place thereof the following
251 sentence:- The governor shall appoint the secretary of administration and finance.

252 SECTION 35. Section 4A of said chapter 7 is hereby amended by striking out, in line 27,
253 as appearing in the 2010 Official Edition, the words “commissioner of administration” and
254 inserting in place thereof the following word:- secretary.

255 SECTION 36. Paragraph (d) of said section 4A of said chapter 7, as most recently
256 amended by section 5 of chapter 118 of the acts of 2012, is hereby further amended by striking
257 out the first 2 sentences and inserting in place thereof the following sentence:- The information
258 technology division shall be headed by the chief information officer who shall also serve as
259 assistant secretary for information technology and who shall be appointed by the secretary.

260 SECTION 37. Paragraph (e) of said section 4A of said chapter 7, as inserted by section
261 12 of chapter 68 of the acts of 2011, is hereby amended by adding the following 2 sentences:-

262 The office shall oversee and coordinate the output of the performance measurement
263 systems developed by each executive office under section 4A of chapter 6A. The office shall
264 report quarterly the results reported by the performance measurement systems and progress on
265 implementing the systems by each executive office to the chairs of the house and senate
266 committees on ways and means, the chairs of the house and senate committees on post audit and
267 oversight and the chairs of the joint committee on state administration and regulatory oversight.

268 SECTION 38. Section 4D of said chapter 7 is hereby amended by striking out the first 2
269 paragraphs, as amended by section 13 of chapter 68 of the acts of 2011, and inserting in place
270 thereof the following 2 paragraphs:-

271 Except as otherwise provided by law, the secretary shall appoint all employees of the
272 executive office for administration and finance. Unless otherwise provided by law, all such
273 appointments shall be made in accordance with chapter 31; provided, however, that in staffing at

274 any time said office, the secretary may, without regard to chapter 31 but subject to the approval
275 of the governor, appoint such experts and other assistants in said office as the secretary shall
276 deem necessary; provided, that no person while holding any such appointment shall be subject to
277 section 9A of chapter 30. The secretary may, without regard to section 45 of chapter 30 or
278 chapter 31, but subject to approval of the governor, appoint no more than 2 assistant secretaries.
279 Each such assistant secretary shall be a person of ability and experience, shall devote the
280 assistant secretary's entire time to the duties of the assistant secretary's office and shall receive
281 such salary as the secretary shall determine, with the approval of the governor; provided, that
282 such salary shall not exceed the salary of the secretary as set forth in section 4 this section.

283 Subject to appropriation, the secretary may appoint and remove such additional
284 assistants, technical consultants and other persons and may engage such technical and other
285 assistance, as the work of said office may require. The secretary may expend such sums of
286 money for expenses, including travelling expenses of officers and employees serving in said
287 office, as may be appropriated for such expenses.

288 SECTION 39. Said chapter 7 is hereby further amended by striking out sections 4E and
289 4F, as appearing in the 2010 Official Edition, and inserting in place thereof the following
290 section:-

291 Section 4E. In addition to any powers provided in chapter 6A, in making any examination
292 or investigation authorized under this chapter, the secretary may require the production of books,
293 papers, contracts and documents in the custody of any agency other than those within the
294 executive office of administration and finance, which relate to any matter within the scope of
295 such examination or investigation.

296 SECTION 40. Section 4G of said chapter 7, as so appearing, is hereby amended by
297 striking out, in line 4, the words "finance advisory board" and inserting in place thereof the
298 following words:- state finance and governance board established in section 97 of chapter 6.

299 SECTION 41. Section 4G of said chapter 7, as so appearing, is hereby amended by
300 striking out, in line 6, the words "the board of economic advisors".

301 SECTION 43. Said chapter 7 is hereby further amended by striking out section 5, as
302 appearing in the 2010 Official Edition, and inserting in place thereof the following section:-

303 Section 5. The secretary may, with the consent of the governor, appoint a first deputy
304 commissioner of administration who shall also serve as undersecretary. The first deputy
305 commissioner shall be a person of ability and experience; shall serve at the pleasure of the
306 secretary; shall receive such salary as the secretary, with the approval of the governor, shall
307 determine, and, shall devote the first deputy commissioner's entire time to the duties of the first
308 deputy commissioner's office. The first deputy commissioner shall exercise such authority and
309 discharge such duties of the secretary as the secretary may delegate to the first deputy
310 commissioner; and in the absence or incapacity of the secretary or in the event of a vacancy in
311 the position of the secretary, the said first deputy commissioner shall act as the secretary until the
312 absence or incapacity shall have terminated or the vacancy shall have been filled.

313 SECTION 44. Sections 6B and 6E of said chapter 7 are hereby repealed.

314 SECTION 45. Section 7 of said chapter 7, as appearing in the 2010 Official Edition, is
315 hereby amended by striking out, in line 1, the words "commissioner of administration" and
316 inserting in place thereof the following word:- secretary.

317 SECTION 46. Said section 7 of said chapter 7, as so appearing, is hereby further
318 amended by striking out, in line 13, the word "commissioner" and inserting in place thereof the
319 following word:- secretary.

320 SECTION 47. Section 7A of said chapter 7, as so appearing, is hereby amended by
321 striking out, in line 1, the words "commissioner of administration is hereby authorized on behalf
322 of the commonwealth to" and inserting in place thereof the following words:- secretary may on
323 behalf of the commonwealth.

324 SECTION 48. Said section 7A of said chapter 7, as so appearing, is hereby further
325 amended by striking out, in line 5, the words "said commissioner" and inserting in place thereof
326 the following words:- the secretary.

327 SECTION 49. Section 8 of said chapter 7, as so appearing, is hereby amended by striking
328 out, in lines 2 and 3, the words “or of the council, or of the finance committee, the
329 commissioner” and inserting in place thereof the following words:- the secretary.

330 SECTION 50. Said chapter 7 is hereby further amended by striking out section 9, as so
331 appearing, and inserting in place thereof the following section:-

332 Section 9. On request of either branch of the general court or of the ways and means
333 committee of either branch or of the governor, the secretary shall make a special examination of,
334 and give to them any information in the secretary’s possession relative to, any matter affecting
335 the management or finances of any department, officer, commission or undertaking which
336 receives an annual appropriation of money from the commonwealth, including annual
337 appropriations to be met by assessments.

338 SECTION 51. Section 9A of said chapter 7, as so appearing, is hereby amended by
339 striking out in lines 1, 16 and 48, each time they appear, the words “of administration and
340 finance”.

341 SECTION 52. Said section 9A of said chapter 7, as so appearing, is hereby further
342 amended by striking out, in lines 26 and 27, the words “provided in administrative bulletin 896
343 issued by the executive office for administration and finance” and inserting in place thereof the
344 following words:- established by the executive office for administration and finance through
345 administrative action.

346 SECTION 53. Said section 9A of said chapter 7, as so appearing, is hereby further
347 amended by striking out, in line 69, the words “division of capital asset management and
348 maintenance” and inserting in place thereof the following words:- operational services division.

349 SECTION 54. Said chapter 7 is hereby further amended by striking out sections 10 and
350 11, as so appearing, and inserting in place thereof the following 2 sections:-

351 Section 10. The secretary may make a special examination of the management or
352 finances of any department, officer, commission or undertaking which receives annual
353 appropriations of money from the commonwealth, including annual appropriations to be met by

354 assessments, and may report on the management or finances to the governor and to the general
355 court.

356 Section 11. (a) Whenever requested to make a special examination under section 9, or
357 after first obtaining the approval of the governor in making a special examination under the
358 preceding section, the secretary may require the attendance and testimony of witnesses and the
359 production of all books, papers, contracts and documents relating to the special examination.

360 (b) Witnesses shall be summoned in the same manner and shall be paid the same fees as
361 witnesses before the superior court.

362 (c) The secretary may prescribe rules and regulations for the conduct of hearings and the
363 secretary may administer oaths to witnesses or take their affirmation. If any person summoned
364 and paid as a witness refuses to:

365 (1) attend;

366 (2) be sworn or to affirm;

367 (3) answer any question; or

368 (4) produce any book, contract, document or paper pertinent to the matter before
369 the secretary, a justice of the supreme judicial or the superior court, upon application by the
370 secretary, may issue an order requiring such person to appear before the secretary, and to
371 produce the books, contracts, documents and papers and to give evidence touching the matter in
372 question.

373 Failure to obey such an order of the court may be punished by the court as contempt of
374 that court.

375 (d) A person summoned and paid who refuses to attend, or to be sworn or to affirm, or to
376 answer any proper question, or to produce any book, contract, document or paper, pertinent to
377 the matter before the secretary, and any person who willfully interrupts or disturbs any hearing,
378 or who is disorderly at a hearing, shall be punished by a fine of not more than \$50 dollars or by
379 imprisonment for not more than 1 month, or both.

380 (e) Upon application by the secretary, commissions to take depositions of persons outside
381 the commonwealth may be issued by a justice of the supreme judicial or the superior court, to be
382 used in hearings before the secretary and all laws and rules relating to such commissions in civil
383 actions shall apply to commissions issued under this section. This section shall not be construed
384 to compel any person to give any testimony or to produce any evidence, documentary or
385 otherwise, which may tend to incriminate that person.

386 SECTION 55. Section 14C of said chapter 7, as so appearing, is hereby amended by
387 striking out the definition of “Secretary”.

388 SECTION 56. Section 22 of said chapter 7, as amended by section 6 of chapter 118 of the
389 acts of 2012, is hereby further amended by striking out, in lines 1, 77, 89 and 90, and 111, the
390 words “commissioner of administration” and inserting in place thereof, in each instance, the
391 following word:- secretary.

392 SECTION 57. Said section 22 of said chapter 7, as so amended, is hereby further
393 amended by striking out, in lines 14 and 116, the word “commissioner” and inserting in place
394 thereof, in each instance, the following word:- secretary.

395 SECTION 58. Section 22B½ of said chapter 7 is hereby amended by striking out the
396 definition of “State authority”, as appearing in the 2010 Official Edition, and inserting in place
397 thereof the following definition:-

398 “State authority”, as defined in section 1 of chapter 29.

399 SECTION 59. Section 22G of said chapter 7 is hereby amended by striking out the
400 definition of “State authority”, as so appearing, and inserting in place thereof the following
401 definition:-

402 “State authority”, as defined in section 1 of chapter 29.

403 SECTION 60. Section 28 of said chapter 7, as so appearing, is hereby amended by
404 striking out, in lines 6, 57 and 58, 65 and 66, and 72, the words “commissioner of
405 administration” and inserting in place thereof, in each instance, the following word:- secretary.

406 SECTION 61. Said section 28 of said chapter 7, as so appearing, is hereby further
407 amended by striking out, in line 68, the words “commissioner of labor and industries” and
408 inserting in place thereof the following words:- director of labor standards.

409 SECTION 62. Section 28A of said chapter 7, as so appearing, is hereby amended by
410 striking out, in lines 8 and 9, the words “commissioner of administration” and inserting in place
411 thereof the following word:- secretary.

412 SECTION 63. Section 29 of said chapter 7, as so appearing, is hereby amended by
413 striking out in lines 1 and 2, the words “, including the board of education and the department of
414 education,”.

415 SECTION 64. Said section 29 of said chapter 7, as so appearing, is hereby further
416 amended by striking out, in line 18, the words “commissioner of administration” and inserting in
417 place thereof the following word:- secretary.

418 SECTION 65. Section 31A of said chapter 7, as so appearing, is hereby further amended
419 by striking out, in lines 2 and 3, the words “commissioner of administration” and inserting in
420 place thereof the following word:- secretary.

421 SECTION 66. Sections 38A½ to 43I, inclusive, of said chapter 7 are hereby repealed.

422 SECTION 67. Section 50 of said chapter 7, as appearing in the 2010 Official Edition, is
423 hereby amended by striking out, in line 2, the figure “4A” and inserting in place thereof the
424 following figure:- 49.

425 SECTION 68. Section 61 of said chapter 7, as so appearing, is hereby amended by
426 striking out the words “40N of chapter 7”, each time they appear, and inserting in place thereof
427 the following words:- 6 of chapter 7C.

428 SECTION 69. Said chapter 7 is hereby amended by adding the following section:-

429 Section 62. The executive office for administration and finance shall report annually to
430 the house and senate committees on bonding, capital expenditures and state assets and the house
431 and senate committees on ways and means, not later than November 1, a list of all capital
432 projects, the legislation and line-item authorizing such funding, the municipalities and senate and

433 house legislative districts in which such projects are located, the total estimated cost of each
434 project and the total amount expended on each project in the immediately preceding fiscal year.

435 SECTION 70. Section 1 of chapter 7A of the General Laws, as appearing in the 2010
436 Official Edition, is hereby amended by striking out the first sentence and inserting in place
437 thereof the following sentence:- There shall be an office of the comptroller which shall be an
438 independent state agency.

439 SECTION 71. Section 2 of said chapter 7A, as amended by section 6 of chapter 93 of the
440 acts of 2011, is hereby amended by striking out, in lines 2 and 3, the words “commissioner of
441 administration” and inserting in place thereof the following words:- secretary of administration
442 and finance.

443 SECTION 72. Said chapter 7A is hereby amended by striking out section 3, as so
444 appearing, and inserting in place thereof the following section:-

445 Section 3. The comptroller shall examine all accounts and demands against the
446 commonwealth excepting those for the salaries of the governor and the justices of the supreme
447 judicial court, for the payrolls of the executive council and members of the general court, and
448 those due on account of the principal or interest of a public debt. The comptroller may require
449 paper or electronic affidavits that articles have been furnished, services rendered and obligations
450 incurred, as claimed. Such paper or electronic affidavit for any office, department, commission
451 and institution shall be made by the person authorized to incur such obligation. The comptroller
452 shall make a certificate estimating the amount due and allowed on each account or demand and
453 shall subsequently make available a report of the amounts and accounts so examined, the name
454 of the person to whom such amount is payable and the account to which it is chargeable. The
455 comptroller shall keep copies of and transmit all such certificates to the governor, who, with the
456 advice and consent of the council, may issue his warrant to the state treasurer for the amount
457 therein specified as due.

458 This authority shall pertain to all accounts and funds of the commonwealth unless
459 specifically exempted by general or special law.

460 The comptroller may exclude from such certificate any amount otherwise due to any
461 person owing an overdue debt to the commonwealth or any agency of the commonwealth;
462 provided, however, that the head of such agency has filed with the comptroller a paper or
463 electronic affidavit specifying that such debt exists, the amount due and the name of the debtor.
464 Any such debt may be charged by the comptroller against any amount otherwise due from the
465 commonwealth to such debtor, subject to regulations promulgated by the comptroller. Such
466 regulations shall include, but not be limited to, the following requirements:

467 (1) that said agency issue 4 written notices to the debtor over a 120 day period prior to
468 requesting exclusion of such overdue amounts from such certificate;

469 (2) that such notices advise the debtor of the debtor's right to a hearing before said
470 agency, and;

471 (3) that, unless otherwise provided by law, said agency shall hold a hearing under chapter
472 30A upon timely written application of the debtor.

473 Said regulations may authorize the comptroller to waive requirements at the request of an
474 agency head provided that all waivers shall be in writing and state the reasons for such waivers.

475 The comptroller shall not include on such certificate any amount for any account for
476 which an appropriation is required under section 6 of chapter 29 if no such appropriation or no
477 allotment has been made or if the amount of such appropriation and allotment for the current
478 fiscal year is insufficient to meet the amount of the demand. The comptroller is prohibited from
479 making or authorizing any spending authority to make a journal entry, so-called, between
480 accounts if the account ultimately to be charged had insufficient monies to support the entry at
481 the time the amount being entered was expended, unless prior notification of the intent to make
482 such a journal entry, indentifying the accounts involved and the amount of the entry, is sent to
483 the house and senate committees on ways and means. The comptroller is further prohibited from
484 certifying any amounts for payment in the event that there is an interim period at the beginning
485 of a fiscal year prior to the final passage of the fiscal year appropriation act or any interim
486 appropriation act, subject to the condition that any amounts otherwise authorized by law to be
487 paid during such interim period may be so certified by the comptroller.

488 SECTION 73. Section 4 of said chapter 7A is hereby repealed.

489 SECTION 74. Section 5 of said chapter 7A, as appearing in the 2010 Official Edition, is
490 hereby amended by striking out the first sentence and inserting in place thereof the following
491 sentence:- All bills and vouchers on which money has been or may be paid from the treasury
492 upon the certificate of the comptroller or the warrant of the governor shall be kept as prescribed
493 by the office of the comptroller; and all departments, offices, commissions and institutions
494 authorized to make contracts under which money may be payable from the treasury shall submit
495 as directed by the comptroller, before payment, certified copies of the contracts.

496 SECTION 75. The last sentence of said section 5 of said chapter 7A, as so appearing, is
497 hereby amended by adding the following words:- and for the smallest possible issuance of
498 revenue anticipation notes necessary under section 47 of chapter 29.

499 SECTION 76. Section 6 of said chapter 7A is hereby repealed.

500 SECTION 77. Section 8 of said chapter 7A, as appearing in the 2010 Official Edition, is
501 hereby amended by inserting after the word “accounts”, in line 5, the following words:- ,
502 including adjustments for current or prior periods.

503 SECTION 78. Said chapter 7A is hereby further amended by striking out section 10, as
504 so appearing, and inserting in place thereof the following section:-

505 Section 10. The comptroller shall establish policies and procedures that require all
506 accounting statements included in reports of departments, offices and commissions to reconcile
507 to the official books and records of the commonwealth before the publication of such reports. No
508 such report shall be published by any such department, office or commission until such
509 statements are so confirmed.

510 SECTION 79. Section 11 of said chapter 7A, as so appearing, is hereby amended by
511 inserting after the word “equipped”, in line 1, the following words:- , subject to appropriation,.

512 SECTION 80. Section 13 of said chapter 7A, as so appearing, is hereby amended by
513 striking out, in lines 1 and 2, the words “and commissioner of capital asset management and
514 maintenance”.

515 SECTION 81. Said chapter 7A, is hereby further amended by striking out section 16, as
516 so appearing, and inserting in place thereof the following section:-

517 Section 16. The comptroller, in consultation with the secretary of administration and
518 finance and the attorney general, shall administer the Liability Management and Reduction Fund
519 established in section 2TT of chapter 29. The comptroller may appoint a liability manager of said
520 fund whose compensation shall be paid out of said fund. The comptroller shall have the
521 following powers and duties with respect to the fund:

522 (a) to use amounts in the fund to make payments or to purchase insurance coverage to
523 make payments for the purposes set forth in said section 2TT of said chapter 29; provided,
524 however, that any insurance coverage so purchased shall recognize and preserve the
525 commonwealth's constitutional, statutory and common law rights, defenses, immunities and
526 control including, without limitation, chapters 12 and 258;

527 (b) to determine a deductible amount, which an agency shall be directly responsible for
528 making payment relative to a claim arising under said chapter 258 and which deductible shall be
529 excluded from the computation of the premiums subsequently charged to such agency;

530 (c) to determine and assess not later than October 1 annually the premium amounts to be
531 charged to each state agency; provided, however, that:

532 (1) premiums shall be set and adjusted based on factors including, but not limited
533 to:

534 (A) a 5-year experience rating reflecting, without limitation, liability
535 incurred by reasons of judgments, settlements and litigation costs for tort claims under said
536 chapter 258;

537 (B) minimum-estimated-liability amounts for pending claims as to which
538 presentment has been made under said chapter 258;

539 (C) the record of the agency regarding safety or other training programs
540 designed to reduce litigation or to detect and defend against frivolous or insubstantial claims; and

541 (D) any extraordinary factors warranting an adjustment in the discretion of
542 the comptroller;

543 (2) any disputes between agencies relative to their respective proportions of
544 responsibility for any resolved or pending claim or disputes relative to the valuation or the
545 appropriate nature of such claims shall be determined by the comptroller, in consultation with the
546 attorney general; and

547 (3) the comptroller may pay rebates to agencies that reduce their resolved and
548 pending claims totals below expected levels in a fiscal year and may assess surcharges on
549 agencies experiencing unexpectedly high resolved and pending claims totals in a fiscal year; and

550 (d) to make such other expenditures from the fund as are necessary, appropriate and
551 reasonable for management and administration of the fund, including personnel costs; provided,
552 however, that all direct and indirect costs for such employees shall be paid from the fund; and
553 provided further, that the fund shall not be used directly or indirectly for the compensation of
554 attorneys representing the commonwealth or its officers or employees.

555 The comptroller shall promulgate rules and regulations to effectuate the purposes of the
556 fund including, but not limited to, the manner in which each agency shall be assessed a premium.

557 Documents indicating the estimated value of a particular pending claim shall not be
558 public records and shall not be discoverable or admissible in evidence in any action.

559 SECTION 82. The General Laws are hereby amended by inserting after chapter 7B the
560 following chapter:-

561 CHAPTER 7C

562 CAPITAL ASSET MANAGEMENT AND MAINTENANCE

563 Section 1. As used in this chapter and chapter 29, the following words shall, unless the
564 context clearly requires otherwise, have the following meanings: -

565 "Acquisition", obtaining by gift, purchase, devise, grant, eminent domain, rental, rental-
566 purchase or otherwise.

567 “Addition”, work which will result in an increase in the overall external dimension of a
568 facility.

569 “Administering agency”, the public agency acting on behalf of a using agency,

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

573 “Building authority”, the University of Massachusetts Building Authority, the
574 Massachusetts State College Building Authority or any other building authority which may be
575 established for similar purposes.

576 “Building project”, a capital facility project undertaken for the planning, acquisition,
577 design, construction, demolition, installation, repair or maintenance of any building and
578 appurtenant structures, facilities and utilities, including initial equipment and furnishings thereof;
579 provided, however, that appurtenant buildings or structures which are required to be constructed
580 as integral parts of the development of sewer, water and highway systems shall not be subject to
581 section 46.

582 “Capital facility”, a public improvement such as a building or other structure; a utility,
583 fire protection, and other major system and facility; a power plant facility and appurtenances; a
584 heating, ventilating, air conditioning or other system; initial equipment and furnishings for a new
585 building or building added to or remodeled for some other use; a public parking facility; an
586 airport or port facility; a recreational improvement such as a facility or development in a park or
587 other recreational facility; or any other facility which, by statute or under standards as they may
588 be prescribed from time to time by the commissioner of capital asset management and
589 maintenance, according to the provisions of this section, may be defined as such, provided
590 however that a highway improvement such as a highway, bridge or tunnel or other structure or
591 building integral to the operation of the Central Artery/Ted Williams Tunnel Project in the city
592 of Boston and the city of Cambridge; a transportation improvement such as a mass transportation
593 or other public transit facility, but not including a department of transportation building in the
594 Park Square area of the city of Boston, shall not be considered a capital facility as defined herein;

595 provided further that an improvement in information technology shall not be a capital facility to
596 the extent it does not result in the creation or expansion of tangible property.

597 “Capital facility project”, an undertaking by a public agency for the planning,
598 acquisition, design, construction, demolition, installation, repair or maintenance of a capital
599 facility.

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

601 “Construction”, new construction, alteration, renovation, rehabilitation or other activity
602 that is intended to result in a significant increase in internal usable space.

603 “Control and supervision”, authority to perform or contract for performance.

604 “Conversion”, work required to modify or adjust the interior space arrangement or other
605 physical characteristics of an existing facility so that it may be effectively utilized for a new
606 functional purpose.

607 “Counties” means the following counties, exclusive, Barnstable, Bristol, Dukes,
608 Nantucket, Norfolk and Plymouth.

609 “Energy audit”, in-depth engineering analysis of factors causing energy waste in building
610 that investigates the amount and cost of energy waste and compares the energy waste with the
611 expense of remedying the energy waste on a cost-effective basis.

612 “Energy conservation projects”, projects to promote energy conservation, including but
613 not limited to energy conserving modification to windows and doors; caulking and
614 weatherstripping; insulation, automatic energy control systems; hot water systems; plant and
615 distribution system modifications including replacement of burners, furnaces or boilers; devices
616 for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant
617 system conversions; replacement or modification of lighting fixtures; energy recovery systems;
618 and, cogeneration systems.

619 “Maintenance”, day-to-day, routine, normally recurring repairs and upkeep.

620 “Master plan”, a study or description of a complex or group of buildings or any large or
621 multi-faceted project which is intended to ensure that the various components of the complex
622 shall be compatible with each other, and that the project as a whole shall be compatible with its
623 surroundings.

624 “Oversight”, control and supervision, except for final approval of any contract, pre-
625 design or design document or any alteration or modification thereof, payment, certificate of
626 substantial completion, use and occupancy, or final acceptance.

627 “Planning”, in reference to a particular capital facility project, the preparation of a master
628 plan, study, program or similar report or analysis the purpose of which is to define the content,
629 cost, and schedule of the project so as to establish a frame of reference prior to design,
630 acquisition, construction, demolition, installation, or maintenance.

631 “Program”, a document which defines a capital facility project in terms of its content,
632 time, and cost so that it provides a clear and detailed frame of reference for the design and
633 implementation process, the preparation of such document involving the gathering of data and
634 the analysis of cost necessary to (i) the production of content, time and cost plans based on
635 criteria deriving from those originally defined by any study or similar report and as finally stated
636 within the body of the program itself and (ii) the evaluation of those plans in terms of such
637 criteria.

638 “Public agency”, a department, agency, board, commission, authority, or other
639 instrumentality of the commonwealth or political subdivision of the commonwealth or 2 or more
640 subdivisions thereof.

641 “Real property”, land, buildings, appurtenant structures and fixtures attached to buildings
642 or land, including where applicable, all interests in real property, whether created by title, lease,
643 easement or any other legal interest.

644 “Renovation”, work required to restore and modernize most or all of a facility in order
645 that the facility may be effectively utilized for its designated functional purpose or to comply
646 with current code requirements.

647 “Repair”, work required to restore a facility or system to such condition that it may
648 continue to be approximately and effectively utilized for its designated purpose by overhaul,
649 reprocessing or replacement of constituent parts or materials which have deteriorated by action
650 of the elements or wear and tear in use.

651 “State agency” or “state department”, a legal entity of state government established by
652 the general court as an agency, board, bureau, department, office or division of the
653 commonwealth with a specific mission that may report to cabinet-level units of government
654 known as executive offices or secretariats or may be independent divisions or departments;
655 provided however, that for the purposes of sections 32 to 40, inclusive, state agency shall not
656 include counties.

657 “Study”, a feasibility or other study to identify and evaluate alternative solutions to and
658 recommend a solution to the needs and requirements defined by the public agency proposing a
659 capital facility project which may involve a further definition of that agency’s needs and
660 requirements, gather additional information on the nature of the project, develop and review
661 potential solutions to those needs and requirements, evaluate the financial, environmental, and
662 other aspects of such solutions, estimate the degree to which solutions do not fulfill proposed
663 objectives and criteria, and recommend a means of project implementation and site acquisition.

664 “Using agency”, the public agency which will be the major user of a capital facility
665 project or the occupant of a building project.

666 “Utility systems projects”, installation, extension or replacement of systems for the
667 provision of sewer, water and electrical service, power plant facilities and appurtenances,
668 heating, ventilating and air conditioning, elevators, fire escapes, sprinklers and automatic fire
669 alarms and telephone communications.

670 The commissioner of capital asset management and maintenance, after review by
671 interested public agencies who may seek to initiate capital facility projects, shall establish
672 standards as to what shall constitute a capital facility and what shall be a capital expenditure for
673 the purpose of defining what shall constitute a capital facility project.

674 Section 2. The commissioner of capital asset management and maintenance shall be
675 appointed by the secretary of administration and finance, with the prior written approval of the
676 governor, and may be removed in like manner. The commissioner shall be a person of ability and
677 experience, shall be familiar with the principles of the systematic and coordinated planning of
678 capital facilities and shall carry out such functions and duties as the commissioner may from
679 time to time deem necessary for the efficient and economical administration of the capital assets
680 of the commonwealth including, but not limited to, the systematic review of capital assets, the
681 scheduling of routine and schedule maintenance repairs, tracking the deferred maintenance needs
682 of capital assets and the coordinated planning of capital facilities in relation to the programmatic
683 needs of state agencies. The commissioner shall devote his entire time to the duties of his office.
684 No person holding such position shall be subject to chapter 31 or section 9A of chapter 30.

685 Except as otherwise provided in this chapter or any other statute or appropriation act, the
686 commissioner of capital asset management and maintenance shall be responsible for:

687 (a) integrated and coordinated planning and budgeting of capital facilities on an annual
688 and long-term basis;

689 (b) acquisition, allocation and disposition of real property;

690 (c) direction, control, supervision and oversight as to the planning, design, construction,
691 demolition, installation, repair and maintenance of specific capital facilities and capital facility
692 projects;

693 (d) efficient management of the operation of the division of capital asset management and
694 maintenance as a whole and the proper coordination of the work of and effective operation of
695 individual offices, bureaus, and other sections which might be located therein. The commissioner
696 may, subject to appropriation, appoint deputy commissioners and associate deputy
697 commissioners and legal counsel as appropriate and may authorize such deputy commissioners
698 or associate deputy commissioners or legal counsel to act in his stead in particular matters or
699 classes of matters.

700 (e) direction, control, supervision, planning and oversight of the scheduled maintenance
701 and repair needs of capital assets owned by the commonwealth.

702 The commissioner shall promulgate rules and regulations under chapter 30A.

703 The commissioner shall administer programs placed under his direction, undertake any
704 special studies and investigations and submit reports and render advice thereon as may be
705 requested by the secretary of administration and finance and as required by the general court.

706 The commissioner and his staff shall provide information to and cooperate with the
707 general court or any of its committees in connection with the development and analysis of any
708 long term capital facilities development plan or capital budget proposal.

709 The commissioner of capital asset management and maintenance may, in furtherance of
710 the function of his office, accept and receive funds, grants and services from the federal
711 government or its agencies, and from departments, agencies and instrumentalities of state and
712 local government or from private individuals, trusts and estates.

713 The commissioner may from time to time contract for professional services in connection
714 with the work of the division.

715 Section 3. The commissioner of capital asset management and maintenance shall advise
716 the governor and the secretary of administration and finance on the means and methods available
717 to coordinate capital facility project plans and programs of all public agencies and the federal
718 government in order to establish relative priorities and to avoid duplication and conflicts. The
719 commissioner shall create a central depository for planning documents as they relate to that end,
720 and amendments thereto and revisions thereof prepared by or for public agencies. Effective on
721 the effective date of this act, every public agency shall submit a list and description of such
722 documents as currently exist and as they are promulgated and upon the commissioner's request,
723 submit to him a copy thereof. The commissioner may by rule and regulation identify the
724 documents required to be submitted.

725 The division of capital asset management and maintenance, if it is not designated as the
726 state clearinghouse as provided for by the federal Intergovernmental Cooperation Act of 1968, as
727 amended, and regulations promulgated pursuant thereto, shall be notified in a timely manner by
728 the agency designated as the state clearinghouse as to any capital facility projects being reviewed
729 by said agency. The commissioner of capital asset management and maintenance shall review

730 such projects in light of current long range capital facility plans and other programs and policies
731 of the commonwealth and submit his comments and recommendations to the agency designated
732 as the state clearinghouse.

733 Section 4. Except as otherwise provided in this section or by any other statute or
734 appropriation, the division of capital asset management and maintenance shall exercise
735 jurisdiction over capital facility projects to the extent provided below:

736 (1) Control and supervision of all building projects undertaken by any state agency,
737 except to the extent provided for by sections 5 and 26 and that the division shall exercise
738 oversight jurisdiction over building projects undertaken by a state agency that are financed or
739 funded from sources other than an appropriation or the issuance of bonds, notes or other
740 evidences of indebtedness of the commonwealth. Using agencies shall cooperate in any inquiries
741 or inspections conducted by the division of capital asset management and maintenance.

742 (2) Oversight as to building projects undertaken by any building authority, except to the
743 extent provided for by sections 5 and 26. Building authorities shall cooperate in any inquiries or
744 inspections conducted by the division of capital asset management and maintenance to ensure
745 conformity with all applicable standards and guidelines.

746 (3) For housing projects within the jurisdiction of the department of housing and
747 community development as defined by section 1 of chapter 121B, the division of capital asset
748 management and maintenance shall provide only for the establishment of minimum requirements
749 for record keeping and reporting by the department and operating agencies, as each is defined by
750 section 1 of chapter 121B, and review of and recommendation as to the standards and guidelines
751 for, direction, control, and supervision of their building projects. The department and operating
752 agencies shall cooperate with the division of capital asset management and maintenance,
753 regarding inquiries and inspections conducted as to housing projects within their respective
754 jurisdictions.

755 (4) For all capital facility projects of cities and towns for which specific approval or
756 authorization by the general court or a state agency is otherwise required and for all capital
757 facility projects of all other public agencies not included within the scope of paragraphs (1), (2),
758 and (3), establishment of requirements for record keeping and reporting by the administering

759 agency as to control and supervision of capital facility projects, so that the division of capital
760 asset management and maintenance may assess the nature, scope and programs of all planned or
761 current capital facility projects and fulfill its responsibilities as defined by this chapter and other
762 relevant statutes. For the purposes of identifying agricultural lands, the commissioner shall
763 utilize criteria established by the secretary of environmental affairs. Such criteria shall determine
764 agricultural land according to past and present agricultural use, and according to the agricultural
765 production suitability of land as defined by the standards of the United States Department of
766 Agriculture Soil Conservation Service. For all capital facility projects or programs funded in
767 whole or in part by federal funds, the record keeping and reporting requirements established
768 pursuant to this paragraph and other relevant statutes may be satisfied by the federal
769 requirements, but only to the extent that the state requirements duplicate the federal requirements
770 or materially conflict with them. State and federal requirements shall be deemed to be materially
771 conflicting only when it would be impossible or unduly burdensome to comply with both sets of
772 requirements. Neither this provision nor any other provision of sections 1 through 32, inclusive,
773 and sections 32 to 40, inclusive, is intended or shall be construed to limit the authority of any
774 public agency, other than those specified in paragraphs (1) and (2), to control and supervise any
775 capital facility project undertaken by that agency.

776 Section 5. The commissioner shall, in a manner and to the extent provided by this
777 chapter, control and supervise any building project to be undertaken by a state agency or building
778 authority when the estimated cost of the project exceeds \$250,000 and involves structural or
779 mechanical work. The commissioner may, upon request of a state agency or building authority,
780 delegate project control and supervision to that state agency or building authority over projects
781 involving structural or mechanical work whose estimated cost is less than \$2,000,000 if the
782 commissioner determines that the agency or authority has the ability to control and supervise
783 such project. Except as otherwise provided in this section, any state agency or building authority
784 shall control and supervise its own building projects when the estimated cost of such project is
785 less than \$250,000, or if the project does not involve structural or mechanical work.

786 Section 6. (a) The general court finds that: (1) the Massachusetts commission against
787 discrimination conducted hearings and investigations which documented a history of
788 discrimination against minorities and women in the commonwealth; (2) and in 1994, the

789 executive office of transportation and construction produced a disparity study which documented
790 a history of discrimination against minority and women owned businesses, in which the
791 commonwealth’s agencies were participants; (3) this discrimination against minorities and
792 women currently affects the use of minority and women owned businesses in state contracting;
793 (4) the commonwealth has a compelling interest in promoting the use of minority owned
794 business and women owned businesses through the use of the available and qualified pool of
795 minority and women owned businesses; (5) it is the policy of the commonwealth to promote
796 equality in the market and, to that end, to encourage full participation of minority and women
797 owned businesses in all areas of state contracting, including contracts for construction and design
798 services.

799 (b) As used in this section, the following words shall, unless the context clearly requires
800 otherwise, have the following meanings:—

801 “Affirmative marketing program”, a program of race and gender conscious goals to
802 promote equality in, and to encourage the participation of, minority-owned businesses and
803 women-owned businesses in contracts for capital facility projects and state assisted building
804 projects;

805 “Capital facility project”, shall have the same meaning as found in section 1 when the
806 project is under the control of the division of capital asset management and maintenance;

807 “Design services”, any of the following services provided by any designer, programmer,
808 or construction manager in connection with any public building project:

809 (i) preparation of master plans, studies, surveys, soil tests, cost estimates or programs;

810 (ii) preparation of drawings, plans, or specifications, including, but not limited to,
811 schematic drawings, preliminary plans and specifications, working plans and specifications or
812 other administration of construction contracts documents;

813 (iii) supervision or administration of a construction contract;

814 (iv) construction management or scheduling.

815 “Minority”, a person with a permanent residence in the United States who is American
816 Indian, Black, Cape Verdean, Western Hemisphere Hispanic, Aleut, Eskimo, or Asian.

817 “Minority-owned business”, any contracting or subcontracting business, or businesses
818 that supply the contractors and subcontractors which is beneficially owned by one or more
819 minority persons as follows:

820 (i) the business must be at least 51 per cent owned by minority persons; in the case of a
821 corporation having more than one class of stockholders, the ownership requirement must be met
822 as to each class of stock;

823 (ii) the minority owners shall demonstrate that they have dominant control over
824 management;

825 (iii) the business has not been established solely for the purpose of taking advantage of a
826 special program which has been developed to assist minority businesses;

827 (iv) in the case of a joint venture between a minority business meeting the requirements
828 of clauses (i) to (iii), inclusive, and a non-minority business, the joint venture shall be found to
829 be a minority business if the minority business meeting the requirements of said clauses (i) to
830 (iii), inclusive, shall have more than one-half control over management of the project bid upon
831 and shall have the right to receive more than one-half of the profits deriving from that project.

832 “State assisted building project”, a construction project undertaken by a political
833 subdivision of the commonwealth or 2 or more subdivisions thereof for the planning, acquisition,
834 design, construction, demolition, installation, repair or maintenance of a capital facility and
835 whose costs are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part,
836 by the commonwealth;

837 “State office of minority and women business assistance” or “SOMWBA”, shall have the
838 same meaning as found in section 40 of chapter 23A.

839 “Women-owned business”, any contracting or subcontracting business which is
840 beneficially owned by 1 or more women meeting the requirements in clauses (i) to (iv),
841 inclusive, of the definition of minority business, except that the terms “women”, “women

842 owners”, and “women-owned business”, shall be substituted for the terms “minority” and
843 “minority persons”, “minority owners”, and “minority business” appearing in the definition.

844 (c) The commissioner, in consultation with the director of the state office of minority and
845 women business assistance, may establish an affirmative marketing program to ensure the fair
846 participation of minority-owned and women-owned businesses on capital facility projects and
847 state assisted building projects. The affirmative marketing program shall establish participation
848 goals for minority-owned and women-owned business in the capital facility projects and state
849 assisted building projects. The participation goals for minority-owned business and women-
850 owned business shall be based upon the broadest and most inclusive pool of available minority-
851 owned businesses and women-owned businesses interested in and capable of performing
852 construction work and design services on the capital facility projects, state funded building
853 projects, and state assisted building projects; but, the commissioner may establish both statewide
854 and regional participation goals based upon the availability of minority-owned businesses and
855 women-owned businesses. The state office of minority and women business assistance, or its
856 successor agency, shall create and maintain a current directory of certified minority-owned
857 businesses and women-owned businesses which will serve as one source of information in
858 determining the pool of available minority-owned businesses and women-owned businesses. The
859 commissioner and the director of SOMWBA shall meet on a quarterly basis to determine the
860 status of the implementation of the affirmative marketing program and what further steps both
861 agencies consider necessary to achieve the purpose of this section.

862 (d) Not later than January 15 of each year, the commissioner, in consultation with the
863 director of state office of minority and women business assistance, shall establish participation
864 goals for minority-owned businesses and women-owned businesses. The participation goals
865 established under this section shall apply to capital facility projects and state assisted building
866 projects. The participation goals shall be expressed as overall annual program goals which shall
867 be applicable to the total dollar amount of contracts awarded for construction work and design
868 services on capital facility projects and state assisted building projects for the calendar year. The
869 commissioner shall publish in the central register, established under section 20A of chapter 9, the
870 participation goals for minority-owned businesses and for women-owned businesses on capital
871 facility projects and state assisted building projects. The participation goals for minority owned

872 businesses and women owned businesses shall remain in effect until revised participation goals
873 are established and published under this paragraph. The participation goals for minority owned
874 businesses and women owned businesses, developed before the effective date of this section,
875 under any existing executive order and in effect as of the January preceding the effective date of
876 this section shall remain in effect until January 15 of the following year. The participation goals
877 for minority-owned businesses and women-owned businesses shall be revised as necessary every
878 2 years thereafter.

879 (e) The commissioner, in consultation with the director of the state office of minority and
880 women business assistance, shall develop a written procedure by which a public agency may, for
881 an individual capital facility project, adjust the participation goals for minority-owned business
882 and women-owned business based upon the actual availability of minority-owned businesses and
883 women-owned businesses, the geographic location of the project, the scope of work of the capital
884 facility project, or other relevant factors.

885 (f) The commissioner shall develop a written, good faith efforts waiver procedure by
886 which public agencies may determine, at any time before the award of a contract, that
887 compliance with the goals is not feasible and by which public agencies may reduce or waive the
888 goals for an individual contract.

889 (g) In connection with the affirmative marketing program, the state office of minority
890 and women business assistance shall regularly review and, where necessary, modify its
891 certification process to ensure that it operates effectively, and shall report annually to the
892 secretary of administration and finance regarding these matters.

893 (h) The commissioner shall be responsible for the overall management, monitoring, and
894 enforcement of the affirmative marketing program, as the program relates to capital facility
895 projects under the control of the division, established under this section. The commissioner may
896 appoint a program director within the office of the commissioner to assist in program
897 development, coordination and compliance. The program director shall also have responsibility
898 for monitoring contract compliance within the division, addressing potential program violations
899 and coordinating division enforcement activities with the state office of minority and women
900 business assistance and the attorney general.

901 (i) The commissioner shall by March 15 submit to the joint committee on state
902 administration and regulatory oversight, the house and senate committees on ways and means,
903 the clerks of the house and senate a report on the performance of the division's affirmative
904 marketing program for the preceding year. The report shall, at a minimum, show the name and
905 address of each such minority owned business and women owned business, its designation as a
906 minority-owned or women-owned business, the contract or subcontract price, a description of the
907 work performed on the contract by class of work, and project type, and shall show separately the
908 total number of contracts awarded to minority-owned and women-owned businesses as a
909 percentage of the total number of contracts awarded and as a percentage of the total contract
910 price.

911 (j) The commissioner shall promulgate regulations necessary to implement this section.

912 Section 7. Except as otherwise provided in section 3 of chapter 211, the commissioner of
913 capital asset management and maintenance shall: (1) be responsible for the acquisition, control
914 and disposition of court facilities on behalf of the commonwealth, in the manner and to the
915 extent provided in this chapter for other real property of the commonwealth; (2) provide facilities
916 for the trial court, the appeals court and the supreme judicial court; (3) be responsible for
917 planning and budgeting for such court facilities in the manner and to the extent provided in this
918 chapter and in chapter 29 for capital facilities of state agencies; and (4) have jurisdiction over
919 capital facility projects undertaken by the office of the chief administrative justice of the trial
920 court for such court facilities in the manner and to the extent provided in this chapter and in
921 chapter 149 for capital facility projects undertaken by state agencies. Notwithstanding any other
922 general or special law to the contrary, all real property owned by the commonwealth for use as a
923 courthouse, whenever such property was acquired, shall be held in the name of the
924 commonwealth as provided in sections 32 and 33, and the division of capital asset management
925 and maintenance shall hold the deeds to all such property as provided in section 39.

926 There shall be within the division of capital asset management and maintenance a
927 director of court facilities. The director of court facilities shall be appointed by the commissioner
928 of capital asset management and maintenance with the advice of the chief administrative justice
929 of the trial court and the approval of the secretary of administration and finance, and may be
930 removed in like manner. Said position shall not be subject to section 9A of chapter 30 or chapter

931 31. Said director shall have the qualifications deemed necessary by the commissioner of capital
932 asset management and maintenance. Said director shall perform such duties of said
933 commissioner with respect to court facilities as said commissioner shall assign, including at least
934 the duty to respond to any inquiry from a county, city or town or from the office of the chief
935 administrative justice of the trial court regarding court facilities.

936 Section 8. The commissioner of capital asset management and maintenance shall:

937 (1) develop and operate automated management and information systems and provide
938 data processing services;

939 (2) develop and maintain all necessary financial management systems, as prescribed by
940 the comptroller, that will permit the proper management of the capital facility program, including
941 a system to administer payments to those contracting for services and supply of materials;

942 (3) develop, justify and monitor internal operating budgets;

943 (4) provide business services including central filing, printing, and reproduction,
944 correspondence and word processing services;

945 (5) perform or contract for performance of research on innovative methods for the
946 acquisition, planning, design, construction, demolition, installation, and repair and maintenance
947 of capital facilities;

948 (6) give counsel on all legal matters affecting capital facility projects provided that this
949 provision shall not preclude the employment of counsel by any office within the division of
950 capital asset management and maintenance;

951 (7) approve project budgets and the award of contracts;

952 (8) recommend and where appropriate, certify for disbursement monies appropriated or
953 authorized for capital facility projects;

954 (9) establish guidelines and requirements for the preparation and retention of records and
955 reports pertaining to the nature, scope and progress of capital facility projects; and

956 (10) perform such other acts to assure the proper management of the operation of the
957 division of capital asset management and maintenance and the proper coordination of the work
958 of and effective operation of the individual offices located therein.

959 The commissioner shall, after providing an opportunity for the attorney general and other
960 interested parties to comment, promulgate and from time to time revise uniform contract
961 conditions appropriate to the type of service being rendered to be incorporated in all contracts for
962 services of that type related to capital facility projects. Such uniform contract conditions may be
963 supplemented by but shall take precedence over additional contract conditions for any particular
964 capital facility project.

965 The commissioner may from time to time establish within the division of capital asset
966 management and maintenance such administrative units, in addition to the offices of
967 programming, project management and facilities management, necessary for efficient and
968 economical administration of the work of said division; and when necessary for such purpose,
969 the commissioner may abolish such unit or may merge any 2 or more of them. The commissioner
970 shall prepare and keep current a general statement of the organization of said division and of the
971 assignment of functions to its various administrative units, officials, and employees. Said
972 statement shall be known as the "description of organization" of said division, and shall be kept
973 on file in said division.

974 The commissioner shall develop quantitative performance measures for each individual
975 office and other administrative units located therein and for the division as a whole. Using such
976 measures, the commissioner shall once each year prepare and submit to the secretary of
977 administration and finance a report on the performance of the individual offices and of the
978 division as a whole, comparing that performance with that of the previous 3 years, the reasons
979 for any change, and recommending changes in the operation of the division and its offices, as
980 will improve their performance.

981 The directors of individual offices and the heads of other administrative units located in
982 the division shall, upon request by the commissioner conduct internal, operational, financial, and
983 compliance audits.

984 Section 9. The commissioner shall, no less often than once every 3 months, prepare a
985 comprehensive report on the progress of all capital facility projects subject to the jurisdiction of
986 the division of capital asset management and maintenance as defined by section 5 but not
987 including those for which a city or town is the administering agency. At the discretion of the
988 commissioner, said reports may exclude capital facility projects with a total project cost of less
989 than \$25,000 for which the administering agency is other than a state agency. Said report shall
990 include, but not be limited to, a statement of the name of each project, the administering agency
991 and the using agency, a brief current description of the project and any substantial changes in the
992 description of the project during the past 3 months, the source of funds, the state of progress of
993 the project, a summary of the total and major costs of the projects as originally estimated and as
994 currently expended or currently estimated to be expended, the original project schedule and the
995 current and estimated progress of the project, and such other information as the commissioner
996 may require be included. Said report shall be submitted to the secretary of administration and
997 finance and the clerks of the house of representatives and the senate and shall be a public
998 document.

999 The commissioner of capital asset management and maintenance shall by February 15 of
1000 each year prepare a comprehensive annual report on the progress of all capital facility projects
1001 subject to the jurisdiction of the division of capital asset management and maintenance defined
1002 by section 4. At the discretion of the commissioner, said annual report need not include capital
1003 facility projects with a total project cost of less than \$25,000 for which the administering agency
1004 is other than a state agency. Said annual report shall constitute 1 of the 4 reports required by the
1005 previous paragraph of this section but shall contain in addition to the information required in the
1006 previous paragraph for each capital facility project, the following data: the authorizations for and
1007 sources of funds and expenditure and unencumbered balances thereof; identification of the
1008 designers and contractors who have contracted with the administering agency to provide
1009 materials or services therefor, the administering agency's project and contract numbers, the value
1010 of the contracts and the amount of money paid in accordance with the contracts; and such other
1011 information as the commissioner may require be included. The commissioner shall also include
1012 in said report a statement of the problems which have arisen in the capital facility procurement
1013 programs and procedures of public agencies and specific recommendations for administrative
1014 and legislative action which are necessary to remedy such problems. Said report shall be

1015 submitted to the secretary of administration and finance and the general court and shall be a
1016 public document available for general distribution.

1017 The commissioner shall by February 15 of each year prepare a comprehensive report
1018 including, but not limited to, an analysis of the utilization, cost and method of acquisition of real
1019 property acquired for the use of state agencies; the sale or rental of such real property and
1020 revenue realized therefrom; and problems which have arisen in the management of real property
1021 by the commonwealth, with specific recommendations for administrative and legislative action
1022 necessary to remedy such problems. Said report shall be submitted to the secretary of
1023 administration and finance, the joint committee on state administration and regulatory oversight
1024 and the general court and shall be a public document available for general distribution.

1025 The commissioner shall develop and annually revise a proposed capital repair and
1026 maintenance plan for state buildings subject to the jurisdiction of the division of capital asset
1027 management and maintenance. The plan shall be based upon repair and maintenance schedules
1028 formulated for each building and group of buildings by the director of facilities management in
1029 accordance with sections 24, 26, and 28. In addition to developing capital repair and
1030 maintenance schedules for state buildings, the plan shall analyze the costs and benefits of
1031 continuing minor repairs versus the costs and benefits of major renovation, rehabilitation, or
1032 replacement of the state buildings. The commissioner shall by February 15 of each year, submit
1033 the proposed capital repair and maintenance plan required by this paragraph to the house and
1034 senate committees on ways and means and the chairs of the joint committee on state
1035 administration and regulatory oversight.

1036 The commissioner shall keep an up-to-date record, by years and cumulatively, on all
1037 capital repair and maintenance projects completed, in process, or scheduled for the future, on all
1038 building projects subject to the jurisdiction of the division of capital asset management and
1039 maintenance.

1040 The commissioner shall, by February 15 of each year, prepare a report, by years and
1041 cumulatively, on all capital repair and maintenance projects completed, in process, or scheduled
1042 for the future, on all capital facility projects, said report shall include narrative statements
1043 indicating why such repairs or maintenance on such projects have been or will be postponed or

1044 cancelled. A copy of said report shall be sent to the house and senate committees on ways and
1045 means, and to the chairs of the joint committee on state administration and regulatory oversight.

1046 The governor may, include in his capital outlay budget or request, a budget narrative
1047 statement, indicating why any and all repairs or maintenance on capital facility projects of the
1048 commonwealth, have been or will be postponed or cancelled.

1049 Upon completion of the final design of each state building project estimated to cost in
1050 excess of \$5,000,000, the commissioner shall prepare an analysis detailing the maintenance costs
1051 projected annually over the useful life of the building. The commissioner shall, by February 16
1052 of each year, prepare a report summarizing the annual maintenance costs projected for each
1053 building project described in this paragraph, for which final design was completed during the
1054 prior year. The report shall be filed with the chairs of the joint committee on state administration
1055 and regulatory oversight and the agency responsible for the operation and maintenance of the
1056 building project.

1057 In subsequent fiscal years for which the maintenance report indicates that maintenance
1058 will be required, the agency responsible for the operation and maintenance of the building shall
1059 include the projected annual maintenance costs contained in the report in its annual budget
1060 request, provided that revisions to the maintenance costs originally projected by the
1061 commissioner shall be addressed in the agency's budget narrative.

1062 The commissioner shall be responsible for providing state agencies with comprehensive
1063 maintenance manuals for all new building projects constructed on behalf of an agency.

1064 Section 10. In order to assist himself in the performance of his functions the
1065 commissioner of capital asset management and maintenance shall establish an advisory council
1066 on capital asset management and maintenance which shall meet at such times as the
1067 commissioner shall set, but no less often than once every 3 months, to seek information, advice,
1068 and counsel as to the recommendation, establishment, and evaluation of priorities and schedules
1069 for the acquisition, planning, design, construction, demolition, installation, repair and
1070 maintenance of capital facilities. Such of the executive officers of public agencies directly
1071 responsible for the acquisition, planning, design, construction, demolition, installation, repair and

1072 maintenance of capital facilities or their designees as the commissioner may request shall attend
1073 those meetings.

1074 Section 11. There shall be located within the division of capital asset management and
1075 maintenance an office of programming headed by a director of programming. Said director shall
1076 be appointed by the commissioner of capital asset management and maintenance, with the prior
1077 written approval of the secretary of administration and finance, and may be removed in like
1078 manner. The position of director shall not be subject to chapter 31 or section 9A of chapter 30.

1079 No person shall be appointed director of the office of programming unless the person has
1080 extensive experience in the study and programming of buildings.

1081 The commissioner of capital asset management and maintenance shall be responsible for
1082 the exercise of all powers and the performance of all duties assigned by law to the office of
1083 programming, which shall be under his direction, control, and supervision.

1084 Section 12. Except as otherwise provided in this section or by any appropriation act, the
1085 director of programming shall, in the manner and to the extent provided by this section, have
1086 control and supervision of the study and programming of all capital facility projects of state
1087 agencies and building authorities.

1088 The director may appoint such deputies and other supervisory staff as the work of the
1089 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1090 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1091 chapter 30. The director shall appoint, subject to the commissioner's approval, all other officers
1092 and employees of said office, including such programmers, architects, engineers, landscape
1093 surveyors, cost estimators, as the director deems necessary to carry out the tasks assigned to the
1094 bureau.

1095 The director shall:

1096 (1) recommend to the commissioner rules and regulations, standards and guidelines for
1097 the preparation of master and other plans, studies, and programs for capital facility projects;

1098 (2) review and make a written evaluation to the commissioner as to specific project
1099 studies, programs and other predesign documents and their consistency with long range capital
1100 facilities development plans and capital facility budget requests;

1101 (3) upon request by using agencies, assist them in the development of specific project
1102 descriptions and proposals forming a part of those agencies' long range capital development
1103 plans and specific capital facility budget requests;

1104 (4) upon request of using agencies, and at his discretion, develop master and other plans,
1105 perform feasibility and other studies, or prepare programs for projects for which such plans,
1106 studies, and programs are authorized by the general court to be performed;

1107 (5) upon request by using agencies assist the staff of using agencies, and at the discretion
1108 of said director assist others providing such services to using agencies in their performance of
1109 plans, studies, or programs to assure conformity with the rules and regulations, standards and
1110 guidelines for such plans, studies, and programs;

1111 (6) provide guidance and assistance to other bureaus and sections or units within the
1112 division in the performance of their responsibilities as they relate to completed planning stages
1113 for projects;

1114 (7) recommend to the commissioner rules and regulations, standards for the conduct of
1115 post-occupancy evaluations of all projects for which the division of capital asset management
1116 and maintenance has performed or caused to be performed programming services, such post-
1117 occupancy evaluation to be based on the program so developed and appropriate in scope and
1118 detail to the type, cost and significance of the project being evaluated;

1119 (8) assist the commissioner in the evaluation of projects to determine the effectiveness of
1120 prior programming, planning, and budgeting decisions; and

1121 (9) conduct, with staff or consultants, post-occupancy evaluations for projects under the
1122 jurisdiction of the bureau of project management, the cost of which exceeds a fixed sum to be
1123 determined by the director, assume such other responsibilities as the commissioner may direct.

1124 The director shall create a depository for plans, studies, programs, and designs for
1125 building projects prepared for any using agency subject to the jurisdiction of the division of
1126 capital asset management and maintenance under section 4 of this chapter. Each such agency
1127 shall promptly send to the director a brief identification and description of each plan, study,
1128 program, and design after its completion. The designer selection board shall promptly send to the
1129 director a brief identification and description of any designs offered to it as part of any design
1130 competition administered by the board under section 49. Upon request by the director, the user
1131 agency or board shall send to the director a copy of said plan, study, program or design.

1132 Section 13. There shall be within the division of capital asset management and
1133 maintenance an office of project management headed by a director of project management.

1134 The director shall be appointed by the commissioner of capital asset management and
1135 maintenance with the approval of the secretary of administration and finance, and may be
1136 removed in like manner. Said position shall not be subject to section 9A of chapter 30 or chapter
1137 31. No person shall be appointed director of said bureau unless at the time thereof said person
1138 shall be registered by the commonwealth as an architect or professional engineer under chapter
1139 112 and shall have proven ability and extensive experience in the management of the design and
1140 construction of buildings.

1141 The director may appoint such deputies and other supervisory staff as the work of the
1142 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1143 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1144 chapter 30. The director shall appoint, subject to appropriation and subject to the commissioner's
1145 approval, all other officers and employees of said office.

1146 The commissioner shall be responsible for the exercise of all powers and the performance
1147 of all duties assigned by law to said office, which shall be under his direction. The director shall
1148 advise the commissioner as to rules and regulations, standards and guidelines, and priorities and
1149 schedules to be established for the office and the division of capital asset management and
1150 maintenance.

1151 Section 14. The duties and responsibilities of the director shall include, but not be limited
1152 to, the following: review and comment on all long range capital facilities development plans and

1153 capital budget requests for building projects by any state agency or building authority for
1154 purpose of assisting in the development of schedules, cost estimates and projections; review of
1155 said plans and requests for technical feasibility; where appropriate, recommendation that a study
1156 or program be conducted; and recommendation to the commissioner of methods which might be
1157 used for the design and construction of new facilities or major additions to existing facilities.

1158 The methods recommended shall include the latest developments in construction as well
1159 as standard methods, for the purpose of insuring quality, timeliness and economy of construction,
1160 such techniques to include but not be limited to construction management, fast-tracked or phased
1161 construction, turnkey procurement and design and build procurement. The director shall also
1162 recommend to the commissioner the method for procuring design and construction services when
1163 an alternative construction method is recommended; such recommendation shall be in writing
1164 and contain the reasons for not complying with the standard selection and bidding laws provided
1165 that the legislature shall approve the method for procuring design or construction services for
1166 such project and provided that such procurement method shall comply with the policies and
1167 procedures of sections 44A to 44M, inclusive, of chapter 149, to the extent feasible.

1168 The director shall develop guidelines regarding the types of projects that would most
1169 benefit from use of alternative construction methods and shall periodically evaluate their
1170 effectiveness.

1171 The director, if otherwise permitted by statute or appropriation, may use a phased
1172 contracting procedure, provided that the contracts awarded can be accomplished (a) within the
1173 appropriation or authorization for the project or within the project cost limits specified by the
1174 appropriation or authorization and (b) in accordance with (i) any study or program which must
1175 be prepared under section 59 or (ii) any other pre-design document which must be prepared in
1176 accordance with any other statute, appropriation or authorization or administrative directive
1177 consistent therewith.

1178 If the director considers it in the best interests of the commonwealth the director may
1179 employ, in addition to the standard architectural and professional contractors, quantity surveyors,
1180 network scheduling consultants and cost estimators.

1181 The director shall recommend to the commissioner standards for conducting studies,
1182 programs and designs; for real property acquisition in anticipation of construction, including the
1183 kind and extent of testing required; for contractor selection; and for project evaluation. The
1184 director may recommend to the commissioner such additional standards and guidelines as the
1185 director shall deem necessary or desirable to expedite the work of the office.

1186 The director shall hire such project managers, cost estimators, and architectural,
1187 engineering, and technical personnel as the director deems appropriate to: (a) estimate and
1188 review project costs and schedules; (b) monitor design and construction standards; (c) perform
1189 design services; (d) review project designs to ensure that they meet the standards established for
1190 all projects; (e) provide technical assistance to using agencies; and (f) administer and supervise
1191 design and construction contracts.

1192 The director shall recommend to the commissioner standards and procedures to be
1193 followed by project managers in overseeing individual construction projects, including standards
1194 and procedures for scheduling of the performance of particular aspects of projects; forms to be
1195 used in reporting and processing of information regarding change orders and price adjustments,
1196 periodic payment, and other payments pursuant to approved progress schedules; and all other
1197 standards and procedures necessary to the efficient administration and oversight of individual
1198 construction projects, or required by statute or regulation.

1199 The director shall recommend to the commissioner standards for internal audits to be
1200 performed on individual projects. Such audits shall be performed at the direction of the director
1201 when the director has determined that an individual change order is so large, or a series of
1202 change orders cumulatively are so substantial, that the project should be reviewed, or when the
1203 director has determined that there have been significant individual or cumulative delays in
1204 progress on the project, or at such times as the director deems necessary. Whenever a change
1205 order is approved the director shall state in writing the reasons for not requesting an audit.

1206 Section 15. The contract which the director shall make with the designer appointed under
1207 the preceding section shall provide, among other appropriate terms, that the designer shall, in
1208 consultation with the using agency and subject to that agency's approval, prepare plans and
1209 specifications for the building project for submission to said director for his approval and shall

1210 use standard contract documents and specifications which said director shall have prepared with
1211 the approval of the commissioner and made available within the office.

1212 No obligation shall be incurred or payment made for preparation of any plans or
1213 specifications for any building project without the prior approval of the commissioner; and in the
1214 case of a building project undertaken on behalf of the commonwealth, no plans or specifications
1215 shall be prepared until a special appropriation shall have been made therefor or for the project or
1216 until federal funds or assistance shall have been made available therefor. No other obligation
1217 shall be incurred or payment made in connection with any building project until such obligation
1218 or payment shall have been approved in accordance with sections 1 to 40, inclusive, and section
1219 60 and section 11 of chapter 35.

1220 Schematic, preliminary and working plans and specifications for each building project
1221 shall, following initial submission to the using agency for comment, be submitted by the designer
1222 to the director for his approval. In reviewing such plans and specifications, the duty of the
1223 director shall be to see that they are clear and complete and permit execution of the building
1224 project (a) within the appropriation or authorization for the project or within project cost limits
1225 specified by the appropriation or authorization and (b) in accordance with (i) any study or
1226 program prepared in accordance with section 59 or (ii) any other pre-design document which
1227 must be prepared in accordance with any other statute, appropriation or authorization or
1228 administrative directive consistent therewith. When a phased construction technique is approved
1229 by the legislature, the director shall approve working plans and specifications at appropriate
1230 stages of the project.

1231 Following final approval of such plans and specifications, the director shall advertise in
1232 the central register published by the secretary of state pursuant to section 20 of chapter 9 and in
1233 such other publications as the commissioner shall direct, for applications to bid on or proposals
1234 for the performance of the work on the project; except that the commissioner may direct that the
1235 purchase of any materials, original equipment or original furnishings for the project shall be
1236 made under sections 22 to 26, inclusive, of chapter 7. Subject to the prior approval of the
1237 commissioner and the applicable provisions of sections 44A to 44M, inclusive, of chapter 149
1238 the director shall award the contract or contracts for such work to the lowest responsible and
1239 eligible bidder; but no such contract on behalf of the commonwealth shall be awarded by him for

1240 a sum in excess of the amount which the comptroller shall certify to be available therefor. If the
1241 director shall knowingly award a contract in violation of this section, the director may be
1242 removed from office by the governor.

1243 The director shall be responsible for accepting or rejecting each project upon its
1244 completion and for directing final payment for work done thereon; provided, however, that if
1245 upon inspection of any project for acceptance the director shall find that the plans, specifications,
1246 contracts or change orders for the project shall not have been fully complied with, the director
1247 shall, until such compliance has been effected or adjustment satisfactory to him has been made,
1248 refuse to accept the project and direct such payment.

1249 Upon acceptance of the project, the director shall release the same to the using agency,
1250 unless the using agency objects to said release, in which case the director shall work with the
1251 using agency to remove the causes of the objection. The director shall not refuse to accept the
1252 project from the contractor and shall not refuse to direct final payment to the contractor because
1253 of the using agency's objections if the director has determined that the contractor has completed
1254 the project in accordance with contract.

1255 Section 16. The director shall appoint, for each project under the jurisdiction of the office
1256 of project management, a project manager, who shall oversee all planning, design and
1257 construction of the project or provide appropriate assistance to others as enumerated below. No
1258 person shall be appointed or employed as a project manager unless at the time thereof said
1259 person shall be registered by the commonwealth as an architect or professional engineer under
1260 chapter 112 or shall have a professional degree in a field providing equivalent experience and
1261 shall have at least 5 years experience in the construction and supervision of construction of
1262 buildings. Project managers employed by the bureau shall be exempt from section 9A of chapter
1263 30 and chapter 31.

1264 The terms, conditions and duration of their employment shall be established by the
1265 director subject to appropriation and the building projects to which the project manager has been
1266 assigned by the director. The project manager shall:

1267 (1) Assist and make recommendations to using agencies as to real property acquisition in
1268 anticipation of construction;

1269 (2) Assist by reviewing and making recommendations to using agencies as to the study,
1270 programs or other planning documents for the project;

1271 (3) Participate as a non-voting member of the designer selection board panel during the
1272 designer selection process for the particular building project to which the project manager has
1273 been assigned;

1274 (4) Represent the using agency in the designer selection, design and construction phases
1275 of the building project, the project manager having exclusive authority to make decisions in these
1276 areas, except as provided in sections 17 to 21, inclusive, after consultation with the using agency
1277 and consideration, before such decisions are made, of using agency recommendations;

1278 (5) During the design stage of each project to which the project manager has been
1279 assigned, review and comment on said design or verify that said design has been reviewed by the
1280 authorities charged by law with enforcement responsibility, in order to insure that the design
1281 complies with all federal and state laws, rules, regulations and codes; insure to the extent feasible
1282 that the design is such as to specify a project that (a) can be accomplished within the
1283 appropriation or authorization for that project or within the project cost limits specified by the
1284 appropriation or authorization, and (b) can be accomplished in accordance with (i) any study or
1285 program which must be prepared in accordance with section 59 or (ii) any other pre-design
1286 document which must be prepared in accordance with any other statute, appropriation or
1287 authorization or administrative directive consistent therewith; no building project shall be
1288 allowed to proceed to the construction stage until such reviews have been accomplished and
1289 compliance confirmed or certified;

1290 (6) Insure the preparation of time schedules which shall serve as control standards for
1291 monitoring performance of building projects; and

1292 (7) Assist in project evaluation including, but not limited to, written evaluations of the
1293 performance of the architect, engineers, contractors and other personnel, and evaluation of
1294 construction techniques and procurement mechanisms.

1295 Section 17. As used in this section and sections 18 to 21, inclusive, the following words
1296 shall, unless the context clearly requires otherwise, have the following meanings:

1297 “Change order”, a written order not requiring the consent of the contractor, signed by the
1298 project manager and designated as an approved change order, directing the contractor to make
1299 changes in the work within the general scope of the contract, or, any written or oral order from
1300 the project manager which causes any change in the work, provided that the contractor gives the
1301 commonwealth written notice stating the date, circumstances, and source of the order and that
1302 the contractor regards the order as a change order.

1303 “Contract modification”, any written alteration in plans or specifications, period of
1304 performance, price, quantity, or any other provision of the contract accomplished by mutual
1305 action of the parties to the contract.

1306 The project manager may at any time, subject to the requirements set forth herein and in
1307 section 39I of chapter 30, order changes in the work within the general scope of the contract,
1308 including but not limited to changes: (a) in the plans and specifications (including drawings and
1309 designs); (b) in the method or manner of performance of the work; (c) in the commonwealth
1310 furnished facilities, equipment, materials, services or site; or (d) in the schedule for performance
1311 of the work. All such orders shall be written and designated to be change orders. All change
1312 orders or other contract modifications shall require the approval of the director when: (a) the
1313 cumulative cost of all previously approved increases in the contract price exceeds 5 per cent of
1314 the original contracted construction cost of the project, or such other percentage or dollar amount
1315 or criteria as designated by regulations of the commissioner; or (b) the preliminary estimate of
1316 the change in the contract price resulting from the change order or contract modification is
1317 \$5,000 or more. The director may, after review of building projects for which the cumulative
1318 total of increases in the contract price has exceeded 5 per cent of the original contracted
1319 construction cost or such other percentage or dollar amount or criteria, direct the project manager
1320 as to those proposed changes, the preliminary estimated cost of which are under \$5,000, that
1321 shall require the director’s approval.

1322 The commissioner shall promulgate regulations governing the procedures for obtaining
1323 preliminary estimates and giving notice to the contractor as to the necessity of obtaining the
1324 director’s approval before any work pursuant to a change order or contract modification is
1325 commenced. Such procedures shall be designed so as to avoid delays in the progress of the
1326 project.

1327 The project manager may delegate to the resident engineer, subject to approval by the
1328 director and notice to parties in interest, his authority to process and approve change orders when
1329 authorized to do so by regulations of the commissioner.

1330 Section 20A of chapter 29 shall not apply to any change order request submitted and
1331 acted upon under sections 17 to 21, inclusive, of this chapter.

1332 Section 18. Any request for a change order shall be processed promptly, in compliance
1333 with regulations promulgated by the commissioner, and otherwise according to the requirements
1334 of section 39P of chapter 30. Requests shall be submitted to the project manager, who shall, after
1335 consultation with the designer and the using agency, approve or disapprove the request. The
1336 project manager shall, after obtaining any other required approvals or disapprovals, notify in
1337 writing the designer, the using agency and the requesting party of the request and shall issue a
1338 written change order or written notice of disapproval to the contractor. If the approval or
1339 disapproval would result in a deviation, as defined by regulations of the commissioner from (a)
1340 any study or program which must be prepared in accordance with section 59 or (b) any other pre-
1341 design document which must be prepared in accordance with any other statute, appropriation or
1342 authorization or administrative directive consistent therewith, the decision made shall be subject
1343 to appeal by the using agency to the secretary of administration and finance. Such appeal shall
1344 set forth in writing the reasons therefor and a copy thereof shall be furnished to the commissioner
1345 at the time the appeal is filed with the commissioner. The commissioner shall, within 10 days
1346 following the receipt of such appeal, render a written decision thereon, which shall be final and
1347 conclusive.

1348 Section 19. If any change order under section 17 causes any change in the contractor's
1349 cost of performance of any work under the contract, whether or not that work is changed by any
1350 order, either the contractor or the project manager may request an equitable adjustment in the
1351 contract price. A request for such an adjustment shall be in writing and shall be submitted by the
1352 party making such claim to the other party before commencement of the pertinent work or as
1353 soon thereafter as possible, and in any event within 30 days of receipt by the contractor of an
1354 approved change order or the mailing or furnishing to the commonwealth by the contractor of
1355 written notice that the contractor regards an order as a change order. Except for claims on
1356 defective specifications, no claim for any change under this section shall be allowed for any costs

1357 incurred more than 20 days before the contractor gives written notice as required by this section.
1358 In the case of defective specifications for which the commonwealth is responsible, the equitable
1359 adjustment shall include any cost reasonably incurred by the contractor in attempting to comply
1360 with such defective specifications.

1361 The project manager and the contractor shall by negotiation agree upon an equitable
1362 adjustment in the contract price before commencement of the pertinent work or as soon
1363 thereafter as possible. Notice of the adjustment shall be given to the director. In the absence of
1364 agreement by the parties on an equitable adjustment in the contract price, the project manager
1365 shall unilaterally determine the costs attributable to the change order. Unilateral equitable
1366 adjustments of the project manager shall be reduced to writing and a copy mailed or otherwise
1367 furnished to the contractor. Such adjustments shall be final and conclusive unless, within 30 days
1368 from the date of receipt of such copy, the contractor mails or otherwise furnishes to the project
1369 manager a written appeal addressed to the commissioner, and otherwise complies with the
1370 requirements set forth in section 39Q of chapter 30. Said section shall govern further appeal to
1371 the division of hearing officers.

1372 Section 20. The contractor shall submit, in accordance with regulations of the
1373 commissioner, cost and pricing data to be used when negotiating adjustments for change orders
1374 or other contract modifications. Such cost and pricing data shall be based on generally accepted
1375 accounting principles and be in conformity with the guidelines promulgated by the
1376 commissioner. Cost estimators employed within the division of capital asset management and
1377 maintenance shall review and evaluate cost and pricing data submitted by the contractor.

1378 The contractor shall certify that, to the best of his knowledge and belief, the cost and
1379 pricing data submitted was accurate, complete, and current as of the date of submission. Any
1380 change order or contract modification under which a certificate is required shall contain a
1381 provision that the price to the commonwealth, including profit or fee, shall be adjusted to
1382 exclude any significant sums by which the commonwealth finds that such price was increased
1383 because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current
1384 as of the date of submission.

1385 Section 13 of chapter 258 and section 67A to section 67C, inclusive, of chapter 266, shall
1386 fully apply to the cost and pricing data certification requirements of this section.

1387 Section 21. Equitable adjustments in the contract price negotiated pursuant to section 19
1388 or as part of a contract modification shall be made in accordance with the general principles in
1389 this section. The commissioner shall promulgate regulations designed to implement this section.

1390 (1) Adjustments in the contract price shall be made to the maximum extent feasible on a
1391 fixed price basis prior to the execution of the change order or contract modification, if this can be
1392 done without adversely affecting the interests of the commonwealth.

1393 (2) Where a fixed price cannot be set due to difficulty in estimating the scope of the
1394 change ordered, adjustment may be made on a lump-sum guaranteed maximum price basis
1395 calculated by use of unit prices specified in the contract or agreed upon by the parties.

1396 (3) Cost reimbursement or time-and-materials methods of price adjustment shall not be
1397 used, except where, in the written opinion of the commissioner, no other pricing method is
1398 possible. When such pricing method is used, the contractor shall provide complete and accurate
1399 information disclosing the costs incurred in performing changes. The contractor shall maintain
1400 separate accounts, by job order or other suitable accounting procedure, of all segregable direct
1401 cost of work, both changed and not changed, allocable to the change. The commissioner shall
1402 promulgate regulations setting forth cost principles which shall be used to determine the
1403 allowability of incurred costs for the purpose of reimbursing costs.

1404 Section 22. There shall be assigned to every building project under the supervision of the
1405 office a resident engineer. Resident engineers may be hired as permanent employees subject to
1406 chapter 31 or as consultants exempt from said chapter 31. No person shall be employed as a
1407 resident engineer unless at the time thereof said person shall have had at least 10 years
1408 experience in the construction and supervision of construction of buildings, or shall have a
1409 degree in engineering, architecture or a field providing equivalent expertise and at least 5 years
1410 such experience.

1411 The resident engineer shall represent the commonwealth daily on the site of construction
1412 projects and shall be responsible for checking, inspecting and reporting to the project manager on

1413 a regular basis both in writing and orally as to events at the construction site and shall send
1414 copies of written reports to the designer on a regular basis.

1415 The project manager may delegate to the resident engineer, subject to approval by the
1416 director, notice in writing to all parties in interest, and limits otherwise imposed by this chapter,
1417 the authority to make decisions regarding plans, specifications, and materials; the authority to
1418 represent the project manager at job meetings; and the authority to order minor changes and
1419 make equitable adjustments in the contract price.

1420 The resident engineer shall report in writing to the project manager all problems,
1421 disputes, complaints or questions from or concerning designers, contractors or other personnel
1422 involved in the project.

1423 There shall be assigned to every project under the control and supervision of the office a
1424 cost estimator, who shall be responsible for reviewing all project costs. Cost estimators may be
1425 hired as permanent employees subject to chapter 31 or as consultants exempt from said chapter
1426 31.

1427 Cost estimators shall have proven ability and experience in construction cost estimating
1428 and shall be familiar with various approaches to cost estimating, including but not limited to
1429 conceptual and preliminary estimating designed to provide budget and planning guidance in the
1430 early stages of a project, labor-cost estimating, fair cost estimating prepared from completed
1431 plans and specifications, contractors' bid estimating and definitive or detailed estimating.

1432 The cost estimator, working in cooperation with using agencies requesting projects, shall
1433 provide estimates of the costs of proposed projects. The cost estimator shall review all cost
1434 projections for studies, programs and designs, as well as contractors' cost estimates. The cost
1435 estimator shall review change order estimates, cost and pricing data, payment schedules and
1436 progress payment requests, and make recommendations to the project manager at the project
1437 manager's directive.

1438 Public agencies other than political subdivisions of the commonwealth that conduct
1439 building projects outside the jurisdiction of the division of capital asset management and
1440 maintenance as provided in section 4 may request assignment of a project manager, resident

1441 engineer or cost estimator employed by the office of project management. Such assignment shall
1442 be subject to approval by the commissioner. Any agency making use of the office's staff on a
1443 project outside the normal jurisdiction of the office shall reimburse the office for all expenses
1444 incurred, including salaries and overhead. The director shall recommend to the commissioner
1445 regulations governing fees to be paid by public agencies for use of the office's services on
1446 projects outside its normal jurisdiction.

1447 Section 23. The director may, with the approval of the commissioner and the governor,
1448 accept on behalf of the commonwealth any federal funds or assistance for financing the cost of
1449 plans and specifications for any project.

1450 If such funds or assistance shall be appropriated for aiding construction of any project,
1451 the director may, with like approval, apply for the same and may, with the approval of the
1452 governor, accept the same on behalf of the commonwealth. Any project so aided shall be
1453 executed in all respects subject to applicable federal laws and rules and regulations and also to
1454 the applicable provisions of this chapter not inconsistent therewith.

1455 Section 24. There shall be located within the division of capital asset management and
1456 maintenance an office of facilities management, headed by a director of facilities management.
1457 The director shall be appointed by the commissioner, with the approval of the secretary of
1458 administration and finance, and may be removed in like manner. Said office shall not be subject
1459 to section 9A of chapter 30 or chapter 31. No person shall be appointed director of said office
1460 unless at the time thereof said person shall be registered by the commonwealth as an architect or
1461 professional engineer pursuant to chapter 112 and shall have proven ability and extensive
1462 experience in the management and oversight of operation, maintenance and repair of buildings.

1463 The director may appoint such deputies and other supervisory staff as the work of the
1464 office may require, subject to appropriation and the commissioner's approval. Such staff shall
1465 serve at the pleasure of the director and shall not be subject to chapter 31 or to section 9A of
1466 chapter 30. The director shall appoint, subject to the commissioner's approval, all other officers
1467 and employees of said office.

1468 The director shall develop, in cooperation with the commissioner and using agencies, an
1469 inventory of buildings owned or otherwise occupied by state agencies and building authorities.

1470 Said inventory may detail the age, condition, type of construction, and physical life expectancy
1471 of each building and its major structural components. The inventory shall be updated as repairs,
1472 replacements and alterations are performed. Said inventory shall be filed by the commissioner by
1473 February 15 yearly with the clerks of the house of representatives and senate, and with the joint
1474 committee on state administration and regulatory oversight, and shall be a public document
1475 available for general distribution. The director shall recommend to the commissioner standards
1476 and guidelines governing the type of information to be included in said inventory, which shall be
1477 properly coordinated with the real property inventory established and maintained pursuant to
1478 section 38.

1479 Section 25. The director shall control and supervise all projects allocated to the office of
1480 facilities management by the commissioner pursuant to section 5. All of said projects shall be
1481 subject to the procedures and requirements set forth in sections 13 through 23, except that the
1482 director may recommend to the commissioner regulations governing the extent of representation
1483 of the commonwealth by the resident engineer required on the site of construction projects. The
1484 director shall, consistent with sections 13 through 23, develop and recommend to the
1485 commissioner procedures and requirements for control and supervision of said projects
1486 commensurate with the specialized nature of those projects.

1487 Section 26. The director shall recommend to the commissioner standards and guidelines
1488 applicable to maintenance and repair. Said standards and guidelines shall be complied with by
1489 state agencies and building authorities. The director shall also develop maintenance and repair
1490 standards and guidelines for use by the department of housing and community development. Said
1491 standards and guidelines shall be advisory only.

1492 State agencies and building authorities shall certify to the director, once each year, that all
1493 maintenance and repair standards and guidelines have been complied with, or if the state agency
1494 or building authority has not so complied, the reasons for noncompliance. The director may
1495 order, in his discretion and without prior notice, inspection of state agency or building authority
1496 buildings, for the purpose of insuring compliance with maintenance and repair standards and
1497 guidelines. If the director finds that a state agency or building authority is not in compliance, the
1498 director shall report such noncompliance to the commissioner, the head of the state agency or
1499 building authority, the secretary of administration and finance, and in the case of building

1500 authorities, the board of higher education and the board of trustees of the relevant institution. If a
1501 state agency or building authority fails within 3 months of such notification to comply with said
1502 standards and guidelines, the director shall recommend to the commissioner emergency measures
1503 that should be taken.

1504 The director may direct, subject to the approval of the commissioner, once a state agency
1505 or building authority is found to be not in compliance with maintenance and repair standards and
1506 guidelines, that the state agency or building authority report in detail to the director on a monthly
1507 basis the status, progress and problems of maintenance and repair operations at the state agency
1508 or building authority's facilities. The director shall recommend to the commissioner regulations
1509 to be adopted governing information to be included in the monthly report. The director shall
1510 make quarterly reports to the commissioner on the status of maintenance and repair operations at
1511 the relevant state agency or building authority. At such time as the commissioner determines,
1512 with the advice of the director, that maintenance and repair operations have come into
1513 compliance with all applicable standards and guidelines, the state agency or building authority
1514 shall be relieved of the necessity of making monthly detailed reports.

1515 Where it is deemed necessary, the commissioner, on the advice of the director, may
1516 recommend that the office assume supervision and control over maintenance and repair
1517 operations normally carried out by the state agency or building authority. The secretary of
1518 administration and finance, after consultation with the secretary of the executive office in which
1519 the relevant state agency or building authority is located, and, in the case of building authorities,
1520 after consultation with the board of trustees of the relevant institution, may order transfer of
1521 supervision and control of maintenance and repair operations to the commissioner. Upon making
1522 such order, the commissioner shall forthwith file a copy of said order with the budget director,
1523 the comptroller, the house and senate committees on ways and means, and the joint committee
1524 on post audit and oversight, specifying the scope of the authority so transferred and the direction
1525 of said transfer. Said transfer may be for such period of time as the commissioner deems
1526 appropriate. Where the commissioner has so assumed control and supervision, the commissioner
1527 shall make quarterly reports to the secretary of administration and finance on the status of
1528 maintenance and repair operations at the affected state agency or building authority.

1529 Section 27. The director may, with the approval of the commissioner, initiate capital
1530 budget requests for building projects to be performed at one or more using agencies and
1531 controlled and supervised by the office of facilities management. Such projects may include, but
1532 not be limited to: (a) projects designed to alleviate, through a single undertaking or a series of
1533 undertakings, problems of a common nature encountered in buildings of more than 1 using
1534 agency; (b) projects to correct problems which require immediate attention, where the using
1535 agency has failed to include the project in its capital budget requests for the year, or has given
1536 such a request low priority; and (c) such other projects as the director may, with the approval of
1537 the commissioner, designate, including energy conservation projects, handicapped access
1538 projects, and fire, health and safety projects.

1539 Section 28. As used in this section, “using agencies” shall mean state agencies and
1540 building authorities.

1541 The director of facilities management shall: (1) develop, in cooperation with individual
1542 state agencies and building authorities, policies, standards, programs and schedules governing
1543 the performance of preventive maintenance; (2) develop preventive maintenance training
1544 programs for state agency and building authority personnel; (3) evaluate the status of preventive
1545 maintenance programs at each state agency and building authority; (4) review using agency
1546 maintenance operating budget requests together with maintenance reports submitted pursuant to
1547 section 3 of chapter 29 for the purpose of evaluating the priority, necessity, feasibility and
1548 appropriateness of said requests; (5) review using agency capital budget requests for repair
1549 projects and make recommendations to the commissioner as to those projects of each using
1550 agency that should be given funding priority; (6) recommend to the commissioner standards and
1551 guidelines for the control and supervision of repair projects controlled and supervised by using
1552 agencies; (7) advise the commissioner as to those methods available for the repair of
1553 deteriorating buildings, including the costs and benefits of continuing minor repairs versus the
1554 costs and benefits of major renovation or rehabilitation; (8) advise the commissioner as to
1555 maintenance and repair difficulties encountered in using agency buildings that may be due to
1556 faulty design or construction of new facilities; (9) advise the commissioner as to the feasibility
1557 and costs of renovating or rehabilitating for state use structures that have been certified historic
1558 landmarks, as provided by sections 26 to 27C of chapter 9, that have been listed in the National

1559 Register of Historic Places, as provided by 16 U.S.C. 470a, or that have been designated
1560 landmarks by the local governing authority; (10) advise the commissioner as to changes in
1561 operations and maintenance costs and operational and repair difficulties that may result from
1562 using agency proposals for alteration or conversion of existing facilities; and (11) assist using
1563 agencies in evaluating maintenance and repair problems and devising and implementing
1564 solutions.

1565 Section 29. (a) The commissioner shall require a state agency that initiates the
1566 construction of a new facility owned or operated by the commonwealth or a renovation of an
1567 existing facility owned or operated by the commonwealth when the renovation costs exceed
1568 \$25,000 and includes the replacement of systems, components or other building elements which
1569 affect energy or water consumption to design and construct or renovate the facility in a manner
1570 that minimizes the life-cycle cost of the facility by utilizing energy efficiency, water
1571 conservation or renewable energy technologies under the following criteria:

1572 (1) the state agency shall utilize alternate technologies when the life-cycle cost analysis
1573 conducted under subsection (b) shows that such systems are economically feasible;

1574 (2) the division of capital asset management and maintenance or the state agency shall, in
1575 the design, construction, equipping and operation of such facilities, coordinate these efforts with
1576 the department of energy resources in order to maximize reliance on, and the benefits of,
1577 renewable energy research and investment activities; and

1578 (3) all higher education construction projects shall, at a minimum incorporate the MA-
1579 CHPS Green Schools Guidelines standards or an equivalent standard.

1580 (b) The division of capital asset management and maintenance or the state agency
1581 initiating the construction or renovation of a facility as described in subsection (a) shall conduct
1582 a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and
1583 long-term costs and the technical feasibility of using alternate technologies to provide lighting,
1584 heat, water heating, air conditioning, refrigeration, gas or electricity. In calculating life-cycle
1585 costs, a state agency shall include the value of avoiding carbon emissions, creating renewable
1586 energy certificates and other environmental and associated benefits created from the utilization
1587 of alternate technologies, as applicable. This value shall be equal to the bid price of the published

1588 market value of any such benefit and shall increase or decrease at a projected rate determined by
1589 the department of energy resources. To calculate life-cycle costs, a state agency shall use a
1590 discount rate equal to the rate that the commonwealth's tax-exempt long-term bonds are yielding
1591 at the time of said calculation and shall assume that the cost of fossil fuels and electricity will
1592 increase at the rate of 3 per cent per year above the estimated rate of inflation or at a rate
1593 determined by the department of energy resources.

1594 (c) Notwithstanding sections 11C and 11I of chapter 25A or any regulations issued
1595 thereunder, the division of capital asset management and maintenance may procure energy
1596 management services jointly with a state agency or a building authority that is procuring energy
1597 or related services. Said sections 11C and 11I shall apply to the extent feasible as determined by
1598 the commissioner of energy resources.

1599 (d) For purposes of this section, the term "economically feasible" shall mean that the
1600 cost of installing and operating an alternate technology is lower than the cost of installing and
1601 operating the energy, energy-using technology or water-using technology that would otherwise
1602 be installed, as determined by a life-cycle cost analysis.

1603 (e) The division of capital asset management and maintenance or the state agency
1604 initiating the construction or renovation of a facility subject to the requirements of subsection (a)
1605 shall file with the department of energy resources a report detailing the agency's compliance
1606 with this section with respect to each such facility.

1607 (f) The department of energy resources shall issue an annual report to the general court
1608 detailing the compliance record of all state agencies with the construction and renovation
1609 provisions of this section.

1610 Section 30. The director of facilities management shall make provision, as part of
1611 development of an inventory of buildings owned or otherwise occupied by state agencies or
1612 building authorities pursuant to section 24, for evaluation of the energy consumption of each
1613 building and its major energy using systems. The director may, with the approval of the
1614 commissioner and subject to appropriation or allocation, hire consultants for the purpose of
1615 performing energy audits designed to determine the need for energy conservation projects.

1616 The director shall recommend to the commissioner standards and guidelines governing
1617 energy conservation maintenance and operating procedures.

1618 The director shall in conjunction with the commissioner of energy resources set priorities
1619 and energy efficiency standards for all state buildings and conduct energy audits of said
1620 buildings. The bureau may contract with professional consulting firms to perform the energy
1621 audits.

1622 All energy conservation projects within the jurisdiction of the division of capital asset
1623 management and maintenance as defined by section 4, including projects funded out of any
1624 lump-sum energy conservation fund or account, shall be fully subject to this chapter except that
1625 alternative energy property program projects authorized pursuant to section 11 of chapter 25A
1626 shall not be subject to sections 11 and 12, sections 13 to 28, inclusive, or this section.

1627 Section 31. The division of capital asset management and maintenance shall evaluate the
1628 potential for increasing the energy efficiency in each building owned by an authority or state
1629 agency, or leased by such authority or agency for at least a 10 year period. Energy efficiency
1630 measures, as used in this section shall include, but not be limited to, heating, air-conditioning,
1631 lighting, water, and electric systems powered by coal, electricity, natural gas, oil.

1632 The annual energy cost savings realized by each authority or agency shall be retained in
1633 that the authority or agency utility account and applied to additional energy efficiency measures
1634 in subsequent years.

1635 Actions taken by the division of capital asset management and maintenance in
1636 accordance with this section shall be coordinated with ongoing energy conservation projects in
1637 state-owned or leased buildings. Utility programs offering energy auditing services shall be used
1638 whenever appropriate.

1639 The term “authority” used in this section shall not include authorities of cities or towns,
1640 such as local housing projects.

1641 Section 32. Real property, record title to which is held in the name of a state agency or
1642 the board of trustees of a state agency or similar board of a state agency, shall be deemed to be
1643 real property of the commonwealth. No deed or other instrument shall be required to effect the

1644 transfer to the commonwealth of title to such real property, but the land court department of the
1645 trial court shall, upon petition of the division of capital asset management and maintenance, issue
1646 in the name of the commonwealth a certificate of title to any real property, title to which is
1647 registered under chapter 185 in the name of a state agency or the board of trustees of a state
1648 agency or similar board of a state agency. Notwithstanding any general or special law to the
1649 contrary, no person shall acquire any rights by prescription or adverse possession in any lands or
1650 rights in lands held in the name of the commonwealth.

1651 The commissioner shall exercise the powers stated in this chapter, notwithstanding the
1652 delegations under certain terms and purposes which the general court has made pertaining to the
1653 acquisition, control, and disposition of real property. The commissioner shall not make any
1654 acquisition of real property on behalf of a state agency by eminent domain or make any such
1655 delegation of power to acquire real property by eminent domain to any state agency unless such
1656 state agency is otherwise authorized by law to exercise the power of eminent domain. The
1657 commissioner may delegate to state agencies responsibility for the acquisition, control, and
1658 disposition of real property as provided for in this chapter; except that the commissioner may not
1659 delegate responsibility for determining that property is surplus to state needs as required in
1660 section 33. When responsibility is delegated to a state agency, the written approval of the
1661 commissioner shall be required before the transaction is completed, and a copy of said written
1662 approval shall be sent to the joint committee on state administration.

1663 Section 33. For the purposes of sections 33 to 40, inclusive, the term “emergency” shall
1664 mean any situation caused by unforeseen circumstances which render currently used real
1665 property unusable or unavailable for the purposes intended and which creates an immediate need
1666 for other real property to preserve the health or safety of persons or property.

1667 The commissioner of capital asset management and maintenance shall be responsible for
1668 the acquisition, control and disposition of real property in the manner and to the extent provided
1669 in this chapter. The commissioner may delegate such responsibility to an administrator, who has
1670 10 years of experience in the management of commercial, industrial, institutional or public real
1671 property. When responsibility is delegated to an administrator the written approval of the
1672 commissioner shall be required before such transaction is finalized.

1673 The commissioner shall acquire interest in real property on behalf of the commonwealth
1674 for the use of state agencies by gift, purchase, devise, grant, eminent domain, rental, lease, rental-
1675 purchase or otherwise.

1676 In acquiring buildings for the use of state agencies, first consideration shall be given to
1677 any structures that have been certified as historic landmarks as provided by sections 26 to 27C,
1678 inclusive, of chapter 9, that have been listed in the National Register of Historic Places as
1679 provided by 16 U.S.C. section 470a (1974) or that have been designated historic landmarks by
1680 local historic commissions, unless use of such buildings would not be feasible in terms of costs
1681 and requirements when compared with other available properties.

1682 Notwithstanding any laws to the contrary, real property acquired for the use of state
1683 agencies shall be held in the name of the commonwealth.

1684 The commissioner shall assist in the preparation and shall approve of plans for the
1685 organization of all space within and around buildings and appurtenant structures used by state
1686 agencies, and shall assign the use of space within and around the state house, subject to such
1687 rules as the committee on rules of the two branches acting concurrently may adopt, under
1688 sections 10, 16A and 17 of chapter 8 the John W. McCormack State Office Building; the
1689 Leverett Saltonstall State Office Building; the Springfield Office Building; the Pittsfield Office
1690 Building; the Erich Lindemann Building; the Charles F. Hurley Building; any real property
1691 acquired for the use of state agencies, the greater part of which is not needed by any one state
1692 agency; and any other real property assigned by law to the division of capital asset management
1693 and maintenance.

1694 The commissioner, with the written approval of the secretary of administration and
1695 finance, may transfer use of, and responsibility for maintenance of, buildings, including
1696 equipment therein, within or between state agencies. No such transfer within or between state
1697 agencies which involves either a change in the purposes for which such building is currently
1698 used or a change in use in excess of 50 per cent of the usable floor space, shall be made without
1699 the prior approval of the general court. Any such transfer shall be based on a determination,
1700 made by the commissioner with the advice of the executive heads of affected agencies and
1701 secretaries of the executive offices in which such agencies are located, that such property is not

1702 needed, is underutilized, or is not being put to optimum use under current conditions. The
1703 commissioner shall notify the house and senate committees on ways and means and the
1704 representatives to the general court from the city or town in which such real property is located
1705 not less than 30 days prior to the final authorization of any transfer which does not require the
1706 approval of the general court, and such transfer shall only be made when the general court is in
1707 session except as provided hereafter. Such transfer may be made when the general court is not in
1708 session, and the 30 day notification requirement may be waived, only if the commissioner
1709 certifies in writing that an emergency exists; provided that, any such transfer may be authorized
1710 for a period not to exceed 6 months, and provided, further, that the commissioner shall submit
1711 his certification to and notify the house and senate ways and means committees of such transfer
1712 at the earliest possible opportunity.

1713 The commissioner may, after notification to and with the advice of the executive heads of
1714 state agencies and secretaries of the executive offices, determine that real property is not needed
1715 for the use of any state agency. If the commissioner determines that such property is surplus to
1716 both the current and foreseeable needs of state agencies, the commissioner shall determine
1717 whether any other public agency has a current or foreseeable direct public use for the property.
1718 For the purposes of determining whether property is surplus to direct public use, direct public use
1719 is defined in this section as use of property for a public agency's own operations, but does not
1720 include conveyance by such agency of any interest in the property to another party, but does
1721 include lease of the property by local housing authorities to public housing tenants.

1722 When property is determined to be surplus, to either current state or current direct public
1723 uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall take
1724 such action as is necessary to ensure that any disposition of the property is temporary and
1725 maintains the commissioner's ability to make such property available to a state agency or other
1726 public agency at such time as it is needed.

1727 If the commissioner determines that the property is not needed for current or foreseeable
1728 state or direct public use as defined above and that the property should be disposed of, the
1729 commissioner shall declare that the property is available for disposition and shall identify
1730 restrictions, if any, on the property's use and development necessary to comply with established
1731 state and local plans and policies, and the commissioner shall send written notification of such to

1732 the house and senate committees on ways and means, and the joint committee on state
1733 administration.

1734 The commissioner may convene an advisory committee to advise him on reuses and to
1735 recommend reuse restrictions for property declared surplus; provided however that the
1736 Commissioner shall not convene a new advisory committee to advise on reuses if a re-use
1737 committee is currently active. If an advisory committee is convened, the commissioner shall
1738 invite the representatives to the general court from the city or town in which the property is
1739 located to serve on the committee. The commissioner shall prepare a preliminary report on his
1740 findings, which shall include both his recommendation, and those of the advisory committee if
1741 established, for reuse restrictions for the property.

1742 The commissioner shall conduct a public hearing to consider potential reuses and reuse
1743 restrictions for the surplus property and to review the secretary of administration and finance
1744 preliminary report if the property exceeds 2 acres or if the commissioner determines that a
1745 hearing should be held for a smaller parcel. If the commissioner determines to conduct a hearing,
1746 the commissioner shall provide notice in the central register of the public hearing at least 60 days
1747 prior to (1) notification to the house and senate committees on ways and means and the joint
1748 committee on state administration, of a temporary disposition of property to a public agency for
1749 less than 5 years for a direct public use, or (2) submission of a request to the general court for
1750 authority to otherwise dispose of real property as provided in this section. A notice of the public
1751 hearing shall also be placed, at least once each week for the 4 consecutive weeks preceding the
1752 hearing, in newspapers with sufficient circulation to inform the people of the affected locality.
1753 The hearing shall be held in the locality in which the property is located not sooner than 30 days
1754 and not later than 35 days after the notice is published in the central register.

1755 The commissioner may, with the written approval of the secretary of administration and
1756 finance, enter into agreements for the direct public use of surplus real property by public
1757 agencies other than state agencies, for a term not to exceed 5 years. Such agreement shall
1758 prohibit subsequent conveyance of interest in the property by the public agency to another party.
1759 The commissioner shall notify the house and senate committees on ways and means and the joint
1760 committee on state administration and regulatory oversight 30 days prior to the final
1761 authorization of any such agreement. The notification shall include the commissioner's report on

1762 recommended reuse restrictions. In no event shall any such agreement be made when the general
1763 court is not in session.

1764 The commissioner shall establish the value of surplus property through procedures
1765 customarily accepted by the appraising profession as valid for determining property value. The
1766 value shall be calculated both for: (1) the highest and best use of the property as currently
1767 encumbered; and (2) uses and encumbrances defined by the commissioner.

1768 The commissioner may, with the approval of the secretary of administration and finance,
1769 request from the general court authorization to dispose of state real property determined to be
1770 surplus to state agency needs: (1) to public agencies of the commonwealth other than state
1771 agencies for direct public uses, over a period exceeding 5 years, (2) to a public agency of the
1772 commonwealth other than a state agency, for uses other than direct public uses, and (3) to an
1773 individual, entity, or the federal government; or any extension of any agreement for such use
1774 beyond a cumulative period of 5 years. Accompanying his request for authorization to dispose of
1775 property, the commissioner shall submit his report including a description of the property, its
1776 current use, structures, and approximate metes and bounds, the value of the property and
1777 recommended restrictions, if any, on reuses of the property. The commissioner shall also request
1778 authorization to negotiate real property disposition agreements with parties to be selected by the
1779 commissioner after the commissioner evaluates competitive proposals. Disposition agreements
1780 subsequently negotiated by the commissioner shall be consistent with the reuse restrictions
1781 approved by the general court.

1782 Notwithstanding this section, leases for agricultural purposes on land owned by the
1783 commonwealth shall be made for a term of not more than 5 years, and the renewal date for such
1784 leases shall not be less than 1 year prior to the end of the lease period. Holders of such leases
1785 shall be given the opportunity to renew such leases for a consideration equal to the current lease
1786 amount plus an escalation amount to be established annually by the commissioner for application
1787 to all such leases.

1788 The commissioner shall monitor compliance with disposition agreements.

1789 The commissioner shall develop regulations governing the conditions under which the
1790 commissioner will recommend to the general court that a public agency, including but not

1791 limited to the government land bank, receive title to surplus property for other than direct public
1792 use.

1793 For petitions which authorize the sale, transfer or other disposition of any state-owned
1794 real property filed by persons other than the governor, the legislative committee to which that
1795 petition may be referred shall solicit a report from the commissioner stating the recommendation
1796 of the commissioner for either the approval or the disapproval of the bill and the reasons of the
1797 commissioner therefor.

1798 If the commissioner is recommending the approval of a bill proposing the disposition of a
1799 parcel exceeding 2 acres, said report shall include: (1) a description of the property including its
1800 current use, structures, and approximate metes and bounds; (2) the value of the property,
1801 determined through procedures customarily accepted by the appraising profession as valid for
1802 such purposes, calculated both for (a) the highest and best use of the property as currently
1803 encumbered and (b) uses and encumbrances that would be imposed by the bill if enacted; (3) all
1804 current and foreseeable direct public uses identified by following the division's procedures for
1805 such purposes as they apply to the property to be disposed (4) other potential public and private
1806 uses of the property; and (5) any other information the general court may require.

1807 The commissioner shall expeditiously review and recommend approval or disapproval of
1808 any proposal to the general court for the sale, rental or other disposition of real property acquired
1809 on behalf of state agencies, and shall dispose of real property as mandated by the general court.
1810 All legislation submitted to the general court by the division of capital asset management and
1811 maintenance requesting authorization to convey or transfer real property under its jurisdiction
1812 shall be accompanied by a full report outlining the division's reasons for pursuing said
1813 conveyance or transfer.

1814 Section 34. (a) When authorized by the general court to sell, rent or otherwise dispose of
1815 real property, the commissioner shall proceed in accordance with this section, provided that any
1816 action or determination required hereunder which the commissioner has undertaken within 18
1817 months prior to enactment of the authorization to dispose of the property need not be repeated if
1818 the commissioner (1) files, as provided in subsection (b), a report fully describing such action or
1819 determination, a copy of which shall be sent to the clerks of the senate and the house of

1820 representatives, and the joint committee on state administration, and (2) certifies under penalties
1821 of perjury that such report is accurate and that the action or determination described therein was
1822 undertaken within 18 months prior to the date of enactment of the authorization to dispose of the
1823 property.

1824 The commissioner shall, after notification to and with the advice of the executive heads
1825 of state agencies and secretaries of the executive offices, determine whether such property is
1826 surplus to both current and foreseeable needs of state agencies. If the commissioner determines
1827 that the property is not surplus to either current or foreseeable needs of state agencies, the
1828 commissioner shall make no disposition that is inconsistent with such determination.

1829 If the commissioner determines that such property is surplus to both the current and
1830 foreseeable needs of state agencies, the commissioner shall provide written notice, for each city
1831 or town in which the property is located, to the city manager in the case of a city under Plan E
1832 form of government, the mayor and city council in the case of all other cities, the chairman of the
1833 board of selectmen in the case of a town, the county commissioners, the regional planning
1834 agency and the members of the general court. The commissioner shall set forth in such notice a
1835 description of the property; a declaration that the property is surplus to the needs of state
1836 agencies and that subject to the approval of the commissioner the property is available to any
1837 other public agency for a direct public use; and a statement that, if so requested by any public
1838 official or body entitled under this section to receive such notice, a public hearing will be
1839 conducted in the city or town where such property is located, to assist the commissioner in
1840 determining whether any other public agency has a current or foreseeable direct public use for
1841 the property. Following such hearing, if any, but in no event earlier than 30 days following the
1842 notice, the commissioner shall determine whether any other public agency has a current or
1843 foreseeable direct public use for the property. If the commissioner determines that the property is
1844 not surplus to either current or foreseeable direct public uses of public agencies, the
1845 commissioner shall make no disposition that is inconsistent with such determination.

1846 When the property is determined to be surplus to either current state or current direct
1847 public uses, but not to foreseeable state or foreseeable direct public uses, the commissioner shall
1848 take such action as is necessary to ensure that any disposition of the property is temporary and

1849 maintains the commissioner's ability to make such property available to a state agency or other
1850 public agency at such time as it is needed.

1851 If the commissioner determines that the property is surplus to both current and
1852 foreseeable direct public uses of public agencies, the commissioner may dispose of the property
1853 to a public agency for other than direct public use, or to an individual or entity, provided that any
1854 such disposition shall be subject to section 36.

1855 If the commissioner determines that the property is not needed for current or foreseeable
1856 state or direct public use and that the property should be disposed of, either temporarily or
1857 permanently, the commissioner shall declare that the property is available for disposition and
1858 shall determine appropriate reuse restrictions. The commissioner shall ensure that any rental
1859 agreement, and in the case of a conveyance a deed or separate disposition agreement as deemed
1860 appropriate by the commissioner, shall set forth all such reuse restrictions; shall provide for
1861 effective remedies on behalf of the commonwealth, including if deemed appropriate by the
1862 commissioner that title to the property, or such lesser interest as is the subject of the disposition
1863 agreement, shall revert to the commonwealth in the event of a violation of any such reuse
1864 restriction; and shall provide, in the case of a disposition to a public agency for a direct public
1865 use, that the title to the property, or such lesser interest as is the subject of the disposition
1866 agreement, shall revert to the commonwealth in the event the property is no longer utilized for
1867 such direct public use.

1868 In determining reuse restrictions, the commissioner shall conform to all such restrictions
1869 pertaining to the property which may have been mandated by the general court, and may adopt
1870 additional restrictions, taking account of established state and local plans and policies. The
1871 commissioner shall conduct a public hearing to consider reuse restrictions if the property exceeds
1872 2 acres or if the commissioner determines that a hearing should be held for a smaller parcel.
1873 Notice of the public hearing shall be placed at least once each week for 4 consecutive weeks
1874 preceding the hearing, in newspapers with sufficient circulation to inform the people of the
1875 affected locality. The hearing shall be held in the locality in which the property is located no
1876 sooner than 30 days and no later than 35 days after notice thereof is published in the central
1877 register.

1878 The commissioner shall establish the value of the property, through procedures
1879 customarily accepted by the appraising profession as valid for determining property value, for
1880 both the highest and best use of the property as currently encumbered and under the reuse
1881 restrictions as determined pursuant to this section.

1882 No agreement for the rental or other disposition of state-owned real property, and no
1883 deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or
1884 deed contains the following declaration, signed by the commissioner:

1885 The undersigned certifies under penalties of perjury that I have fully complied with
1886 sections 34 and 36 of chapter 7C of the General Laws in connection with the property described
1887 herein.

1888 It shall be the policy of the commonwealth that the commissioner shall not sell, rent, or
1889 dispose of any real property including but not limited to granting the right to lay, construct,
1890 maintain, or operate pipelines through, over, across, or under land, water, park, reservation or
1891 highway of the commonwealth, its agencies or its political subdivisions, to any person doing
1892 business in or with Burma (Myanmar). The commissioner may sell, rent, or dispose of said
1893 property or grant said rights to said person only after certifying in writing to the speaker of the
1894 house of representatives and president of the senate that such action is essential to protect the
1895 health and safety of the public.

1896 (b) The commissioner shall maintain, for a period of at least 6 years next following
1897 enactment of an authorization by the general court to dispose of real property, a file containing a
1898 copy of each document necessary to establish fulfillment of the requirements of subsection (a).
1899 Such file shall be open to public inspection.

1900 Section 35. The commissioner of capital asset management and maintenance shall
1901 suggest to the budget director, as part of his recommendation for the annual appropriation for
1902 space rentals provided for by section 3 of chapter 29, the maximum rate to be paid for the rental
1903 of space by type and geographical area and the maximum percentage to be paid for the escalation
1904 of all such rental costs. The budget director shall consider the suggestions of the commissioner in
1905 recommending the approval of such costs by the general court, as part of the annual
1906 appropriations act.

1907 The commissioner may rent, for the use of state agencies, through lease, tenancy-at-will
1908 or other rental agreement for a term not exceeding 10 years, premises outside of the state house
1909 or other buildings owned by the commonwealth. If the term of the rental agreement under which
1910 premises are being used for the purposes of a particular activity by any state agency expires
1911 between the beginning of a fiscal year and the effective date of an appropriation act for such
1912 fiscal year and no appropriation for rent for said premises has been made and if the general court
1913 has not provided otherwise, the commissioner may rent for such purposes the same or different
1914 premises, for a term not exceeding 5 years, obligating the commonwealth to pay no greater
1915 amount of rent for any period than was paid for a corresponding period under the expiring
1916 agreement.

1917 No charges for rentals provided for in this section shall exceed the maximum rate plus
1918 escalation cost approved by the general court. Further, the commissioner shall notify the house
1919 and senate committees on ways and means 30 days prior to the final authorization of any such
1920 rental agreement and such agreement shall only be made when the general court is in session,
1921 except as provided hereafter. Such agreement may be made when the general court is not in
1922 session, and the 30 day notification requirement may be waived, only if the commissioner
1923 certifies in writing that an emergency exists; provided that, any such agreement shall be
1924 authorized for a period not to exceed 6 months, and provided further, that the commissioner shall
1925 submit his certification to and notify the house and senate committees on ways and means of
1926 such agreement at the earliest possible opportunity.

1927 Notwithstanding the time limitation of this section or of any other law, the commissioner
1928 may enter into rental-purchase agreements for the purchase or construction of premises to be
1929 occupied by the division of employment and training outside of the state house or other buildings
1930 owned by the commonwealth, provided, that the costs incident to such rental-purchase
1931 agreements, including amortization, shall be borne by the federal government. After expiration
1932 of the period of amortization in each such instance, the commonwealth shall not charge the
1933 department of employment and training with rent of such premises, provided the federal
1934 government shall bear the cost of service to and maintenance of such premises.

1935 The secretary of administration and finance shall report quarterly to the house and senate
1936 committees on ways and means any lease, tenancy-at-will or other rental agreement, or any

1937 extensions thereof, made pursuant to this section; provided, however that said quarterly report
1938 shall include, by agency, the amount and location of such rental space, any new or additional
1939 space, the duration of the lease or agreement, the cost per square foot of such rental space, any
1940 increase or decrease in said cost, and the cost of the preceding lease or agreement.

1941 Section 36. At least 30 days before opening proposals for the acquisition by purchase or
1942 rental of real property for the use of state agencies from an individual or entity, or for the sale or
1943 rental of real property used by state agencies (1) to a public agency other than a state agency for
1944 other than a direct public use, or (2) to an individual or entity, the commissioner of capital asset
1945 management and maintenance shall advertise in the central register published by the state
1946 secretary pursuant to section 20 of chapter 9 stating therein the need for or availability of such
1947 property, and inviting submission of such proposals. The advertisement shall specify the
1948 geographical area, terms and requirements of the proposed transaction, and shall state the time
1949 and place for the submission of such proposals and for the opening thereof. In advertising for the
1950 rental of real property for use as an area welfare office, the geographical area specified in the
1951 advertisement shall include all municipalities serviced by the welfare office. In case of the rental
1952 or sale of over 2500 square feet of real property, such advertisement shall also be placed at least
1953 once each week for 4 consecutive weeks in newspapers with a circulation sufficient to inform the
1954 people of the affected locality. The last publication shall occur at least 8 days preceding the day
1955 for opening proposals.

1956 The advertising requirement may be shortened or waived if (1) the commissioner certifies
1957 in writing that an emergency exists, a copy of such written certification shall be sent to the joint
1958 committee on state administration, provided that every reasonable effort be made to seek
1959 competitive proposals, and provided that the commissioner shall disclose his reasons for
1960 declaring the emergency in the central register at the earliest opportunity; or (2) in the case of a
1961 proposed acquisition, if the commissioner determines that such advertising will not be beneficial
1962 to the commonwealth's interest because of the unique qualities or location of the property
1963 needed, provided that the commissioner shall set forth in writing his reasons for such
1964 determination, relating such unique requirements to the property proposed to be acquired, and
1965 that such determination and the reasons therefor shall be published in the central register not less
1966 than 30 days before any binding agreement to acquire such property is executed, together with

1967 the name of the parties having a beneficial interest in the property pursuant to section 38, the
1968 location and size of the property, and the proposed purchase price or rental terms.

1969 No agreement on behalf of the commonwealth for the rental of real property for the use
1970 of state agencies from an individual or entity shall be valid unless such agreement contains the
1971 following declaration, signed by the commissioner:

1972 The undersigned certifies under penalties of perjury that I have fully complied with the
1973 advertising requirements of section 36 of chapter 7C of the General Laws in connection with the
1974 property described herein.

1975 The commissioner shall also place notification in the central register of the individual or
1976 firm selected as party to any such real property transaction, and the amount of such transaction.
1977 In no instance in which the state retains responsibility for maintenance of the property shall the
1978 terms provide for payment of less than the maintenance costs. If the commissioner decides to
1979 dispose of the property at a price less than any of its values established pursuant to section 34,
1980 the commissioner shall include a justification for such decision in the notice and shall disclose
1981 the difference between the calculated value and the price received.

1982 After the execution of a rental or sale agreement completing such transaction, all
1983 proposals relating thereto shall be retained by the commissioner and shall be open to inspection
1984 by the public until the expiration of such agreement or 6 months from the date thereof,
1985 whichever occurs first, and may thereafter be destroyed by him.

1986 Section 37. At least 120 days prior to any purchase, sale, rental, lease, transfer, or
1987 significant change in use of one or more acres of real property by the commonwealth on behalf
1988 of state agencies, the commissioner of capital asset management and maintenance shall notify in
1989 writing, for each city or town in which the real property is located: the city manager in the case
1990 of a city under Plan E form of government, the mayor and the city council in the case of all other
1991 cities, the chairman of the board of selectmen in the case of a town, the county commissioners,
1992 the regional planning agency, and the members of the general court. Such 120 day notification
1993 requirement may be shortened if: (1) the public officials referred to above agree to reduce the
1994 120-day period upon the request of the commissioner; or (2) the commissioner certifies in
1995 writing that an emergency exists, provided that commissioner shall submit his certification to and

1996 notify the appropriate local officials of any such transaction at the first possible opportunity. The
1997 notice shall include a statement of the present use, the reason for the proposed action, and the
1998 proposed use of the property. The commissioner shall at least 60 days prior to any such purchase,
1999 sale, rental, lease, transfer, or significant change in use of one or more acres of real property,
2000 cause a public hearing to be held, after giving timely notice, in the city or town where such real
2001 property is located for the purpose of disclosing the conditions or reasons for the proposed
2002 action.

2003 Section 38. No agreement to rent or to sell real property to or to rent or purchase real
2004 property from a public agency, and no renewal or extension of such agreement, shall be valid and
2005 no payment shall be made to the lessor or seller of such property unless a statement, signed,
2006 under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the
2007 case of a corporation by a duly authorized officer thereof giving the true names and addresses of
2008 all persons who have or will have a direct or indirect beneficial interest in said property with the
2009 commissioner of capital asset management and maintenance. This section shall not apply to any
2010 stockholder of a corporation the stock of which is listed for sale to the general public with the
2011 securities and exchange commission, if such stockholder holds less than 10 per cent of the
2012 outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an
2013 agreement to rent property from a public agency where the lessee's interest is held by the
2014 organization of unit owners of a leasehold condominium created under chapter 183A, and time-
2015 shares are created in the leasehold condominium under chapter 183B, this section shall not apply
2016 to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or
2017 after a bona fide arms length transfer of such time-share made after the rental agreement with the
2018 public agency is executed and (ii) who holds less than 3 per cent of the votes entitled to vote at
2019 the annual meeting of such organization of unit owners.

2020 A disclosure statement shall also be made in writing, under penalty of perjury, during the
2021 term of a rental agreement in case of any change of interest in such property, as provided for
2022 above, within 30 days of such change.

2023 Any official elected to public office in the commonwealth, or any employee of the
2024 division of capital asset management and maintenance disclosing beneficial interest in real
2025 property pursuant to this section, shall identify his position as part of the disclosure statement.

2026 The commissioner shall notify the state ethics commission of such names, and shall make copies
2027 of any and all disclosure statements received available to the state ethics commission upon
2028 request.

2029 The commissioner shall keep a copy of each disclosure statement received available for
2030 public inspection during regular business hours.

2031 Section 39. The commissioner of capital asset management and maintenance shall
2032 establish and maintain a comprehensive inventory of the real property owned, rented or
2033 otherwise occupied by public agencies. Such inventory shall include a detailed description of the
2034 allocation, utilization and condition of real property used by state agencies and a general
2035 description of the size, type and use of real property under the jurisdiction of other public
2036 agencies. The real property inventory shall be published annually for distribution to state
2037 agencies and regional planning agencies, shall be filed by February 15 each year with the clerks
2038 of the house of representatives and the senate and the joint committee on state administration and
2039 regulatory oversight and shall be a public document available for general distribution.

2040 The division of capital asset management and maintenance shall be the central depository
2041 for all certificates of title, copies of deeds, records of sale, rental agreements and other pertinent
2042 records relating to real property acquired for the use of state agencies. All such documents shall
2043 be public records and shall be open to inspection by the public during regular business hours.

2044 The commissioner may delegate responsibility for the housing and care of such original
2045 records to a state agency if such records are necessary for the daily operation of said agency. A
2046 state agency requesting the delegation of such responsibility shall demonstrate to the
2047 commissioner that such records will be adequately maintained and housed. In case of such
2048 delegation, copies of essential records shall be deposited with the division.

2049 All public agencies shall cooperate with the division in providing the information
2050 required by this section.

2051 Section 40. The commissioner of capital asset management and maintenance shall
2052 establish rules and regulations for the acquisition, utilization and disposition of real property,
2053 which shall be applicable to state agencies and which shall be recommended to counties and

2054 building authorities and which shall be filed with the clerks of the house of representatives and
2055 the senate and the joint committee on state administration and regulatory oversight. The
2056 commissioner shall review rules and regulations promulgated by the director of housing and
2057 community development for the acquisition, utilization and disposition of real property and shall
2058 recommend approval or disapproval of such rules and regulations to said director. The
2059 commissioner may, at his discretion, delegate responsibility for the establishment of rules and
2060 regulations for the acquisition, utilization and disposition of real property, subject to his
2061 approval, to state agencies with special needs and a proven capability to promulgate such rules
2062 and regulations.

2063 Such rules and regulations shall, at a minimum, provide for:

2064 (a) a determination of the amount and type of real property needed to accommodate
2065 functions performed by agencies of the commonwealth;

2066 (b) a standard format for rental agreements and rental specifications;

2067 (c) current fair market rentals by geographical area;

2068 (d) methods of procurement and evaluation of service contracts for state-owned and
2069 rented real property;

2070 (e) procedures and criteria for determining when real property is not needed, is
2071 underutilized, or is not being put to optimum use;

2072 (f) rates to be charged in the rental of real property to public and federal agencies and
2073 private individuals and entities;

2074 (g) the method of procurement of independent determinations of property value, the
2075 number of such determinations, and the review of such determinations required before real
2076 property may be sold, purchased, or rented;

2077 (h) procedures to be employed in determining prices and terms for the sale, rental, or
2078 purchase of real property and certification required for proof of such procedures;

2079 (i) the satisfaction of requirements for the acquisition and disposition of real property as
2080 mandated by law and regulation;

2081 (j) the organization of space within buildings to maximize utilization;

2082 (k) a standard format for the disclosure of beneficial interest as mandated by section 38;
2083 and

2084 (l) the type and method of collection of information to be included in the real property
2085 inventory established by section 39.

2086 All such rules and regulations shall be filed in accordance with and subject to section 2
2087 by the commissioner of the division of capital asset management and maintenance.

2088 Section 41. No department of the commonwealth shall occupy, or make any expenditure
2089 for the maintenance of, any land, buildings or other state-owned or state-occupied facilities or
2090 other property other than that under its control or jurisdiction. No department of the
2091 commonwealth shall authorize or otherwise allow the use by any private agency of such land,
2092 buildings or facilities under its control or jurisdiction unless such use or expenditure shall have
2093 been approved by the general court after recommendation by the secretary of administration and
2094 finance. Use without such approval shall be deemed to be a violation of this section, and the user
2095 shall pay a civil penalty at the rate of \$10 per square foot annually for the period of such use.

2096 Section 42. The director of facilities management shall report quarterly to the house and
2097 senate committees on ways and means any lease negotiated or any agreement providing for a
2098 tenancy at will or other rental of space, and any renewal or extension thereof, which has been
2099 signed by the executive or administrative head of a state department, court, commission or board
2100 or which has been approved by the superintendent of the state house and by the secretary of
2101 administration and finance; provided, however, that said quarterly report shall include by agency,
2102 the amount and location of such rental space, any new or additional space, the duration of the
2103 lease or agreement, the cost per square foot of such rental space, any increase or decrease in said
2104 cost, and the cost of the preceding lease or agreement.

2105 Section 43. Upon the receipt of the commission of notice under section 6 of chapter 38
2106 that a site evaluation will be made to determine if skeletal remains are American Indian, the

2107 commission may designate a representative to be present when said site evaluation is made. If
2108 the state archaeologist and commission determine that said remains are American Indian, the
2109 owner of the land whereon the remains were discovered, the state archaeologist, the commission
2110 and other interested parties shall determine whether prudent and feasible alternatives exist to
2111 avoid, minimize or mitigate harm to the Indian burial site. If it is not prudent and feasible to
2112 preserve the remains in the original Indian burial site then the state archaeologist shall excavate
2113 and recover the remains under the supervision of the commission on Indian affairs. The
2114 commission and state archaeologist shall then consult to determine how the remains shall be
2115 disposed.

2116 The final plan or agreement, which shall be in writing, may include provisions for
2117 preservation in situ; or the conducting of additional scientific and archaeological research and
2118 investigation with the approval of the commission on Indian affairs, or the immediate
2119 reinterment of the remains or with the consent of the site's owner, or the execution of a
2120 preservation restriction pursuant to section 32 of chapter 184. If it is determined that the remains
2121 are to be reinterred it shall be the responsibility of the commission on Indian affairs to conduct
2122 the reinterment.

2123 The state archaeologist and commission shall consult to determine whether a skeletal
2124 analysis shall be made; said analysis must be completed within 1 year of the date of approval. If
2125 more than 1 year is required to conduct said analysis, the commission and state archaeologist
2126 shall consult to determine whether the 1 year may be extended. If they fail to agree on whether
2127 the skeletal analysis shall be extended for more than 1 year, they shall each designate three
2128 qualified persons who shall meet and make a recommendation to the commission on Indian
2129 affairs on whether a skeletal analysis of the remains shall be made. The commission shall make
2130 the final decision on whether a skeletal analysis of the remains shall be conducted for longer than
2131 1 year. It will be the responsibility of the commission on Indian affairs to reinter the remains
2132 when the skeletal analysis is completed.

2133 Section 44. (a) Sections 44 to 58, inclusive, shall: ensure that the commonwealth receives
2134 the highest quality design services for all its public building projects; provide for increased
2135 confidence in the procedures followed in the procurement of design and design related services;
2136 promote consistency in the methods of procurement of design and design related services for all

2137 public building projects in the commonwealth; foster effective broad-based participation in
2138 public work within the design professions; provide safeguards for the maintenance of the
2139 integrity of the system for procurement of designers' services within the commonwealth;

2140 (b) As used in sections 44 to 58, inclusive, the following words shall have the following
2141 meanings, unless the context clearly requires otherwise, or a different definition is prescribed for
2142 a particular section or provision.

2143 "Applicant", any person or entity applying to perform design services, the principal
2144 personnel responsible for the provision of such services for the project, and the persons who will
2145 be the principal staff for the project.

2146 "Board", the designer selection board.

2147 "Commissioner" and "division", the commissioner and the division of capital asset
2148 management and maintenance.

2149 "Continued services", authorization for a designer who has been appointed for one stage
2150 of a project to act as the designer for a succeeding stage or stages of the same project.

2151 "Construction manager", any designer or any other corporation, partnership, individual,
2152 sole proprietorship, joint stock company, joint venture, or other entity engaged in the practice of
2153 construction management or construction scheduling.

2154 "Design services", any of the following services provided by any designer, programmer,
2155 or construction manager in connection with any public building project:

2156 (i) preparation of master plans, studies, surveys, soil tests, cost estimates or
2157 programs;

2158 (ii) preparation of drawings, plans, or specifications, including but not limited to
2159 schematic drawings, preliminary plans and specifications, working plans and specifications or
2160 other administration of construction contracts documents;

2161 (iii) supervision or administration of a construction contract;

2162 (iv) construction management or scheduling.

2163 “Designer”, an individual, corporation, partnership, sole proprietorship, joint stock
2164 company, joint venture, or other entity engaged in the practice of architecture, landscape
2165 architecture, or engineering, which satisfies the following:

2166 (i) if an individual, the individual is a registered architect, landscape architect, or
2167 engineer;

2168 (ii) if a partnership, a majority of all the partners are persons who are registered
2169 architects, landscape architects, or engineers;

2170 (iii) if a corporation, sole proprietorship, joint stock company or other entity, the
2171 majority of the directors or a majority of the stock ownership and the chief executive officer are
2172 persons who are registered architects, landscape architects, or engineers, and the person to have
2173 the project in his or her charge is registered in the discipline required for the project;

2174 (iv) if a joint venture, each joint venturer satisfies the requirements of this
2175 section.

2176 “Director”, the director of the office of project management, or in the case of agencies
2177 subject to section 4B of chapter 7, the chief executive official of the agency or his designee.

2178 “Extended services”, authorization for a designer who has been appointed to provide
2179 design services for a project to act as designer for work to be done on another project not
2180 originally included in that designer’s contract.

2181 “Programmer”, any designer or any other individual, corporation, partnership, sole
2182 proprietorship, joint stock company, joint venture or other entity engaged in the preparation of
2183 architectural facility programs or studies.

2184 “Public agency”, a department, agency, board, commission, authority, or other
2185 instrumentality of the commonwealth or political subdivision of the commonwealth or two or
2186 more subdivisions thereof other than cities and towns, and any agency, unit, authority, or
2187 instrumentality thereof but not including the State College Building Authority or the University
2188 of Massachusetts Building Authority.

2189 Section 45. (a) There shall be located within the executive office for administration and
2190 finance a designer selection board, consisting of 11 members. Eight members shall be appointed
2191 by the governor, 3 of whom shall be registered architects, 3 of whom shall be registered
2192 engineers, and 2 of whom shall be representatives of the public who are not architect designers,
2193 engineers or construction contractors. Three additional members shall be appointed as follows: 1
2194 registered architect by the Massachusetts State Association of Architects, 1 registered engineer
2195 by the government affairs council of design professional and 1 general contractor by the
2196 associated general contractor. The board shall be expanded from the present 5 members to 11
2197 members according to the following schedule: 1 additional architect, 1 additional engineer, and
2198 the 1 general contractor shall be appointed by the designated body within 90 days of the effective
2199 date of this section; another additional public representative shall be appointed within 1 year
2200 thereafter. Members shall be appointed for terms of 2 years and may be reappointed for no more
2201 than 1 successive 2 year term. The director shall designate a representative, who shall be the
2202 project manager in the case of a project under the jurisdiction of the office of project
2203 management, to act as a nonvoting member of the board for each project under his jurisdiction
2204 under consideration by the board. No provision of this section shall operate to reduce the tenure
2205 of members of the board serving at the time of the effective date of this section, except that the
2206 director of bureau of building construction shall cease to so serve upon the effective date of this
2207 section.

2208 (b) Members of the board shall be reimbursed for all necessary expenses incurred in the
2209 discharge of their official duties.

2210 (c) The board shall employ an executive director who shall be a registered architect or
2211 engineer registered in the commonwealth and such other staff or consultants as it may deem
2212 necessary, subject to appropriation, for the board. The board and its staff may travel within and
2213 without the commonwealth.

2214 Section 46. (a) The board shall have jurisdiction over the selection of all designers,
2215 programmers, and construction managers performing design services in connection with any
2216 building project for all public agencies within paragraphs (1), (2) and (4) of section 4, except
2217 those public agencies within section 54, and the procedures promulgated by any agency of the

2218 commonwealth for such selection by any housing authority subject to paragraph (3) of said
2219 section, unless a specific exemption from the board’s jurisdiction is provided under this section.

2220 (b) The board shall grant an exemption for 2 years from its jurisdiction to each public
2221 agency within paragraphs (3) and (4) of section 4, but in no event to any public agency within
2222 paragraphs (1) and (2) of said section 4, if the agency has filed a written application for an
2223 exemption pursuant to subsection (c) of this section; provided, however, that the board shall
2224 withhold an exemption if the board determines that the designer selection procedure proposed by
2225 the public agency does not substantially incorporate the procedures required in section 45 to 53,
2226 inclusive, and section 56, or that the selection of finalists will not be made with the advice of
2227 design professionals or that the procedure proposed by the public agency does not satisfy the
2228 purposes of sections 44 to 58, inclusive, as set forth in said section 44, or that withholding such
2229 an exemption is in the best interest of the commonwealth; provided, however, that nothing in this
2230 section shall be interpreted to require the establishment of a board as prescribed in section 45 or
2231 to waive or in any way diminish the requirements imposed by any other general law. No
2232 withholding of an exemption shall take effect until the board shall have specified in writing the
2233 reasons for withholding an exemption and any changes in the agency’s procedures which are
2234 required before an exemption will be granted. An agency granted an exemption or renewal
2235 thereof from the jurisdiction of the board shall, during any period such exemption or renewal is
2236 in effect, advertise for designers, select any designers to perform any design services, and
2237 continue or extend the services of any designers in accordance with the agency’s last written
2238 designer selection procedures approved by the board in conformity with this section.

2239 (c) An application by a public agency for exemption from the jurisdiction of the board
2240 pursuant to this section must be verified by the agency director under the penalties of perjury,
2241 and must contain:

2242 (i) a detailed description of the designer selection process and the written
2243 designer selection procedures which the agency proposes to use;

2244 (ii) a statement that the agency’s proposed designer selection process
2245 substantially incorporates the procedures required of the board in sections 45 to 53, inclusive,
2246 and section 56;

2247 (iii) a statement that the agency's projects are not subject to the jurisdiction of the
2248 division of capital planning and operations; and

2249 (iv) any other information required by the board.

2250 (d) An exemption shall be renewed by the board on a biennial basis if:

2251 (i) the board finds that the requirements of subsection (b) are met at the time of
2252 the renewal;

2253 (ii) the agency director files a verified application for renewal containing a
2254 description of any proposed changes in its designer selection procedure; and

2255 (iii) the agency director had filed a semi-annual report containing:

2256 a list of all contracts for designer services awarded by the agency since its last
2257 application, including for each project the name and address of any designer awarded such
2258 contracts, a brief description of the project, the estimated, or if available, the final construction
2259 cost for the project, and the estimated or, if available, final fee paid to the designer; and
2260 certification that all contracts so listed were awarded by the procedure described in the agency's
2261 last application.

2262 (e) Subject to subsection (f), a contract for design services shall be exempt from
2263 jurisdiction of the board if: (i) the design fee under the contract is less than \$10,000; or (ii) the
2264 estimated construction cost of the project for which the design services are required is less than
2265 \$100,000; or (iii) the contract is for the fabrication or installation of modular buildings procured
2266 in accordance with section 44E of chapter 149; or (iv) the contract is for the demolition of
2267 buildings. Projects consisting of energy management services procured in accordance with
2268 section 11C of chapter 25A and regulations promulgated thereunder shall be exempt from the
2269 jurisdiction of the board.

2270 (f) The following types of projects, and contracts for design services for such projects,
2271 shall not be exempt from the board's jurisdiction:

2272 (i) contracts for continued or extended services on projects over which the board
2273 otherwise has jurisdiction; and

2274 (ii) projects otherwise subject to the jurisdiction of the board for which an agency
2275 or the division intends to use its own staff to perform design services, except projects within
2276 Class I, as defined by subsection (d) of section 49, unless the board determines that the agency or
2277 the division has the capability with its existing staff to perform those services on the project in
2278 question, applying the same criteria as are used for selection of consultant designers.

2279 Section 47. (a) Each contract for designer services for a project subject to the jurisdiction
2280 of the board shall be publicly advertised by the board in a newspaper of general circulation in the
2281 area in which the project is located or to be located, and in the central register established under
2282 section 20A of chapter 9, and in such places as the board requires by regulation, at least 2 weeks
2283 before the deadline for filing applications; provided, however, that each contract for designer
2284 services for a project whose estimated cost of construction is not less than \$10,000 nor more than
2285 \$25,000 shall not be required to be advertised in a newspaper of general circulation but shall be
2286 required to be advertised in the central register.

2287 (b) The public notice required by subsection (a) shall contain:

2288 (i) a description of the project, including the specific designer services sought,
2289 the time period within which the project is to be completed, and, if available, the estimated
2290 construction cost;

2291 (ii) if there is a program for the project, a statement of when and where the
2292 program will be available for inspection for applicants, and when and where a briefing session
2293 will be held for applicants, if one is required by the board's regulations and if there is not a
2294 program for the project, a statement to the effect;

2295 (iii) the qualification required of applicants for the projects;

2296 (iv) the categories of designers' consultants, if any, for which applicants must list
2297 the names of consultants which the applicant may choose to use; and

2298 (v) whether the fee has been set or will be negotiated, and if the fee has been set,
2299 the amount of the fee.

2300 Section 48. (a) No designer, programmer, or construction manager may file an
2301 application for any project subject to the board's jurisdiction unless having first filed with the
2302 board a written statement containing the following information:

2303 (i) certification that the applicant legal entity, if applying to perform design services
2304 other than preparation of studies, surveys, soil testing, cost estimates or programs, is a designer
2305 or construction manager as defined in subsection (b) of section 44;

2306 (ii) the names and addresses of all partners, if a partnership, of all officers, directors and
2307 all persons with an ownership interest of more than 5 per cent in the applicant if not a
2308 partnership;

2309 (iii) the registration number and status of each such person in every jurisdiction in which
2310 such person has ever been registered as an architect, landscape architect or engineer;

2311 (iv) a list of all projects for all public agencies within the commonwealth for which the
2312 applicant has performed or has entered into a contract to perform design services within the 5
2313 year period immediately preceding the filing of the information required in this section;

2314 (v) a list of all current projects for which the applicant is performing or is under contract
2315 to perform any design services; and

2316 (vi) if the applicant is a joint venture, the information required in this section shall be
2317 required for each joint venturer, as well as for the joint venture itself.

2318 (b) The board shall keep a permanent record of the statements filed pursuant to this
2319 section and shall require the statements to be made current on a regular basis, and that statements
2320 pursuant to clauses (v) and (vi) of subsection (a) be current with each application filed.

2321 (c) An applicant to perform design, programming or construction management services
2322 on a project must file, in addition to the statement required under subsection (a), a written
2323 application as prescribed by the board, relating to the applicant's experience, ability, and
2324 qualifications.

2325 (d) The board and its staff shall be allowed access to all records of all public agencies
2326 concerning any applicant, or any project for which the applicant performed any services, for the

2327 purpose of verifying information submitted by the applicant, or for the purpose of evaluating the
2328 applicant's experience, ability and qualifications.

2329 (e) Every application or statement filed pursuant to this section shall be sworn to under
2330 penalties of perjury. A designer, programmer or construction manager who has been determined
2331 by the board to have filed materially false information under this section shall be disqualified by
2332 the board from further consideration for any project for such time as the board determines is
2333 appropriate.

2334 (f) The board shall not advertise for designers nor select any finalists to perform any
2335 design services other than the preparation of master plans, studies, surveys, soil tests, cost
2336 estimates, or programs unless the deputy commissioner certifies that it is appropriate to do so and
2337 either that a program defining the design services required has been prepared, and has been
2338 approved by the division, or that no program is required by the division.

2339 (g) The division of capital asset management and maintenance in consultation with the
2340 board shall develop a standard designer evaluation form that shall be completed by every public
2341 agency, as defined in section 44A of chapter 149, upon completion of the work under a design
2342 contract under its control, and submitted to the division and the board for the designer's
2343 qualification file. The official from the public agency or the owner's representative as described
2344 in section 44A of said chapter 149 shall certify that the information contained on the designer
2345 evaluation form represents, to the best of his knowledge, a true and accurate analysis of the
2346 designer's performance record on the contract. The public agency shall mail a copy of the
2347 designer evaluation form to the designer who may, within 30 days, submit a written response to
2348 the division and board disputing any information contained in the form and setting forth any
2349 additional information concerning the building project or the oversight of the building
2350 construction contract by the public agency as may be relevant to the evaluation of the designer's
2351 performance on the contract. The division and board shall attach any such response to the
2352 evaluation form for inclusion in the designer's qualification file. No public employee or public
2353 employer, as defined in section 1 of chapter 258, and no person shall be liable for an injury or
2354 loss to a designer as a result of the completion of a designer evaluation form as required by this
2355 section unless the individual completing such evaluation form has been found by a superior court
2356 of competent jurisdiction to have acted in a willful, wanton or reckless manner. If a suit is

2357 commenced by a designer against any person who has completed a designer evaluation form as
2358 required by this section seeking to recover damages resulting from injury caused by such
2359 evaluation, the public agency for whom such evaluation form was completed or the
2360 commonwealth, if such evaluation was completed for a state agency, shall provide for the legal
2361 representation of such person. Such public agency or the commonwealth, where an evaluation
2362 was completed for a state agency, shall also indemnify such person from all personal financial
2363 losses and expenses including, but not limited to, legal fees and filing costs, if any, in an amount
2364 not to exceed \$1,000,000, but no such person shall be indemnified for losses other than legal fees
2365 and filing costs under this section if such person is found by a court or a jury to have acted in a
2366 willful, wanton or reckless manner.

2367 The awarding authority shall provide the designer with a written preliminary evaluation
2368 at the completion of the schematic phase of the project for informational purposes.

2369 Any public agency that fails to complete and submit the designer evaluation form,
2370 together with any written response by any designer, to the division within 70 days of the
2371 completion of a project shall be ineligible for the receipt of any public funds disbursed by the
2372 commonwealth for the purposes of public building or public works projects.

2373 Section 49. (a) The board shall adopt written applicants' criteria for selection of
2374 semifinalists and finalists based upon information obtained under section 48 for each project.
2375 The criteria shall include:

- 2376 (i) prior similar experience;
 - 2377 (ii) past performance on public and private projects;
 - 2378 (iii) financial stability;
 - 2379 (iv) identity and qualifications of the consultants who will work with the applicant on the
2380 project; and
 - 2381 (v) any other criteria that the board considers relevant for any project.
- 2382 (b) Semifinalists may be chosen for each project.

2383 The board shall select at least 3 finalists from among all the applicants, or from the
2384 semifinalists selected under this section, and in doing so may require all the applicants or the
2385 semifinalists to:

2386 (i) appear for an interview before the board;

2387 (ii) present a written proposal to the board; or

2388 (iii) participate in a design competition held by the board.

2389 (c) The board shall transmit a list of the chosen finalists to the commissioner. No person
2390 or firm debarred pursuant to section 44C of chapter 149 or disqualified pursuant to section 47
2391 shall be so included as a finalist. The board shall transmit to the commissioner all material made
2392 or received relating to such recommendation.

2393 The list shall rank the finalists in order of qualification and include a record of the final
2394 vote of the board on the selection; and include a written statement explaining the board's reasons
2395 for its choice and its ranking of the finalists.

2396 (d) The board may delegate its powers and duties under subsection (b) of section 47,
2397 subsections (c) and (d) of section 48, subsections (a) and (b) of section 50 and sections 51 and 52
2398 to panels of less than all the board members. A panel of not less than 6 members shall be
2399 required for selection of designers under this section, 4 of whom shall be architects or engineers,
2400 including at least 1 architect and 1 engineer on that panel.

2401 (e) For the purposes of chapter 268A and subject to the penalties therein, no member of
2402 the board shall participate in the selection of a designer as a finalist or semifinalist for any
2403 project if the member or any member of his immediate family:

2404 (i) has a direct or indirect financial interest in the award of the design contract to
2405 any applicant;

2406 (ii) is currently employed by, or is a consultant to or under contract to an
2407 applicant.

2408 (iii) is negotiating or has an arrangement concerning future employment or
2409 contracting with any applicant; or

2410 (iv) has an ownership interest in, or is an officer or director of, any applicant.

2411 Section 50. (a) In the selection of a designer when the fee for design services has been set
2412 by the commissioner prior to the selection process, the commissioner shall appoint a designer
2413 from among the list transmitted to the commissioner under section 49. If the commissioner
2414 appoints any designer other than the one ranked first by the board, the commissioner shall file a
2415 written justification of the appointment with the board.

2416 (b) When the fee for design services is to be negotiated, the commissioner shall review
2417 the list transmitted by the board, and may exclude any designer from the list if a written
2418 explanation of the exclusion is filed with the board. The commissioner shall then appoint a
2419 designer based on successful fee negotiation. The commissioner or persons designated by the
2420 commissioner shall first negotiate with the first ranked designer remaining on the list. Should the
2421 commissioner be unable to negotiate a satisfactory fee with the first ranked designer within 30
2422 days, negotiations shall be terminated and negotiations undertaken with the remaining designers,
2423 1 at a time, in the order in which they were ranked by the board, until an agreement is reached. In
2424 no event may a fee be negotiated which is higher than a maximum fee set by the commissioner
2425 prior to selection of finalists. Should the commissioner be unable to negotiate a satisfactory fee
2426 with any designer initially selected as a finalist by the board, the board shall recommend
2427 additional finalists in accordance with this chapter. The commissioner may require a finalist with
2428 whom a fee is being negotiated to submit a fee proposal and include with it such information as
2429 the commissioner requires to provide current cost and pricing data on the basis of which the
2430 designer's fee proposal may be evaluated.

2431 (c) All fees shall be stated in designer's contracts and in any subsequent amendment
2432 thereto as a total dollar amount. Contracts may provide for equitable adjustments in the event of
2433 changes in scope or services.

2434 (d) Notwithstanding any general or special law to the contrary, all public entities within
2435 the commonwealth, agencies and authorities of the commonwealth and municipal entities within
2436 the commonwealth, including departments, boards, committees or commissions shall be entitled

2437 to withhold up to 5 per cent of contract fees earned and invoiced as part of professional service
2438 contracts, during the life of the contract. Withheld fees shall be held for not longer than 2 invoice
2439 periods when the contractor is permitted to invoice monthly, or until successful completion of
2440 the next contract phase or stage when the contractor is permitted to invoice by project phase or
2441 stage. When the work covered by the contract is completed, all remaining withheld fees shall be
2442 paid to the contractor within 2 months from the date of completion. If the withholdings are not
2443 paid to the contractor within the stipulated time limit, the amount of the withholding in arrears
2444 shall be increased at a 12 per cent annual rate.

2445 (e) Notwithstanding any general or special law to the contrary, agencies and authorities
2446 of the commonwealth and municipal entities within the commonwealth, including departments,
2447 boards, committees or commissions, shall pay all outstanding withheld fees on professional
2448 service contracts, when the withholding has been held for longer than 2 invoice periods for active
2449 contracts, or that remains withheld on contracts which have been completed, or for which the
2450 work of the contractor has been completed.

2451 Section 51. (a) When the board has required that applicants list consultants which the
2452 applicants may employ, in no event shall a consultant be used who is debarred pursuant to
2453 section 44C of chapter 149 and any change in or addition to the consultants named in the
2454 application and allowed by the board upon appointment must be approved by the commissioner
2455 and reported to the board, along with a written statement by the designer or construction manager
2456 of the reasons for the change.

2457 (b) If the designer's or construction manager's fee is negotiated, the designer or
2458 construction manager shall file a truth-in-negotiations certificate prior to being awarded the
2459 contract by the commissioner, which must be incorporated into the contract. The certificate shall
2460 contain:

2461 (i) a statement that the wage rates and other costs used to support the designer's
2462 compensation are accurate, complete, and current at the time of contracting; and

2463 (ii) an agreement that the original contract price and any additions to the contract may be
2464 adjusted within 1 year of completion of the contract to exclude any significant amounts if the

2465 commissioner determines that the fee was increased by such amounts due to inaccurate,
2466 incomplete or noncurrent wage rates or other costs.

2467 (c) The board may specify other special conditions or requirements in selecting a
2468 particular applicant as a finalist. If any change is made by the applicant after appointment
2469 relating to such special conditions or requirements, the change must be approved by the
2470 commissioner and reported to the board along with a written statement by the appointee of the
2471 reasons for the change.

2472 (d) Every contract for design services awarded under sections 44 to 58, inclusive, shall
2473 include the following:

2474 (i) certification that the designer or construction manager has not given, offered or
2475 agreed to give any person, corporation or other entity any gift, contribution or offer of
2476 employment as an inducement for, or in connection with, the award of the contract for design
2477 services;

2478 (ii) certification that no consultant to or subcontractor for the designer or construction
2479 manager has given, offered or agreed to give any gift, contribution or offer of employment to the
2480 designer or construction manager, or to any other person, corporation, or entity as an inducement
2481 for, or in connection with, the award to the consultant or subcontractor of a contract by the
2482 designer or construction manager;

2483 (iii) certification that no person, corporation or other entity, other than a bona fide full
2484 time employee of the designer or construction manager, has been retained or hired by the
2485 designer or construction manager to solicit for or in any way assist the designer or construction
2486 manager in obtaining the contract for design services upon an agreement or understanding that
2487 such person, corporation or other entity be paid a fee or other consideration contingent upon the
2488 award of the contract to the designer; and

2489 (iv) certification with respect to contracts which exceed \$10,000 or which are for the
2490 design of a building for which the budgeted or estimated construction costs exceed \$100,000 that
2491 the designer has internal accounting controls as required by subsection (c) of section 39R of

2492 chapter 30 and that the designer has filed and will continue to file an audited financial statement
2493 as required by subsection (d) of said section 39R.

2494 (e) A public agency shall not enter into a contract for design services unless the public
2495 agency or the designer has obtained professional liability insurance covering negligent errors,
2496 omissions and acts of the designer or of any person or business entity for whose performance the
2497 designer is legally liable arising out of the performance of the contract. The total amount of such
2498 insurance shall at a minimum equal the lesser of \$1,000,000 or 10 per cent of the project's
2499 estimated cost of construction, or such larger amounts as the public agency may require, for the
2500 applicable period of limitations. A designer required by the public agency to obtain all or a
2501 portion of such insurance coverage at his own expense shall furnish a certificate or certificates of
2502 insurance coverage to the public agency prior to the award of the contract. For purposes of this
2503 paragraph only, "public agency" shall have the meaning set forth in section 1.

2504 At the request of the director, a consultant employed by a designer subject to this
2505 paragraph shall obtain and maintain a liability insurance policy covering negligent errors,
2506 omissions and acts of such consultant or of any person or business entity for whose performance
2507 the consultant is legally liable arising out of the performance of the contract for consultant
2508 services. The consultant shall furnish a certificate or certificates of such insurance coverage to
2509 the division in the case of a consultant hired by a designer selected pursuant to section 49 or to a
2510 public agency not subject to the jurisdiction of said board prior to the employment of such
2511 consultant by the designer. A liability insurance policy maintained under this paragraph shall
2512 provide for coverage of such type and duration and in such amount as the public agency shall
2513 require.

2514 (f) A designer, construction manager, or programmer who has been determined by the
2515 board to have provided materially false statements or information under this section shall be
2516 disqualified by the board from future work on any project for such time as the board determines
2517 is appropriate.

2518 (g) Contracts for design service may include a requirement that the designer be
2519 responsible for overseeing the construction phase of the project.

2520 (h) Awarding authorities in cities and towns may allow a designer who conducted a
2521 feasibility study to continue with the design of a project; but, nothing herein shall prohibit the
2522 awarding authorities from commissioning, at the discretion of the awarding authorities, an
2523 independent review, by a knowledgeable and competent individual or business doing such work,
2524 of the feasibility of the designer's work to insure its reasonableness and its adequacy before
2525 allowing the designer to continue on the project.

2526 (i) Contracts for design services shall include a provision that the designer or his
2527 consultants shall not be compensated for any services involved in preparing changes that are
2528 required for additional work that should have been anticipated by the designer in the preparation
2529 of the bid documents, as reasonably determined by the executive head of the public agency
2530 responsible for administering the design contract. For the purpose of this subsection, "public
2531 agency" shall have the meaning as set forth in section 1.

2532 Section 52. The commissioner may appoint a designer to perform continued or extended
2533 services if the following conditions are met:

2534 (i) a written statement is filed with the board explaining the reasons for the continuation
2535 or extension of services;

2536 (ii) the program for the design services is filed with the board if one is required by the
2537 regulations of the division; and

2538 (iii) the board approves the appointment of the designer for continued or extended
2539 services and states the reason therefor.

2540 Section 53. (a) Whenever the health or safety of any persons will be endangered because
2541 of the time required for the selection of a designer, programmer or construction manager by the
2542 procedures prescribed by sections 44 to 58, inclusive, or whenever a deadline for action is set on
2543 a project by any court or federal agency which cannot be met if those selection procedures are
2544 followed, the commissioner may declare that an emergency situation exists.

2545 (b) If the commissioner declares that an emergency situation exists, finalist selection
2546 may be made by the board by expedited procedures adopted by regulation by the board.

2547 Section 54. (a) Every contract for design services for any building construction,
2548 reconstruction, alteration, remodeling, or repair estimated to exceed \$100,000 by any city, town,
2549 or agency, board, commission, authority or instrumentality thereof, other than housing
2550 authorities and projects requesting funding from the Massachusetts School Building Authority
2551 shall be awarded only after a selection procedure adopted in writing, prior to publication
2552 requesting applications, complying with the purposes and intent of sections 44 to 58, inclusive,
2553 and the following requirements:

2554 (i) section 47 regarding public notice;

2555 (ii) the establishment of uniform requirements of information to be submitted by all
2556 applicants, a uniform procedure for the evaluation of all applications to a group of not fewer than
2557 3 finalists, the opportunity to be afforded equally to all finalists to provide additional information
2558 to or appear before the selection body, and a procedure for the submission of a fee proposal and
2559 the negotiation of fees between the awarding authority and the selected applicant with whom the
2560 fee is being negotiated consistent with subsection (b) of section 50;

2561 (iii) that a written explanation of the reasons for selection including the recorded vote if
2562 any was taken be made public and accompany the notification of award in the awarding
2563 authority's records;

2564 (iv) subsection (c) of section 50 regarding the designation of fees in the contract;

2565 (v) that nothing in this section shall be interpreted to require the establishment of a board
2566 or to waive or reduce the requirements of any other applicable law or regulation.

2567 (b) The board shall publish guidelines to assist public agencies not within the board's
2568 jurisdiction in the establishment of a professional and objective designer selection procedure,
2569 including a model application form, consistent with the provisions and intent of sections 44 to
2570 58, inclusive. The board shall publish a standard designer selection form which shall be used by
2571 all cities, towns and public agencies not within the board's jurisdiction; but, before publishing
2572 the standard form, the board shall seek input from the cities, towns and other public agencies not
2573 within the board's jurisdiction. Any fee guidelines promulgated by the board shall be
2574 accompanied by a recommended basic scope of designer's services that shall reflect the work

2575 associated with the fee guidelines. From time to time, and no less frequently than every 3 years,
2576 the board shall review and revise the fee schedule based upon prevailing costs at the time of such
2577 review and revision.

2578 (c) Any city, town or other public agency not otherwise subject to the jurisdiction of the
2579 board may request the board to exercise jurisdiction regarding the selection of applicants to
2580 perform design services for a specified period of time or for a specified project. In such cases, all
2581 provisions of sections 44 to 58, inclusive, shall apply to the board, the applicants and the public
2582 agency so requesting.

2583 (d) Notwithstanding subsection (a), a city, town, or agency, board, commission, authority
2584 or instrumentality thereof may procure modular buildings in accordance with section 44E of
2585 chapter 149.

2586 (e) Notwithstanding subsection (a), a city, town, or agency, board, commission, authority
2587 or instrumentality thereof may procure energy management services in accordance with section
2588 11C of chapter 25A and regulations promulgated thereunder.

2589 Section 55. The board, any public agency exempted under section 46 and all other
2590 governmental units engaged in the selection of applicants to perform design services but not
2591 otherwise subject to the board's jurisdiction shall keep the following records:

2592 (i) all information supplied by or obtained about each applicant;

2593 (ii) all actions taken by the board or agency relating to any project;

2594 (iii) any other records related to designer selection required by the division.

2595 The records of public agencies exempted under section 46 or not otherwise subject to the
2596 jurisdiction of the board shall be available for inspection by the board or the division.

2597 Section 56. The board shall submit an annual report to the division of capital asset
2598 management and maintenance listing all finalists selected by the board and all awards made
2599 pursuant to sections 44 to 58, inclusive, a summary of the activities and other actions of the
2600 board and its staff, and such other items as the board deems appropriate.

2601 Section 57. The board shall independently adopt procedures and regulations as necessary
2602 to implement the requirements of sections 44 to 58, inclusive. Such procedures and regulations
2603 may vary according to the class of project.

2604 Section 58. (a) For the purposes of this section the following words shall have the
2605 following meanings unless the context clearly requires otherwise:-

2606 "Agency", the Massachusetts Department of Transportation, the Massachusetts Port
2607 Authority and the Massachusetts Bay Transportation Authority.

2608 "Architectural and engineering services", (i) professional services of an architectural or
2609 engineering nature, as defined by state law, which are required to be performed or approved by a
2610 person licensed, registered or certified to provide those services as described herein; (ii)
2611 professional services of an architectural or engineering nature performed by contract that are
2612 associated with research planning, development, design, investigations, inspections, tests,
2613 evaluations, consultations, program management, value engineering, construction, alteration or
2614 repair of real property; and (iii) such other professional services of an architectural or
2615 engineering nature, or incidental services, which members of the architectural and engineering
2616 professions and individuals in their employ may logically or justifiably perform, including
2617 studies, investigations, surveying and mapping, soil tests, construction phase services, drawing
2618 reviews, evaluations, consultations, comprehensive planning, program management, conceptual
2619 designs, plans and specifications, soils engineering, cost estimates or programs, preparation of
2620 drawings, plans or specifications, supervision or administration of construction contracts,
2621 construction management or scheduling, preparation of operation and maintenance manuals and
2622 other related services.

2623 "Firm", an individual, firm, partnership, corporation, association or other legal entity
2624 authorized by law to practice the professions of architecture, engineering, land surveying,
2625 landscape architecture, environmental science, planning or program management.

2626 "Public works project", a capital improvement project or a design, study, plan, survey or
2627 new or existing program activity of an agency, including the development of new or existing
2628 programs that require architectural, engineering or related professional services; provided,

2629 however, that "public works project" shall not include a public building construction project
2630 undertaken under chapters 7, 149 and 149A.

2631 "Related professional services", (i) professional services, including land surveying,
2632 landscape architecture, environmental science and planning, which are required to be performed
2633 or approved by a person licensed, registered or certified to provide such services as described
2634 herein; (ii) professional services performed by contract that are associated with research,
2635 planning, development, design, investigations, inspections, surveying and mapping, tests,
2636 evaluations, consultations, comprehensive planning program management, value engineering,
2637 construction, alteration or repair of real property; and (iii) such other professional services, or
2638 incidental services, which members of the related professions as described herein and individuals
2639 in their employ may logically or justifiably perform, including master plans, studies, surveys,
2640 soil tests, cost estimates or programs, preparation of drawings, plans or specifications,
2641 supervision or administration of construction contracts, construction management or scheduling,
2642 conceptual designs, plans and specifications, construction phase services, soils engineering,
2643 drawing reviews, cost estimating, preparation of operation and maintenance manuals and other
2644 related services; provided, however, that nothing herein shall be construed to constitute a
2645 regulation or oversight of any designated firms or identified professionals' services.

2646 (b) For those agencies that prequalify architectural, engineering and related services, the
2647 agency shall require firms engaged in the lawful practice of their profession to submit a
2648 statement of qualifications and performance data every 2 years to the agency pursuant to the
2649 terms and schedule as determined by the agency. Agencies that prequalify shall have the option
2650 of selecting firms from their prequalified list of firms based on the agency policies and without
2651 further publically advertising the selection.

2652 (c) Whenever a public works project requiring architectural, engineering or related
2653 professional services is to be advertised by an agency, the agency shall provide not less than 14
2654 days advance notice published in a professional services bulletin or advertised on the official
2655 agency website setting forth the public works project and services to be procured. The
2656 professional services bulletin shall be made available to each firm that requests the information.
2657 The professional services bulletin shall include a description of each public works project and
2658 shall state the time and place for an interested firm to submit a statement of qualifications and, if

2659 required by the public notice, a letter of interest and technical proposal. If the agency determines
2660 that a sole source selection of a qualified firm is in the best interest of the agency, then the public
2661 notice provisions of this subsection shall not apply.

2662 (d) An agency shall evaluate the firms submitting statements of qualifications, taking
2663 into account qualifications, letters of interest and technical proposals, and the agency may
2664 consider, but shall not be limited to, considering, ability of professional personnel, past record
2665 and experience, performance data on file, willingness to meet time requirements, location,
2666 workload of the firm and any other qualifications based on factors that the agency may determine
2667 in writing are applicable. The agency may conduct discussions with, and require presentations
2668 by, firms deemed to be the most qualified regarding their qualifications, approach to the public
2669 works project and ability to furnish the required services. An agency shall not, prior to selecting
2670 a firm for negotiation, seek formal or informal submission of verbal or written estimates of costs
2671 or proposals in terms of dollars, hours required, percentage of construction cost or any other
2672 measure of compensation.

2673 (e) (1) An agency shall select architects, engineers and related professional firms on
2674 the basis of qualifications for the type of professional services required, and on technical
2675 proposals, if submitted. An agency may solicit or use pricing policies and proposals or other
2676 pricing information to determine consultant compensation only after the agency has selected a
2677 firm and initiated negotiations with the selected firm.

2678 (2) The procedures that an agency creates for the screening and selection of firms shall
2679 be within the sole discretion of the agency and may be adjusted to accommodate the agency's
2680 scope, schedule and budget objectives for a particular public works project.

2681 (3) The decision of an agency that has complied with this chapter shall be final and
2682 binding.

2683 (f) (1) The agency and the selected firm shall discuss and refine the scope of
2684 services for the public works project and shall negotiate conditions including, but not limited to,
2685 compensation level and performance schedule based on scope of services. The compensation
2686 level paid shall be reasonable and fair to the agency as determined solely by the agency. In

2687 making such determination, the agency shall take into account the estimated value of the services
2688 to be rendered and the scope, complexity and professional nature thereof.

2689 (2) If the agency and the selected firm are unable for any reason to negotiate a contract at
2690 a compensation level that is reasonable and fair to the agency, the agency shall, in writing,
2691 formally terminate negotiations with the selected firm. The agency shall then negotiate with the
2692 second ranked most qualified firm. The negotiation process shall continue in this manner through
2693 successive ranked firms until an agreement is reached or the agency terminates the consultant
2694 contracting process.

2695 (g) This section shall not apply to the procurement of architectural, engineering and
2696 related professional services by agencies: (i) when an agency determines in writing that it is in
2697 the best interest of the agency to proceed with the immediate selection of a firm; (ii) in
2698 emergencies when immediate services are necessary to protect the public health and safety; or
2699 (iii) when these services are to be provided as part of a design-build project pursuant to sections
2700 14 to 21, inclusive, of chapter 149A.

2701 (h) Each agency shall evaluate the performance of each firm upon completion of a
2702 contract. The evaluation shall be made available to the firm which may submit a written
2703 response.

2704 Section 59. Every appropriation or authorization for the design or construction of a
2705 building project for which a state agency is the using agency shall be deemed to require the
2706 satisfactory completion of a study or program before any services for the design or construction
2707 of such project may be contracted for, performed by contract or otherwise, or funds allotted,
2708 encumbered or expended therefor, unless such appropriation or authorization specifically states
2709 that no such study or program need or shall be done.

2710 No provider of design services for any building project for which a state agency is the
2711 using agency shall be selected by the designer selection board or by the administering agency
2712 and no design services shall be performed for or by such administering agency for any building
2713 project for which the satisfactory completion of a study program is required prior to the design or
2714 construction of that project, unless and until: (a) said study, program or where appropriate, both,
2715 have been satisfactorily completed; (b) the using agency certifies in writing to the commissioner

2716 of capital asset management and maintenance that the study, program, or where appropriate both,
2717 correspond to the current needs of that agency, including its current long term capital facilities
2718 development plan; (c) the commissioner requests that one or more of the directors of the office of
2719 programming, office of project management, or office of facilities management review the study
2720 or program, or where appropriate, both, and the director or directors certify in writing to the
2721 commissioner that the study, program, or where appropriate both, reflect the using agency's
2722 needs as stated, that they provide an accurate estimate of the project requirements, cost and
2723 schedule, that the project can be accomplished within the appropriation or authorization for that
2724 project, and recommends proceeding with design, construction, or where appropriate, both; and
2725 (d) the commissioner of capital asset management and maintenance certifies in writing to the
2726 secretary of administration and finance that the study, program, or where appropriate both, are in
2727 conformity with the scope and purpose of the appropriation or authorization for the project and
2728 legislative intent in regard to long range capital facility plans for the using agency, and approves
2729 proceeding with design, construction, or where appropriate, both.

2730 If either the director or directors whose review is requested or the commissioner of
2731 capital asset management and maintenance should fail to so certify, recommend, or approve, the
2732 commissioner shall forthwith send notice of his decision and the reasons therefor to the secretary
2733 of administration and finance and to the house and senate committees on ways and means.

2734 Section 60. No allotment, encumbrance, or expenditure of funds appropriated or
2735 authorized for the design of a capital facility project shall be approved by the comptroller unless
2736 the executive head of the agency administering the project, or other person provided for by
2737 statute, certifies in writing that the design work is or shall be such as to specify a project that can
2738 be accomplished: (a) within the appropriation or authorization for the project or within the
2739 project cost limits specified by the appropriation or authorization; and (b) without substantial
2740 deviation from any: (i) study or program which must be prepared in accordance with section 59
2741 or (ii) any other pre-design document which must be prepared in accordance with any other
2742 statute, appropriation or authorization or administrative directive consistent therewith. In no
2743 event shall the design work be such as would result in a change in the number of square feet to
2744 be constructed in the project of more than 10 per cent from the number specified in the study,
2745 program or other pre-design document referred to in subclauses (i) and (ii) of clause (b).

2746 No state agency, as defined by section 1, administering a capital facility project shall
2747 enter into any contracts or incur any other obligations or cause to be performed design services
2748 for that project if such would result in the completion of a project which cannot be accomplished:
2749 (a) within the appropriation or authorization for the project or within the project cost limits
2750 specified by the appropriation or authorization, and (b) without substantial deviation for (i) any
2751 study or program which must be prepared in accordance with section 59; or (ii) any other pre-
2752 design planning document which must be prepared in accordance with any other statute,
2753 appropriation or authorization or administrative directive consistent therewith. In no event shall
2754 the design work be such as would result in a change in the number of gross square feet to be
2755 constructed in the project of more than 10 per cent from the number specified in the study,
2756 program or other pre-design document referred to in subclauses (i) and (ii) of clause (b).

2757 Section 61. No allotment, encumbrance, or expenditure of funds appropriated or
2758 authorized for the construction of a capital facility project shall be approved by the comptroller
2759 unless the executive head of the agency administering the project, or other person provided for
2760 by statute, certifies in writing that the construction work can be accomplished: (a) within the
2761 appropriation or authorization for the project, and (b) without substantial deviation from: (i) any
2762 study or program which must be prepared in accordance with section 59, or (ii) any other pre-
2763 design document which must be prepared in accordance with any other statute, appropriation or
2764 authorization or administrative directive consistent therewith. In no event shall the construction
2765 work be such as would result in a change in the number of square feet to be constructed in the
2766 project of more 10 ten per cent from the number specified in the study, program or other
2767 predesign document referred to in subclauses (i) and (ii) of clause (b).

2768 No state agency, as defined by section 1, administering a facility administering project
2769 shall enter into any contracts or incur any obligations or cause to be performed construction of
2770 that project if such would result in the completion of a project which cannot be accomplished (a)
2771 within the appropriation or authorization for the project, and (b) without substantial deviation
2772 from: (i) any study or program which must be prepared in accordance with section 59, or (ii) any
2773 other pre-design document which must be prepared in accordance with any other statute,
2774 appropriation or authorization or administrative directive consistent therewith. In no event shall
2775 the construction work be such as would result in a change in the number of square feet to be

2776 constructed in the project of more than 10 per cent from the number specified in the study,
2777 program or other predesign document referred to in subclauses (i) and (ii) of clause (b).

2778 Section 62. The governor and the commissioner of capital asset management and
2779 maintenance in their long range capital facilities development plans and capital budget requests
2780 and the secretaries of the various executive offices in their review and recommendations with
2781 regard to such plans and requests may include among them plans and requests for 1 or more
2782 contingency, or other lump-sum or reserve accounts, including but not limited to planning,
2783 design and construction contingency, preventive maintenance, emergency repair, energy
2784 conservation, life-safety, and architectural barrier funds or accounts. Each shall include in their
2785 plans and request recommendations as to the purpose of such funds or accounts and the priorities
2786 and procedures for allocating the monies kept therein.

2787 The commissioner of capital asset management and maintenance shall forthwith establish
2788 priorities and procedures for allocating such funds in conformity with the terms of the
2789 appropriation authorizing them and legislative intent in regard to long range capital facilities
2790 development plans. The commissioner shall forthwith submit copies of the priorities and
2791 procedures so established to the secretary of administration and finance and to the house and
2792 senate committees on ways and means.

2793 Unless otherwise provided for in the appropriation authorizing such funds or accounts or
2794 other applicable law and in conformity therewith and the priorities and procedures established by
2795 the commissioner of capital asset management and maintenance, the monies kept therein shall
2796 not be allocated unless and until:

2797 (a) the using agency, whether or not it is the agency requesting the funds for the
2798 proposed project, certifies in writing to the commissioner of capital asset management and
2799 maintenance that the project corresponds to the current needs of the using agency, including its
2800 current long range capital facilities development plan;

2801 (b) the commissioner requests that 1 or more of the directors of the office of
2802 programming, office of project management, or the office of facilities management review the
2803 project proposal, and the director or directors certify in writing to the commissioner of capital
2804 asset management and maintenance that the project proposal reflects the agency's needs as

2805 stated, that it provides an accurate estimate of the project requirements, cost and schedule, and
2806 that the project can be accomplished within the limits of the funds requested;

2807 (c) The commissioner of capital asset management and maintenance certifies in writing
2808 to the secretary of administration and finance and to the house and senate committees on ways
2809 and means that the project proposal has been evaluated in conformity with the terms of the
2810 appropriation or authorization of the fund or account and the priorities and procedures
2811 promulgated by him pursuant thereto and approves the allocation.

2812 The commissioner of capital asset management and maintenance shall, upon his
2813 certification, file copies of the project proposal and other supporting documents, his certification
2814 and those of the director or directors whose review is requested and the agency requesting such
2815 funds with the secretary of administration and finance and with the house and senate committees
2816 on ways and means.

2817 If either the director or directors whose review is requested or the commissioner of
2818 capital asset management and maintenance should fail to give the aforementioned certifications
2819 or approvals, the commissioner shall forthwith send notice of his decision and the reasons
2820 therefor to the secretary of administration and finance and to the house and senate committees on
2821 ways and means.

2822 The commissioner of capital asset management and maintenance shall by February 15 of
2823 each year prepare and submit to the secretary of administration and finance and to the general
2824 court a report containing separate sections summarizing the disposition and the status of the
2825 funds or accounts and descriptions of all projects for which monies from such fund have been
2826 allocated.

2827 Section 63. There is established and set up on the books of the commonwealth a separate
2828 fund, consisting of monies appropriated to the fund by the general court and income derived
2829 from the investment of monies appropriated to the fund, known as the capital facility planning
2830 fund.

2831 Allocation of monies from such fund shall be made according to section 62. The purpose
2832 of the capital facility planning fund shall be to provide monies for the planning of capital facility

2833 projects by state agencies other than counties. Priority in the allocation of monies from such fund
2834 shall be given to projects:

2835 (i) which are included in any long range capital facilities development plan previously
2836 approved by the general court or in any master plan, consistent with such long range plans,
2837 previously approved by the commissioner of capital asset management and maintenance or

2838 (ii) whose rapid progress is indicated by statutes which provide for capital facility
2839 projects to advance specific agency programs, goals or objectives; and for which the delay in
2840 seeking monies through the normal capital budget process provided for by this chapter would
2841 cause a serious loss in use of the proposed capital facility if it were unavailable or cause a
2842 percentage increase in total project cost substantially larger than that for other projects at a
2843 comparable stage of development.

2844 Monies from the capital facility planning fund may be allocated, in accordance with
2845 priorities stated above, for the preparation of environmental impact reports to comply with the
2846 requirements of chapter 12 and chapter 30.

2847 Monies from the capital facility fund may be allocated, in accordance with the priorities
2848 stated above, for options to purchase land or buildings which will be used for capital facility
2849 projects specifically identified in the allocation request.

2850 If monies spent on a capital facility project are allocated from the capital facility planning
2851 fund and the funds for the acquisition of a site for or the design or design and construction of
2852 such project are appropriated or authorized then a sum of money equal to that allocation shall be
2853 deducted from the amount so appropriated or authorized and returned to the capital facility
2854 planning fund.

2855 In no case shall a request for monies or monies be allocated for projects for which a
2856 similar request is currently being considered according to the capital budget process for the
2857 current fiscal year provided for by this chapter or which was so considered during the capital
2858 budget process for the previous fiscal year and failed to receive an appropriation or
2859 authorization.

2860 Requests for monies from the capital facility planning fund may be made by state
2861 agencies other than counties and only after approval of such requests by the secretary of the
2862 executive office in which that agency is located, except in the case of a public institution of
2863 higher learning, only after approval by the board of higher education.

2864 Section 64. Each public agency other than a city or town shall prepare a long range
2865 capital facilities development plan. Such plan shall include projections at least 5 years from the
2866 date of submission of the plan. Each such public agency shall revise the plan annually or at such
2867 other time as the commissioner of capital asset management and maintenance may require, or as
2868 otherwise mandated by statute or appropriation act. Each plan or revision thereof shall be
2869 submitted to the commissioner at such time or according to such schedule as the commissioner
2870 shall specify. Each state agency the authorization of which is otherwise required for capital
2871 facility projects of 1 or more cities and towns shall include in its plan required by this section and
2872 its capital facility budget request required by section 66 the information about such projects
2873 specified by those sections. The state agency may request from cities and towns the information
2874 needed to complete the above-mentioned plan and budget and said information shall be promptly
2875 submitted to the state agency. To the maximum extent feasible the commissioner and state
2876 agencies shall coordinate the timing and content of their requests for information to minimize
2877 duplication of reporting. In the case of local operating agencies as defined in section 1 of chapter
2878 121B, any such plan, revision, capital facility budget, or capital facility budget requests required
2879 by this section or section 66 of this chapter shall be prepared and submitted by the department of
2880 housing and community development.

2881 After consultation with the governor and the secretary of administration and finance, the
2882 commissioner shall, in a timely manner, prepare and send to public agencies a capital facility
2883 planning policy statement to inform in the formulation of their long range capital facilities
2884 development plans and capital facility budget requests.

2885 The commissioner may provide guidance and technical assistance to those public
2886 agencies lacking sufficient resources to prepare such plans. The commissioner shall specify the
2887 information required, the manner or preparation of the plan, and the form in which it is to be
2888 provided.

2889 Section 65. In formulating requirements for the information to be provided in long-range
2890 capital facilities development plans, the commissioner of capital asset management and
2891 maintenance shall require at least the following: the history, legislative authority and major
2892 responsibilities of the public agency as defined by law and by administrative rule, regulation or
2893 directive; the programs being carried out by each as they affect capital facility needs; an
2894 appraisal of the responsibilities, objectives and current programs and evaluation of the factors
2895 expected to influence future programs; tabulations of the numbers of people served by and
2896 staffing the agency and its subunits; a detailed description of the land and facilities currently
2897 owned, leased or used by the agency to the extent that such description has not previously been
2898 submitted to the commissioner as part of the real property inventory maintained by him and an
2899 estimate of their utilization in relation to current and future programs.

2900 In formulating requirements for each long-range capital facilities development plan, the
2901 commissioner shall require at least the following: a determination of the capital facility needs
2902 based on the programs, population to be served, and the adequacy of existing facilities; a
2903 proposed capital facility project schedule and an explanation of the relationship between the need
2904 for each project and the stated programs; a summary of the schedule of needs for funds; a
2905 tabulation of the estimated staffs required for such new or modified programs and facilities; a
2906 tabulation of such projects showing the effect upon staffing, operating, and maintenance
2907 expenses; and a description of the geographic and spatial location of the facility relative to other
2908 facilities or land of the agency or its subunits.

2909 In formulating requirements for any revisions of long-range capital facilities development
2910 plans the commissioner shall require at least the following: a statement of the changes in the
2911 agency's responsibilities, objectives and programs; revised estimates of institutional population
2912 and staff, and geographic and spatial descriptions of capital facilities; and changes in capital
2913 facility requirements as they would have effect at least 5 years from the date of submission.

2914 Section 66. Each public agency other than cities and towns shall prepare and submit to
2915 the commissioner, in addition to its long-range capital facilities development plan or revision
2916 thereof, an annual capital facility budget at such time as the said commissioner shall require.

2917 In preparing both long-range capital facilities development plans, and revisions thereof,
2918 and capital facility budget requests, the agency shall provide timely public notice of such
2919 proposed plans and requests and reasonable opportunity for potential users and staff of the
2920 facilities controlled or to be controlled by the agency to comment thereon.

2921 The long-range capital facility development plans and capital facility budget requests
2922 submitted by the agency to the division of capital asset management and maintenance shall
2923 contain a summary of those comments and a statement of the extent to which they are reflected
2924 in the proposed plans and requests.

2925 The commissioner may provide guidelines to agencies for soliciting and reporting on
2926 such views.

2927 The commissioner may, at his discretion, provide guidance and technical assistance to
2928 agencies without sufficient resources to prepare capital facility budget requests. He shall specify
2929 the information being sought, how it might be prepared and the form in which it is to be
2930 provided.

2931 The commissioner shall provide for a format and content of long-range capital facilities
2932 development plans and capital facility budget requests which is, to the maximum extent feasible,
2933 consistent with that provided for the operating budget by the director of the fiscal affairs division
2934 within the executive office for administration and finance.

2935 Any public agency may include among its capital facility budget requests, ones for
2936 appropriations or authorizations for a class or classes of similar or related capital facility
2937 projects. Such request shall include a statement of (a) how the class of projects is defined; (b) the
2938 reasons for requesting appropriations or authorizations for a class of projects rather than
2939 individual projects; (c) the priorities and procedures for allocating the appropriated or authorized
2940 monies among the class of possible projects, making reference to and submitting copies of any
2941 studies, surveys, plans, analyses and other documents from which criteria for allocation are to be
2942 derived; and (d) a proposed initial allocation of the appropriated or authorized monies based on
2943 the suggested priorities, procedures and criteria.

2944 In formulating requirements for capital facility budget requests for individual projects,
2945 the commissioner shall include at least the following: (a) a concise title description of the
2946 project; (b) the location of the project and its site in relation to any existing facilities in close
2947 proximity; (c) the estimated schedule for completion of the project including the dates upon
2948 which the design and construction of the project are estimated to be commenced and completed
2949 and the facility occupied or used; (d) a description of the project and what it involves, appending
2950 any planning documents, accurate summaries of design documents and any other documents
2951 prepared for or pertaining to that project, if not previously submitted to the commissioner; (e) the
2952 useful life of the project before replacement would be necessary; (f) the current status of the
2953 plans and site for the project; (g) the status of utilities required for the project; (h) the
2954 relationship of the project to the long range capital facilities development plan; (i) the total
2955 project cost; (j) the effect of the proposed project on annual operating costs (including
2956 maintenance costs); (k) the proposed source of funds; and (l) an explanation of the need for the
2957 proposed project. The description of the project shall identify any and all previously approved
2958 appropriations or authorizations pertaining to the proposed or earlier phases of the project; the
2959 phase or phases approved, in progress, and completed, the estimated or final cost of each phase
2960 of the project through completion, and the sum of money permitted to be expended on the project
2961 as so approved. To assist his staff and user agencies in preparation and review of long-range
2962 plans and requests, the commissioner shall establish a file of approved appropriations and
2963 authorizations of all projects pertaining to each state-owned capital facility. The total project cost
2964 shall include at least the following items: the cost of all real estate, properties, rights and
2965 easements acquired, utility services, site development; the cost of construction and the initial
2966 furnishing thereof; all architectural and engineering and legal expenses, the cost of surveys and
2967 plans and specifications; and such other expenses as are necessary or incident to determining the
2968 feasibility or practicability of any project. The estimate of the total project cost shall be based on
2969 the assumption that the project will be undertaken and completed according to the estimated
2970 schedule. Included in the estimate shall be a statement of its accuracy. The estimate of the effect
2971 of the proposed project on annual operating costs shall be based on the estimated date of use or
2972 occupancy of the facility. In the proposal for source of funds, there shall be included a statement
2973 of what federal funds are potentially available, what efforts are necessary and have been or must
2974 be made to obtain them, or why they cannot be obtained.

2975 Section 67. Copies of the proposed plans and requests shall be submitted simultaneously
2976 to the commissioner, the secretaries of all executive offices, the director of the fiscal affairs
2977 division within the executive office for administration and finance, the state treasurer, the
2978 commissioner of revenue and the house and senate committees on ways and means. The
2979 secretaries shall submit to the commissioner of capital asset management and maintenance a
2980 report on the consistency of any public agency's plans and requests with the programs and
2981 policies of the executive office on which it is located, except in the case of a public institution of
2982 higher learning, the board of higher education, including the secretary's recommendations as to
2983 those plans and requests. Prior to making their reports, each secretary shall conduct public
2984 hearings, for which each secretary shall give 5 days public notice prior thereto, on the secretary's
2985 analysis and recommendations as to those plans and requests. Any secretary, when requested by
2986 the commissioner, shall submit to the commissioner a report on the impact of the specific
2987 statutory mission of the secretariat of the plans and request of any public agencies not located
2988 within his secretariat. Each secretary shall furnish to the house and senate committees on ways
2989 and means and the house and senate committees on post audit and oversight, copies of all such
2990 plans, requests and reports.

2991 The director of the bureau of programming, director of the office of project management
2992 or the director of the office of facilities management, as the commissioner directs, shall report to
2993 him as to the technical feasibility, cost, and schedule of proposed building projects; the technical,
2994 financial, and related requirements for the operation and maintenance of such buildings upon
2995 completion of the proposed projects; where relevant, the efficacy and efficiency of the proposed
2996 project in relation to current and projected available space and current and projected standards
2997 for the allocation and utilization of space; the accuracy and adequacy of any planning and design
2998 documents and any other documents prepared in relation to the stated needs, and as to any other
2999 matters which the commissioner of capital asset management and maintenance may require
3000 relative to his evaluation of such plans and requests. At the request of said commissioner of
3001 capital asset management and maintenance, the head of the public agency which administers or
3002 would administer a capital facility project, other than a building project, or consultants hired by
3003 him for that purpose, or members of said commissioner's staff shall report to him as to the
3004 technical feasibility, cost and schedule of that project; the technical, financial, and related
3005 requirements for the operation and maintenance of such facilities upon completion of the

3006 proposed projects; where relevant, the proposed project in relation to current and projected
3007 available facilities of a similar kind; the accuracy and adequacy of any planning documents,
3008 accurate summaries of design documents and any other documents prepared in relation to stated
3009 needs, and as to any other matters which said commissioner may require relative to his
3010 evaluation of such plans and requests.

3011 The director of the fiscal affairs division within the executive office for administration
3012 and finance shall report in writing to said commissioner of capital asset management and
3013 maintenance on the impact of proposed agency plans and requests, based on the stated and
3014 projected overall agency programs, on the agency's operating budgets for the next 5 years or for
3015 such longer period as said commissioner shall request. The commissioner of the department of
3016 revenue shall report in writing to said commissioner of capital asset management and
3017 maintenance on the impact of proposed agency plans and requests on their requirements for and
3018 production of revenue for at least the next 5 years or for such longer period as said commissioner
3019 of capital asset management and maintenance shall request. The reports of the director of the
3020 fiscal affairs division within the executive office for administration and finance and the
3021 commissioner of the department of revenue shall be sent to the state treasurer. The state treasurer
3022 may, if requested by said commissioner of capital asset management and maintenance, report in
3023 writing to said commissioner on the impact of all plans and requests, separately and as a whole
3024 on the financial health of the commonwealth and make such recommendations as to the form and
3025 nature of the financing as the treasurer deems necessary.

3026 Copies of the proposed plans and requests shall in a timely manner be submitted to each
3027 of the regional planning agencies established pursuant to chapter 40B for their review. They shall
3028 submit to said commissioner of capital asset management and maintenance a statement of their
3029 comments and recommendations, including those of cities and towns in the region which are
3030 affected by such plans and requests.

3031 Said commissioner of capital asset management and maintenance may request such other
3032 reports from public agencies as said commissioner may deem necessary to fulfill his
3033 responsibilities for the integration and coordination of capital facility projects.

3034 Section 68. The commissioner of capital asset management and maintenance shall study
3035 and review all long range capital facility development plans and capital facility budget requests
3036 and reports pertaining thereto filed with him as provided by sections 64, 65, 66 and 67, and shall
3037 make such investigations as will enable him to prepare a capital facility budget for the governor.
3038 The commissioner shall include in such budget an integrated and comprehensive long range
3039 capital facilities development plan and capital facility budget request and such other
3040 recommendations as the governor shall determine upon. The capital facility budget shall embody
3041 all plans, estimates, requests, and recommendations submitted to the commissioner under said
3042 sections 64, 65, 66 and 67. The capital facility budget shall be classified and designated to
3043 present at least the same kind and quality of information as are required of plans and requests by
3044 said sections 64, 65, 66 and 67. The commissioner shall include an evaluation of the proposed
3045 plan and budget request in terms of the capital facilities planning policy statement and any
3046 revisions thereof the commissioner proposes.

3047 The governor in his capital facility budget and the commissioner of capital asset
3048 management and maintenance, in his recommendation to the governor of a capital facility
3049 budget, shall include in such requests for each building project contained therein, for which the
3050 using agency is a state agency, a recommendation as to the need for and where appropriate, a
3051 request for, a study and program as a prerequisite to contracting for, performance of, or allotment
3052 or expenditure of funds for any design or construction-related activities. If a study or program is
3053 not recommended the governor and commissioner shall include the reasons therefor. They shall
3054 also include a recommendation as to the mode of procurement of such facility, including but not
3055 limited to, sequential, construction management, turnkey, design/build procurement, and the
3056 phasing of such procurement, including but not limited to approval of design and construction
3057 stages as separate or combined phases, which will most efficiently, economically and best serve
3058 the interests of the commonwealth. When an alternative mode of procurement is recommended,
3059 the governor and commissioner shall also recommend the method by which design and
3060 construction services shall be procured for such project, provided that such method shall be
3061 compatible with the policies and procedures for the selection of designers in sections 44 to 58,
3062 inclusive, and with the policies and procedures for the selection of contractors in sections 44A to
3063 44M, inclusive, of chapter 149, to the extent feasible. If the governor or the commissioner should
3064 recommend a mode of procurement other than the sequential mode or a phasing of procurement

3065 other than approval of design and construction as a combined phase, each shall state in detail the
3066 reasons therefor.

3067 Furthermore, their requests shall contain a statement as to the expected useful life of the
3068 facility from the date of construction, renovation, acquisition, or other procurement; a statement
3069 of the proposed source of funds; where relevant, a recommendation as to the form and
3070 scheduling of financing of said project; and a recommendation as to the date upon which the
3071 authorization for the expenditure of the funds should expire. If the governor or the commissioner
3072 of capital asset management and maintenance should recommend a means and form of financing
3073 of the project such that the term of repayment exceed the expected useful life of the project, the
3074 governor and commissioner shall state in detail the reasons therefor. The governor and the
3075 commissioner shall transmit therewith a statement showing the total indebtedness proposed to be
3076 incurred for each capital facility project and the fund to be charged therefor, and the total cost of
3077 financing said project according to the recommended form and scheduling of such financing. The
3078 governor and the commissioner shall also transmit therewith a statement relative to the condition
3079 of the state debt, including an analysis of the impact of the proposed capital facility budget,
3080 including the long range capital facilities plan, on the financial health of the commonwealth.
3081 Such statement shall, where appropriate, include reference to the impact of obligations of public
3082 agencies which are guaranteed by or are contingent liabilities of the commonwealth.

3083 Section 69. The governor's and the commissioner of capital asset management and
3084 maintenance capital facility budget shall include provision for establishment of a design and
3085 construction contingency reserve account, the purpose of which shall be to provide monies for
3086 the design and construction of capital facility projects by state agencies which, because of
3087 unforeseeable circumstances, not within the contemplation of the using or the administering
3088 agency, and for justifiable reasons, would cause the project cost to exceed the sums then
3089 appropriated or authorized therefor. Allocation of monies from such reserve account shall be
3090 made according to section 62. Priority in the allocation of monies from such account shall be
3091 given to projects for which the delay in seeking monies through the normal capital budget
3092 process provided for by this chapter would cause a serious loss in use of the capital facility if it
3093 were unavailable when needed or cause a percentage increase in total project cost substantially
3094 larger than that for other projects at a comparable stage of progress.

3095 In no case shall a request for monies be made or monies be allocated for projects for
3096 which a similar request is currently being considered according to the capital budget process for
3097 the current fiscal year provided for by this chapter, or which was so considered during the capital
3098 budget process for the previous fiscal year and failed to receive an appropriation or
3099 authorization. Further, in no case shall a request for monies be made or monies be allocated if as
3100 a result of the review provided for by section 62 the commissioner of capital asset management
3101 and maintenance finds (a) that the proposal for use of such monies will result in a substantial
3102 deviation from any study or program for the project most recently approved by him or from any
3103 design for the project most recently approved by the administering agency or (b) that the
3104 proposal for use of such monies will result in a cumulative increase in the number of gross
3105 square feet to be constructed in the project in excess of 10 per cent of the number most recently
3106 specified in an appropriation or authorization for the project.

3107 Requests for monies from the design and construction contingency reserve account may
3108 be made by state agencies which are the using agencies of those projects.

3109 In establishing priorities and procedures for allocation of monies from the design and
3110 construction reserve account pursuant to section 62, the commissioner of capital asset
3111 management and maintenance shall establish specific limits for the amount of money which may
3112 be allocated from the account for any particular project, the amount which may be allocated for
3113 the construction of any particular project excluding price inflation contingencies, and the amount
3114 which may be allocated for the construction of any particular project for price inflation
3115 contingencies. In no event shall the cumulative amount allocated from the account to any one
3116 capital facility project exceed 10 percentum of the total cost specified by the appropriation or
3117 authorization for that project.

3118 Section 70. The governor's and the commissioner of capital asset management and
3119 maintenance capital facility budget shall include provisions for establishment of an emergency
3120 repair reserve account, the purpose of which shall be to provide monies for the performance of
3121 repair projects of such a nature that funding through the capital budget process provided for by
3122 this chapter would be burdensome. Allocation of monies from such reserve accounts shall be
3123 made according to the provisions of section 62. Priority in the allocation of monies from such
3124 fund shall be given as follows:

3125 (1) top priority shall be given to funding requests for projects designed to remedy clear
3126 and present dangers to the health and safety of the users of the facility in question;

3127 (2) secondary priority shall be given to funding requests for projects which would
3128 prevent imminent destruction or damage of property or equipment beyond reasonable repair; and

3129 (3) third priority shall be given to funding requests for projects, that would restore use of
3130 a facility or part of a facility to its user, where the loss of use has seriously disrupted the agency's
3131 program functions.

3132 In no case shall a request for monies be made or monies be allocated for projects for
3133 which a similar request was considered during the capital budget process for the previous year as
3134 provided for by this chapter, and which failed to receive an appropriation or authorization.

3135 Requests for monies from the emergency repair reserve account may be made by state
3136 agencies other than counties and by the office of facility management.

3137 Section 71. All requests and recommendations for appropriations or authorizations for
3138 expenditures by the commonwealth that pertain to capital facility projects shall be studied by the
3139 commissioner with reference to any current long range capital facility development plans
3140 proposed in accordance with the requirements of sections 64, 65, 66 and 67. The commissioner
3141 shall consider the effects upon the policies, programs, and priorities with regard to which the
3142 commissioner is required to report in accordance with section 73 and with reference to any other
3143 matters which the commissioner requires to be reported to him in his review and evaluation of
3144 capital facility budget requests by public agencies under sections 64, 65, 66, 67 and 68. After
3145 such review and study, the commissioner shall promptly prepare and submit his
3146 recommendations to the general court.

3147 The commissioner shall promptly review any petition, motion or amendment introduced
3148 in either chamber of the general court which makes a provision for a capital facility project.
3149 During such review the commissioner shall study the necessity, desirability, and relative priority
3150 of such capital facility project by reference to any current long range capital facilities
3151 development plans proposed in accordance with the requirements of sections 64, 65, 66, 67 and
3152 68. The commissioner shall consider the effects upon the policies, programs, and priorities with

3153 regard to which the commissioner is required to report in accordance with section 73, and with
3154 reference to any other matters which the commissioner requires to be reported to him in his
3155 review and evaluation of capital facility budget requests by public agencies in accordance with
3156 the provisions of sections 64, 65, 66, 67 and 68. After such review and study the commissioner
3157 shall promptly prepare and forward his recommendation on the petition, motion, or amendment
3158 to the chamber in which it was introduced and where it is pending.

3159 Section 72. The commissioner shall, each year, not later than 30 days after the governor
3160 submits the budget under section 71, submit to the governor and to the general court a report
3161 which shall include, but not be limited to, the following: an evaluation of the effect of the capital
3162 facility budget, and the implementation of the proposed long range capital facilities development
3163 plan upon important policies, programs, and priorities mandated by the general court or
3164 established by the governor in accordance with law such as impact on the environment, energy
3165 conservation, preventative maintenance, architectural barriers, and the effective coordination of
3166 such policies, programs, and priorities with those of the federal government to assure the
3167 maximum benefit to the commonwealth from such federal programs.

3168 Not later than an additional 30 days thereafter, the commissioner shall submit to the
3169 governor and to the general court a similar report on the impact of and the progress made in the
3170 implementation of long range capital facilities plans and previously authorized capital facility
3171 projects.

3172 SECTION 83. Section 1 of chapter 9 of the General Laws, as appearing in the 2010
3173 Official Edition, is hereby amended by striking out, in lines 4 and 6, each time they appear, the
3174 words “and council”.

3175 SECTION 84. Said chapter 9 is hereby further amended by striking out section 4, as so
3176 appearing, and inserting in place thereof the following 9 sections:-

3177 Section 4. The secretary shall appoint, and may remove, a competent person to be known
3178 as supervisor of public records. Said supervisor, under the supervision of the secretary, shall
3179 perform the duties required of the supervisor by law, and such other duties as the secretary
3180 determines.

3181 Section 4A. The state secretary shall, at the close of each regular session of the general
3182 court, collate and cause to be printed in a single volume the following:

3183 (1) All acts and resolves passed at such session.

3184 (2) All amendments to the constitution referred at such session to the next general court
3185 and all such amendments acted upon at such session and to be submitted to the people at the next
3186 state election.

3187 (3) All acts and resolves passed at any special session of the general court, except a
3188 general revision of the statutes, and not theretofore published in any preceding annual volume.

3189 (4) In the volume of the year immediately following a state election, all constitutional
3190 amendments and proposed laws approved by the people at said election.

3191 (5) A statement in bold type at the conclusion of each law as printed, or in a postscript at
3192 the end of the volume with a suitable reference to each law, as to which a petition asking for a
3193 referendum has been filed prior to the publication of the volume, with a sufficient number of
3194 signatures to procure its submission to the people, together with a recital of the pertinent
3195 provisions of Article XLVIII of the Amendments to the Constitution.

3196 (6) In the volume of the year immediately following a state election, a statement showing
3197 what constitutional amendments, proposed laws and laws were submitted to the people at said
3198 election, with the aggregate vote on each such measure, both affirmative and negative, arranged
3199 in such detail as the state secretary may determine.

3200 (7) A table of changes in the general statutes and an index, to be prepared as provided in
3201 section 51 of chapter 3; provided, however, the state secretary may, in the secretary's discretion,
3202 cause the table of changes to be printed in a separate volume and not in the single volume.

3203 The state secretary shall cause up to 10,000 copies of said volume to be printed each year
3204 and shall, immediately after their publication, distribute such copies as the secretary determines.

3205 Section 4B. The state secretary shall, at the close of each regular session of the general
3206 court, publish in pamphlet form up to 20,000 copies, of the acts and resolves passed and of any
3207 proposed amendments to the constitution passed during such session. The secretary may also

3208 apportion the copies among the clerks of the several cities and towns, to be delivered by the
3209 clerks to inhabitants who apply for a copy.

3210 The secretary shall also, as soon as any act or resolve is passed, send a copy of the act or
3211 resolve to the following: each state department, officer, board or commission whose duties are
3212 affected by the act or resolve, the clerks of the several cities and towns, for the use of the
3213 inhabitants of those cities and towns, the justices, clerks and registers of courts, district attorneys,
3214 sheriffs, justices of the peace authorized to issue warrants and take bail, county law libraries and
3215 all incorporated law libraries and branch libraries maintained by them; provided, however, upon
3216 written request approved by the secretary, additional copies may be distributed to the above list
3217 and to any other public officials whose duties in the secretary's opinion require the use of such
3218 copies. The secretary may also send copies to such persons as apply for an act or resolve,
3219 charging not less than the cost of producing and distributing the copy.

3220 Section 4C. The state secretary shall print from time to time during the session of the
3221 general court a cumulative table of changes in the general statutes, up to the date of publication,
3222 to be prepared by the counsel to the senate and the counsel to the house of representatives.

3223 Section 4D. The state secretary shall furnish to each city and town of the commonwealth,
3224 to be preserved in a public place in the city or town, 1 copy of each of such report included in the
3225 public document series as the city or town clerk may apply for. The state secretary shall furnish 1
3226 copy of each report to such public and other libraries as may apply for the reports. If the
3227 supervisor of public records shall report to the state secretary that a city or town is unable to
3228 properly care for and use the documents, the state secretary may discontinue sending the reports
3229 to that city or town.

3230 Each member of the general court and of the executive department, the clerk of each
3231 branch of the general court and each reporter assigned to either branch may, upon a written,
3232 signed request delivered to the state secretary, receive a copy of any such document. Ten copies
3233 shall be placed in the state library for the use of the library and for exchange.

3234 Section 4E. The state secretary shall annually procure copies of the proceedings of the
3235 annual encampments of the departments of Massachusetts, Grand Army of the Republic, United
3236 Spanish War Veterans, The American Legion, Disabled American Veterans of the World War,

3237 Marine Corps League, American Veterans of World War II, AMVETS, Italian American War
3238 Veterans of the United States, Incorporated, Jewish War Veterans of the United States, Veterans
3239 of Foreign Wars of the United States, Polish-American Veterans of Massachusetts, Inc., and
3240 Veterans of World War I of the U.S.A., held in that year, with the general and special orders,
3241 circulars and other papers forming parts thereof, and shall cause the same to be kept as parts of
3242 the records of the commonwealth. The state secretary shall annually cause copies thereof,
3243 including in the case of those relating to the Grand Army of the Republic the portraits of the
3244 department officers and staff and of the executive committee of the national encampment, to be
3245 printed and bound; and shall cause 1 printed and bound copy of each to be sent to each city or
3246 town library in the commonwealth. The state secretary shall also send 1 copy of each volume
3247 relating to the Grand Army of the Republic to each Grand Army post, 1 copy of the volume
3248 relating to the United Spanish War Veterans to each camp of Spanish War Veterans, 1 copy of
3249 the volume relating to The American Legion to each post of The American Legion, 1 copy of the
3250 volume relating to the Disabled American Veterans of the World War to each chapter of the
3251 Disabled American Veterans of the World War, 1 copy of the volume relating to the Marine
3252 Corps League to each detachment of the Marine Corps League, 1 copy of the volume relating to
3253 the American Veterans of World War II, AMVETS to each post of the American Veterans of
3254 World War II, AMVETS, 1 copy of the volume relating to the Italian American War Veterans of
3255 the United States, Incorporated to each post of the Italian American War Veterans of the United
3256 States, Incorporated, 1 copy of the volume relating to the Jewish War Veterans of the United
3257 States to each post of the Jewish War Veterans of the United States, 1 copy of the volume
3258 relating to the Veterans of Foreign Wars to each post of the Veterans of Foreign Wars of the
3259 United States, 1 copy of the volume relating to the Polish-American Veterans of Massachusetts,
3260 Inc. to each post of the Polish-American Veterans of Massachusetts, Inc. and 1 copy of the
3261 volume relating to the Veterans of World War I of the U.S.A. to each barracks of the Veterans of
3262 World War I of the U.S.A., in the commonwealth. The state secretary shall cause the other
3263 copies of each to be distributed in the same manner as the annual report of the state secretary.

3264 Section 4F. The state secretary shall furnish to every city and town the reports of the
3265 decisions of the supreme judicial court from time to time, as published, and shall furnish to every
3266 town hereafter incorporated a full set of said decisions, the index-digest of those decisions, a
3267 copy of the General Laws, and copies of all such books and documents in the secretary's office

3268 as shall have been previously furnished to towns by the commonwealth; but the clerk of such
3269 town shall first file with the secretary a certificate that the town has made suitable provision for
3270 the preservation and convenient use of such books and documents.

3271 Section 4G. A city or town which has once been furnished with such books and
3272 documents shall not again be supplied with the same at the expense of the commonwealth.
3273 Towns may effect insurance on the books and documents for their own benefit.

3274 Section 4H. The state secretary shall, in the distribution of laws and documents to
3275 members of the general court, effect such exchanges among members as they shall direct; and
3276 the secretary may employ such additional clerical or other assistance as may be necessary for the
3277 purpose. Copies of the laws and documents apportioned to members of the general court which
3278 remain undisposed of for 3 months after the end of the year in which they were issued shall
3279 revert to the commonwealth and be subject to general distribution.

3280 SECTION 85. Section 5 of said chapter 9, as so appearing, is hereby amended by striking
3281 out, in line 4, the words “sixty-six as the governor and council may approve” and inserting in
3282 place thereof the following figure:- 66.

3283 SECTION 86. Section 19 of said chapter 9, as so appearing, is hereby amended by
3284 striking out, in lines 1 and 2, the words “, having first obtained authority from the governor and
3285 council,”.

3286 SECTION 87. Section 5 of chapter 10 of the General Laws, as so appearing, is hereby
3287 amended by striking out, in lines 1 and 2, the words “, with the consent of the governor and
3288 council, may appoint, and, with such consent, may for cause remove,” and inserting in place
3289 thereof the following words:- may appoint and may for cause remove.

3290 SECTION 88. Section 5B of said chapter 10 is hereby repealed.

3291 SECTION 89. Section 5C of said chapter 10, as appearing in the 2010 Official Edition, is
3292 hereby amended by striking out, in lines 1 and 2, the words “with the advice of the council”.

3293 SECTION 90. Said section 5C of said chapter 10, as so appearing, is hereby further
3294 amended by striking out, in line 6, the words “, with the advice of the council,”.

3295 SECTION 91. Section 6 of said chapter 10 is hereby repealed.

3296 SECTION 92. Section 9 of said chapter 10, as appearing in the 2010 Official Edition, is
3297 hereby amended by inserting after the word “general”, in line 2, the following words:- and the
3298 house and senate committees on ways and means.

3299 SECTION 93. Said chapter 10 is hereby further amended by striking out section 9A, as
3300 so appearing, and inserting in place thereof the following section:-

3301 Section 9A. A debt statement shall be forwarded on a quarterly basis to the state
3302 treasurer, comptroller and the house and senate committees on ways and means by those
3303 agencies of the commonwealth and authorities identified by the comptroller under subsection (c)
3304 of section 12 of chapter 7A, having authority to issue notes or bonds. Said debt statement shall
3305 be certified by an authorized official of said agency or authority. Such debt statement shall
3306 include authorized, unissued and outstanding bonds and notes of the authority or agency as of the
3307 first day of each quarter. Said debt statement shall include the debt service requirements of both
3308 principal and interest for the subsequent 24-month period and an estimate of the date and
3309 principal amount of bonds and notes to be sold in the subsequent 12-month period. Said debt
3310 statement shall be filed under rules and regulations prescribed by the state treasurer.

3311 SECTION 94. Said chapter 10 is hereby further amended by striking out section 10, as so
3312 appearing, and inserting in place thereof the following section:-

3313 Section 10. The state treasurer shall annually, on the second Wednesday in September,
3314 report to the general court a statement of the transactions of the department of the state treasurer
3315 for the preceding fiscal year, including a specific statement of all warrants remaining unpaid and
3316 of the names of the persons in whose favor they are drawn.

3317 SECTION 95. Said chapter 10 is hereby further amended by inserting after section 10A
3318 the following section:-

3319 Section 10B. The state treasurer, in consultation with the secretary of administration and
3320 finance and the comptroller, shall prepare and submit to the house and senate committees on
3321 ways and means on or before the last day of August, November, February and May official cash
3322 flow projections for the current fiscal year and for the fiscal quarters beginning October 1,

3323 January 1, April 1 and July 1, respectively. Included in said projections shall be actual spending
3324 and revenue through the latest possible date for inclusion in the projections, estimated spending
3325 and revenue, along with assumptions used to derive those estimates, a comparison of actual
3326 spending and revenue with previous estimates of spending and revenue for those months, an
3327 analysis of the variances identified in that comparison and identification of any cash flow gaps.

3328 Variance reports, which compare actual revenues and spending with planned revenues
3329 and spending, shall be produced monthly by the treasurer and distributed to the comptroller's
3330 division, the department of revenue and the executive office for administration and finance. All
3331 data required by the treasurer for production of annual and quarterly cash flow projections and
3332 monthly variance reports shall be submitted by state agencies, including the state lottery, in a
3333 timely fashion, on or before deadlines established by the treasurer. To assist in the preparation of
3334 the monthly variance reports, the department of revenue shall be responsible for providing
3335 estimates of tax revenue receipts, by tax category as identified in section 1A of the general
3336 appropriation act and the office of the comptroller for providing estimates of agency spending
3337 and non-tax revenue receipts.

3338 Compilations of such variance reports shall be distributed quarterly to the comptroller's
3339 division, the department of revenue, the executive office for administration and finance and the
3340 house and senate committees on ways and means. The executive office for administration and
3341 finance and the treasurer shall jointly develop and approve annual and quarterly cash
3342 management plans to address gaps identified by cash flow projections and variance reports. Said
3343 management plans shall clearly identify the roles to be played by short-term borrowing,
3344 investment policy, expenditure controls and revenue management in providing necessary cash.

3345 The state treasurer shall semi-annually report to the house and senate committees on
3346 ways and means and the joint committee on revenue the lending and banking institutions into
3347 which the cash deposits of the commonwealth are being deposited.

3348 SECTION 96. Section 11 of said chapter 10 is hereby repealed.

3349 SECTION 97. Section 24 of said chapter 10, as appearing in the 2010 Official Edition, is
3350 hereby amended by inserting after the word "annual", in line 35, the following words:-
3351 independently audited financial.

3352 SECTION 98. Said section 24 of said chapter 10, as so appearing, is hereby further
3353 amended by inserting after the word “advisable”, in line 38, the following words:- , which shall
3354 be made available electronically to the general public not later than the earliest date established
3355 for reports in section 12 of chapter 7A.

3356 SECTION 99. Said section 24 of said chapter 10, as so appearing, is hereby further
3357 amended by striking out the last paragraph.

3358 SECTION 100. Section 24A of said chapter 10 is hereby amended by striking out
3359 subsection (b), as so appearing, and inserting in place thereof the following subsection:-

3360 (b) The revenues derived from the sale of multi-jurisdictional tickets or shares shall be
3361 apportioned under section 25.

3362 SECTION 101. Section 25 of said chapter 10, as so appearing, is hereby amended by
3363 striking out clause (c) and inserting in place thereof the following clause:- (c) the balance shall
3364 be used to fund budgeted aid to cities and towns as provided in section 18C of chapter 58,
3365 subject to appropriation.

3366 SECTION 102. Said chapter 10 is hereby further amended by inserting after section 26
3367 the following section:-

3368 Section 26A. (a) The director shall operate and administer an office of performance
3369 management and innovation that shall, without limitation, administer this section. All
3370 departments of the commission shall report to the office of performance management and
3371 innovation with regard to setting goals and establishing performance measures to improve the
3372 commission and the departments’ operations.

3373 (b) The director shall establish a performance measurement system for the departments of
3374 the commission, which shall establish program goals, measure program performance against
3375 those goals and report publicly on progress to improve the effectiveness of the state lottery.

3376 (c) The office of performance management and innovation shall be charged with
3377 evaluating the goals and measures established by the commission and its departments and
3378 monitoring the results reported. The office shall recommend changes to proposed goals and

3379 measures as are appropriate to align goals and measures with the strategic priorities of the
3380 commission and the director. The office shall report regularly to the public on the commission's
3381 and its departments' progress toward achieving stated goals. The office shall be responsible for
3382 reporting publicly and transparently and making all reports available through an on-line system.

3383 The director shall use the performance criteria established under this section to determine
3384 the quality of service of all private entities that perform services on behalf of the commission.
3385 The results of such performance measures shall be criteria used in negotiating any contracts.

3386 SECTION 103. The second paragraph of section 35 of said chapter 10, as amended by
3387 section 5 of chapter 194 of the acts of 2011, is hereby further amended by striking out clause (c)
3388 and inserting in place thereof the following clause:-

3389 (c) For budgeted aid to cities and towns as provided in section 18C of chapter 58, subject
3390 to appropriation; and

3391 SECTION 104. Section 37 of said chapter 10, as appearing in the 2010 Official Edition,
3392 is hereby amended by striking out, in lines 31 and 32, the words "Local Aid Fund established
3393 under the provisions of section 2D of chapter 29" and inserting in place thereof the following
3394 words:- State Lottery and Gaming Fund.

3395 SECTION 105. Subsection (c) of section 39 of said chapter 10, as amended by section 6
3396 of chapter 194 of the acts of 2011, is hereby further amended by striking out the words "Local
3397 Aid Fund" and inserting in place thereof the following words:- General Fund.

3398 SECTION 106. Section 2 of chapter 11 of the General Laws, as appearing in the 2010
3399 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words " , with the
3400 consent of the governor and council,".

3401 SECTION 107. Said section 2 of said chapter 11, as so appearing, is hereby further
3402 amended by striking out, in line 4, the words " , with the consent of the governor and council".

3403 SECTION 108. Section 5 of said chapter 11, as so appearing, is hereby amended by
3404 striking out, in line 1, the words "He may, subject to confirmation by the governor," and
3405 inserting in place thereof the following words:- The state auditor may.

3406 SECTION 109. Section 1 of chapter 14 of the General Laws, as so appearing, is hereby
3407 amended by inserting after the word “administration”, in line 4, the following words:- and
3408 finance.

3409 SECTION 110. Section 1A of said chapter 14, as so appearing, is hereby amended by
3410 inserting after the word “administration”, in line 6, the following words:- and finance.

3411 SECTION 111. Section 3 of said chapter 14, as so appearing, is hereby amended by
3412 adding the following words:- and finance.

3413 SECTION 112. The General Laws are hereby amended by striking out chapter 29 and
3414 inserting in place thereof the following chapter:-

3415 CHAPTER 29

3416 STATE FINANCE

3417 Section 1. All words and terms defined by section 1 of chapter 7C and appearing in this
3418 chapter, except for the phrases “state agency” and “state authority”, shall have the meaning
3419 defined in that section, unless the context shall indicate another meaning or intent.

3420 As used in this chapter, the following words shall, unless the context clearly requires
3421 otherwise, have the following meanings:-

3422 “Account”, a separate 8-digit number designated in the state accounting system to
3423 separately record budgetary, bond, federal or trust funds.

3424 “Agency head” or “department head”, the administrative head of a state agency,
3425 department, board, bureau, office or division of the commonwealth who has been authorized
3426 through legislation to obligate and expend funds, comply with legislative mandates and make
3427 any certifications or approvals required under this chapter or other state or federal laws or
3428 regulations requiring an agency head certification or approval.

3429 “Allotment”, that portion of an appropriation that may be spent by a department for a
3430 specified period as determined by the governor or the secretary of administration and finance
3431 under section 9B.

3432 “Allowable growth”, the product of the percentage change in the personal income of
3433 residents of the commonwealth as most recently reported by the federal Bureau of Economic
3434 Analysis, from the index so reported 12 months before, and a factor of .5.

3435 “Appropriation”, the authorization by the general court with the approval of the governor,
3436 or by overriding the governor’s objection to the authorization, of the expenditure of budgeted
3437 revenues from a specified fund for a specified purpose up to a specified maximum amount for a
3438 specified period of time.

3439 “Balanced budget”, a condition of state finance in which the following requirements are
3440 met:

3441 (i) the consolidated net surplus at the end of the fiscal year is greater than or equal to .5
3442 per cent of state tax revenues for such fiscal year; and

3443 (ii) the amount transferred to the stabilization fund under subsection (a) of section 5C is
3444 greater than or equal to .5 per cent of state tax revenue for such fiscal year.

3445 “Bond authorization”, authorization by the legislature under section 3 of article LXII of
3446 the Amendments to the Constitution to borrow money.

3447 “Bond fund”, a fund of the commonwealth into which bond revenues are deposited and
3448 from which spending may occur.

3449 “Bond revenues”, the proceeds of bonds issued by the commonwealth and the interest
3450 earned on those bonds.

3451 “Budget director”, the administrative head of the fiscal affairs division within the
3452 executive office for administration and finance.

3453 “Budgetary funds”, state funds which are subject to appropriation as provided in section
3454 6.

3455 “Budgeted revenues”, all income in the budgetary funds from state taxes, departmental
3456 revenues, including retained revenues, federal reimbursements and transfers of budgeted
3457 revenues among funds, but not including federal grants.

3458 “Capital appropriation”, an authorization by the general court of the expenditure of bond
3459 revenues, with the approval of the governor or by legislative override of a gubernatorial
3460 objection to such an authorization.

3461 “Consolidated net surplus”, the sum of the undesignated balances in the budgetary funds,
3462 except funds established by section 2H and section 2I and by section 2C of chapter 131 and
3463 section 35NN of chapter 10.

3464 “Deficiency”, a condition of state finance in which expenditures during a fiscal year are
3465 expected to exceed the appropriation that authorizes those expenditures.

3466 “Departmental revenues”, all income from state agency fees, whether established under
3467 section 3B of chapter 7 or otherwise, lottery receipts, fines, assessments, charges or court
3468 judgments, including retained revenues and the earnings on all state revenues.

3469 “Direct appropriation”, a first-time appropriation of budgeted revenues, from sources
3470 other than retained revenues.

3471 “Direct debt”, the sum of the principal amounts of all direct debt issued by the
3472 commonwealth to finance state projects and purposes, including obligations for leases for capital
3473 projects, except debt issued on a short-term basis in anticipation of receipts from taxes and other
3474 sources.

3475 “Federal grant”, any financial assistance available to a state agency from the United
3476 States government, either directly or through an intermediary, including a project, formula, or
3477 block grant, a subvention, a subsidy, an augmentation or a state plan but excluding federal
3478 reimbursements.

3479 “Federal reimbursements”, financial assistance provided under Titles XVIII or XIX of the
3480 Social Security Act or other reimbursements received for state entitlement expenditures and
3481 credited to the General Fund, or other federal financial assistance from the United States
3482 government for direct payments to individuals, or for other purposes as provided for in section
3483 2ZZZ, section 34 of chapter 90, chapter 92 and section 48 of chapter 151A.

3484 “Fund”, an accounting entity established by general or special law to record all financial
3485 resources or revenues, together with all related expenditures or liabilities, that have been
3486 segregated for a particular purpose including, but not limited, to a grouping of related accounts
3487 into which resources have been further segregated for specific activities and purposes.

3488 “Line-item”, a separate unit of appropriation identified by an 8-digit number representing
3489 a specific spending account authorized for a specific purpose and a defined amount.

3490 “Prior appropriation continued” or “PAC”, the re-appropriation of unexpended and
3491 unencumbered monies from one fiscal year for the following fiscal year.

3492 “Retained revenue”, income of a state agency or other public instrumentality, derived
3493 from its operations and which, by law, such agency or instrumentality may expend for a
3494 particular purpose up to a specified limit, without further appropriation, which would otherwise
3495 be subject to direct appropriation.

3496 “Retained revenue line-item”, a line-item which allows a state agency or other public
3497 instrumentality to use retained revenue during the fiscal year in which such revenue is received
3498 to maintain all or a portion of its operations.

3499 “Revenue account”, a unique account established by the comptroller to record the
3500 collection of revenue by a state agency.

3501 “Secretary”, the officer in charge of each executive office established by chapter 6A or
3502 chapter 7 and the supreme judicial court.

3503 “State agency” or “state department”, a legal entity of state government established by the
3504 General Court as an agency, board, bureau, department, office or division of the commonwealth
3505 with a specific mission, which may either report to cabinet-level units of government, known as
3506 executive offices or secretariats, or be independent divisions or departments.

3507 “State authority” a body politic and corporate constituted as a public instrumentality of
3508 the commonwealth and established by an act of the General Court to serve an essential
3509 governmental function; provided, however, that state authority shall not include: (1) a state
3510 agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic
3511 for which the governing body is elected, in whole or in part, by the general public or by
3512 representatives of member cities or towns.

3513 “State revenue”, inflows from tax and nontax sources that, by law, shall be accounted and
3514 reported to a fund.

3515 “State tax revenues”, the revenues of the commonwealth from every tax, surtax, receipt,
3516 penalty and other monetary exaction and interest in connection therewith including, but not
3517 limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use,
3518 meals, motor vehicle fuels, businesses and corporations, financial institutions, insurance
3519 companies, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room
3520 occupancy and pari-mutuel wagering, but excluding revenues collected by the state from local
3521 option taxes for further direct distribution to cities and towns.

3522 “Surplus”, a condition of state finance in which an appropriation is expected to exceed
3523 expenditures from that appropriation during a fiscal year.

3524 “Tax expenditures”, state tax revenue foregone as a direct result of any general or special
3525 law which allows exemptions, deferrals, deductions from or credits against taxes imposed on
3526 income, businesses and corporations, financial institutions, insurance and sales but excluding
3527 revenue foregone as a direct result of any general or special law which allows a personal income
3528 tax exemption. Sales that do not involve tangible personal property shall not result in tax
3529 expenditures under this definition.

3530 “Trust”, an account or fund into which are deposited monies held by the commonwealth
3531 or state agencies in a trustee capacity and which must be expended in accordance with the terms
3532 of the trust.

3533 Section 2. There shall be a General Fund of the commonwealth, into which all revenue
3534 payable to the commonwealth shall be paid, except revenue required by law to be paid into a
3535 fund other than the General Fund and revenue for or on account of sinking funds, trust funds or
3536 trust deposits, which funds shall be maintained and the revenue applied in accordance with law
3537 or the purposes of the fund.

3538 All such revenue shall be deposited in and credited to the General Fund or other state
3539 funds during the fiscal year in which it is received. In the event that a question arises as to the
3540 correct year to credit the receipt of revenues, the comptroller shall make a determination as to the
3541 correct fiscal year and the determination of the comptroller shall be conclusive. Every source of
3542 state revenue shall be classified according to a schedule of revenue accounts promulgated by the
3543 comptroller. The commonwealth’s receipt of such revenue shall be documented under rules and
3544 regulations promulgated by the comptroller.

3545 Section 2B. There shall be established and set up on the books of the commonwealth a
3546 separate fund, to be known as the Federal Capital Improvement Fund. Money received from the
3547 federal government on account of projects financed in whole or in part by appropriations
3548 authorized to be charged to said fund shall be credited to said fund.

3549 Section 2C. All income from federal grants which shall include grants in aid and
3550 subventions, received by any department, institution, board, commission, agency, officer or
3551 employee of the commonwealth from the federal government, whether directly or through an
3552 intermediary, other than grants for capital improvements as provided in section 2B, shall be paid
3553 into the treasury of the commonwealth and credited to a separate special revenue fund to be
3554 known as the General Federal Grants Fund. Each such grant shall be kept in a separate account
3555 and subject to the law regulating the disbursement of public funds and the approval thereof.

3556 Section 2H. There shall be established and set up on the books of the commonwealth a
3557 separate fund to be known as the Commonwealth Stabilization Fund, consisting of amounts
3558 transferred to the fund in accordance with section 5C and income derived from the investment of
3559 amounts so transferred. The purpose of the fund shall be to create and maintain a reserve to
3560 which any available portion of a consolidated net surplus in the operating funds shall be
3561 transferred and from which appropriations may be made for the following purposes: (1) to make
3562 up any difference between actual state revenues and allowable state revenues in any fiscal year in
3563 which actual revenues fall below the allowable amount and (2) to replace the state and local loss
3564 of federal funds or (3) for any event which threatens the health, safety or welfare of the people or
3565 the fiscal stability of the commonwealth or any of its political subdivisions. Such event or events,
3566 as determined by the general court, shall include, but not limited to, a substantial decline in
3567 economic indicators which result in severe reductions in state revenues or state financial
3568 assistance to local governmental units, or court ordered or otherwise mandated assumptions by
3569 the commonwealth of programs or costs of programs previously borne by local governmental
3570 units. The determination by the general court to transfer and appropriate for any such purpose
3571 shall be made, after a hearing before the joint committee on ways and means and a
3572 comprehensive analysis of alternative legislative action and revenue sources, upon a finding that
3573 the transfer and appropriation will not adversely affect the overall fiscal health of the
3574 commonwealth, taking into account indicators of future economic performance and conditions
3575 affecting state revenues.

3576 If the amount remaining in the fund at the close of a fiscal year exceeds 15 per cent of the
3577 budgeted revenues and other financial resources pertaining to the budgeted funds, as confirmed
3578 by the comptroller in the audited statutory basis financial report for the immediately preceding
3579 fiscal year, the amounts so in excess shall be transferred to the Tax Reduction Fund established
3580 by section 2I.

3581 Upon receiving a written joint certification from the commissioner of revenue and the
3582 attorney general that a state agency is in receipt of a 1-time settlement or judgment for the
3583 commonwealth, of which the net value to the commonwealth of the proceeds of that settlement
3584 or judgment, after all restitution or other remedial payments are made pursuant to the settlement

3585 or judgment, exceeds \$10,000,000 in any 1 fiscal year, the comptroller shall transfer said
3586 proceeds from the General Fund to the Stabilization Fund established under this section.

3587 Section 2I. There shall be established and set up on the books of the commonwealth a
3588 separate fund to be known as the Tax Reduction Fund, consisting of amounts transferred to the
3589 fund under section 2H and income derived from the investment of amounts so transferred. The
3590 purpose of the fund shall be to maintain a reserve which shall be used only to reduce personal
3591 income taxes as provided in this section.

3592 On or before October 31, the comptroller shall certify to the governor the total amount in
3593 the Tax Reduction Fund as shown in the financial report of the comptroller for the preceding
3594 fiscal year. A temporary increase in the amounts of the personal exemption allowable on the
3595 income tax shall be provided, subject to appropriation, for the taxable year ending on the
3596 succeeding December 31 to the extent that the amount in the Tax Reduction Fund equals an
3597 integer multiple of 5 per cent of the amount of the personal income taxes which will not be
3598 collected for said taxable year on account of such personal exemptions. The commissioner of
3599 revenue shall calculate the amount of the temporary increase, if any, in such personal exemptions
3600 for said taxable year. The comptroller shall transfer the amount equal to such integer multiple of
3601 5 per cent of the amounts not collected due to such personal exemptions from the Tax Reduction
3602 Fund to the General Fund.

3603 Section 2L. There shall be established and set up on the books of the commonwealth a
3604 separate fund, to be known as the Water Pollution Abatement Revolving Fund, consisting of
3605 amounts credited to the fund under chapter 29C. The fund shall be administered under said
3606 chapter 29C by the board of trustees of the water pollution abatement trust created under that
3607 chapter and shall be held in trust exclusively for the purposes and the beneficiaries described in
3608 that chapter. The state treasurer shall be treasurer-custodian of the fund and shall have the
3609 custody of its monies and securities.

3610 Section 2O. When authorized by a vote taken by the yeas and nays of two-thirds of each
3611 house of the general court present and voting on such authorization, including any authorization
3612 in effect as of July 1, 2009, the state treasurer, upon the request of the governor, may issue bonds
3613 of the commonwealth as hereinafter provided. Any such bonds shall be special obligations of the

3614 commonwealth payable solely from monies credited to the Commonwealth Transportation Fund
3615 established in section 2ZZZ; provided, however, that notwithstanding any general or special law
3616 to the contrary, including without limitation section 60A, such bonds shall not be general
3617 obligations of the commonwealth. Bonds may be issued in such manner and on such terms and
3618 conditions as the state treasurer may determine in accordance with this paragraph and, to the
3619 extent not inconsistent with this paragraph, the General Laws for the issuance of bonds of the
3620 commonwealth. Bonds may be secured by a trust agreement entered into by the state treasurer,
3621 with the concurrence of the secretary of administration and finance and the secretary of
3622 transportation, on behalf of the commonwealth, which trust agreement may pledge or assign all
3623 or any part of monies credited to the Commonwealth Transportation Fund and rights to receive
3624 the same, whether existing or coming into existence and whether held or thereafter acquired, and
3625 the proceeds thereof. The state treasurer may, with the concurrence of the secretary of
3626 administration and finance and the secretary of transportation, enter into additional security,
3627 insurance or other forms of credit enhancement which may be secured on a parity or subordinate
3628 basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement
3629 shall be valid and binding from the time such pledge shall be made without any physical delivery
3630 or further act, and the lien of such pledge shall be valid and binding against all parties having
3631 claims of any kind in tort, contract or otherwise, whether such parties have notice thereof or not.
3632 Any such pledge shall be perfected by filing of the trust agreement or credit enhancement
3633 agreement in the records of the state treasurer and no filing need be made under chapter 106.
3634 Any such trust agreement or credit enhancement agreement may establish provisions defining
3635 defaults and establishing remedies and other matters relating to the rights and security of the
3636 holders of the bonds or other secured parties as determined by the state treasurer, including
3637 provisions relating to the establishment of reserves, the issuance of additional or refunding
3638 bonds, whether or not secured on a parity basis, the application of receipts, monies or funds
3639 pledged pursuant to such agreement , the regulation of the custody, investment and application of
3640 monies and such other matters deemed necessary or desirable by the state treasurer for the
3641 security of such bonds. Any such bonds shall be deemed to be investment securities under
3642 chapter 106, securities in which any public officer, fiduciary, insurance company, financial
3643 institution or investment company may properly invest funds and securities which may be
3644 deposited with any public custodian for any purpose for which the deposit of bonds is authorized

3645 by law. Any such bonds, the transfer of such bonds and the income from such bonds, including
3646 profit on the sale of such bonds, shall at all times be exempt from taxation by and within the
3647 commonwealth.

3648 The provisions of this section relating to bonds shall also be applicable to the issuance of
3649 notes insofar as such provisions may be appropriate for such bonds.

3650 In order to increase the marketability of any such bonds or notes issued by the
3651 commonwealth and in consideration of the acceptance of payment for any such bonds or notes,
3652 the commonwealth covenants with the purchasers and all subsequent holders and transferees of
3653 any such bonds or notes that while any such bond or note shall remain outstanding, and so long
3654 as the principal of or interest on any such bond or note shall remain unpaid: (i) no pledged funds
3655 shall be diverted from the Commonwealth Transportation Fund; (ii) in any fiscal year of the
3656 commonwealth and until an appropriation has been made which is sufficient to pay the principal,
3657 including sinking fund payments, of and interest on all such bonds and notes of the
3658 commonwealth and to provide for or maintain any reserves, additional security, insurance or
3659 other forms of credit enhancement required or provided for in any trust agreement securing any
3660 such bonds or notes, no pledged funds shall be applied to any other use; and (iii) so long as such
3661 revenues are necessary, as determined by the state treasurer in accordance with any applicable
3662 trust agreement or credit enhancement agreement, for the purposes for which they have been
3663 pledged, and notwithstanding any general or special law to the contrary, the rates of the fees
3664 collected under sections 33 and 34 of chapter 90 and of the excises imposed in chapters 64A,
3665 64E and 64F shall not be reduced below the amount in effect at the time of issuance of any such
3666 bond or note.

3667 Section 2Q. There shall be established and set up on the books of the commonwealth a
3668 separate fund to be known as the Intragovernmental Service Fund. There shall be credited to
3669 such fund all revenues generated through the charging of any state agency for services provided
3670 by another state agency including, but not limited to, charges levied by the human resources
3671 division for workers' compensation chargeback.

3672 Amounts credited to said fund shall be expended subject to appropriation.

3673 Section 2V. There shall be established and set up on the books of the commonwealth a
3674 separate fund to be known as the Dairy Equalization Fund. There shall be credited to such fund
3675 all monies payable under sections 10, 11 and 12 of chapter 94A and any interest earned on
3676 monies within the fund. Amounts credited to said fund shall be made available by the state
3677 treasurer, without further appropriation, exclusively for the purposes of said chapter 94A, only
3678 after receipt of notice certified by the commissioner of the department of food and agriculture
3679 that amounts are due under said chapter 94A. Said commissioner shall file quarterly reports with
3680 the house and senate clerk and the house and senate committees on ways and means regarding
3681 the distribution of monies from the fund.

3682 Section 2W. There shall be established and set up on the books of the commonwealth a
3683 separate fund to be known as the Water Pollution Abatement and Drinking Water Projects
3684 Administration Fund. There shall be credited to said fund any amounts transferred under sections
3685 5 and 18 of chapter 29C and any income derived from the investment of amounts credited to said
3686 fund. Amounts credited to said fund shall be held in an expendable trust and the department of
3687 environmental protection shall report monthly all amounts credited to said fund and all
3688 expenditures by subsidiary on the Massachusetts management and accounting reporting system,
3689 so-called. Said amounts shall be used solely for the administration of section 27A of chapter 21
3690 and section 18 of said chapter 29C.

3691 Section 2Z. There shall be established and set up on the books of the commonwealth a
3692 separate fund to be known as the Commonwealth Sewer Rate Relief Fund. The fund shall consist
3693 of all amounts credited to the fund and any income derived from the investment of amounts
3694 credited to the fund. All amounts credited to the fund shall be held in trust and used solely for the
3695 purposes of this section. Amounts credited to the fund shall be available to mitigate sewer rate
3696 increases due to debt service obligations created by issuing eligible indebtedness. For the
3697 purposes of this section, eligible indebtedness shall mean debt issued on or after January 1, 1990,
3698 which has a final date of maturity more than 5 years after the date of issuance and which is
3699 incurred, wholly or in substantial part, to finance or refinance the cost of planning, design or
3700 construction of a water pollution abatement project, or part of such a project, required to be
3701 constructed to meet the Federal Water Pollution Control Act, 33 U.S.C. sections 1251 et seq.,
3702 and sections 26 to 53, inclusive, of chapter 21, or any wastewater collection or transportation

3703 project related thereto. Eligible indebtedness shall not include any indebtedness for which the
3704 issuer has received assistance provided from state grants. Notwithstanding this section, eligible
3705 indebtedness shall include indebtedness incurred to finance the Metrowest Water Supply Tunnel
3706 and the Chicopee Valley Aqueduct Redundancy Project. Eligible indebtedness shall include
3707 indebtedness incurred under loan agreements under chapter 275 of the acts of 1989 which
3708 exceeded \$50,000,000 by June 30, 1995, and the debt service attributable to those agreements for
3709 any year, for purposes of this section, shall be the net obligation borne by the issuer after
3710 application of any credits, subsidies or assistance, however characterized, provided under the
3711 aforementioned laws. No city, town, district, commission, agency, authority, board or other
3712 instrumentality of the commonwealth or any of its political subdivisions which is responsible for
3713 the ownership or operation of wastewater treatment projects and is authorized to finance all or
3714 any part of the cost of such projects through the issuance of eligible indebtedness, in this section
3715 called an issuer, shall receive relief authorized by this section in excess of 20 per cent of its
3716 annual debt service obligations due to eligible indebtedness. The division of local services of the
3717 department of revenue, in consultation with the department of environmental protection, shall
3718 develop guidelines to certify an issuer' eligible indebtedness and shall create a process to
3719 distribute funds equitably to eligible issuers, in order to mitigate extraordinary increases in sewer
3720 costs. Funds disbursed in any fiscal year shall be disbursed on or before March 31 of the fiscal
3721 year. The board, office or commission responsible for setting sewer charges in each city, town,
3722 district or commission that either receives aid itself or is a member of a regional entity that
3723 receives aid under this section shall certify to the division of local services that it has reduced
3724 sewer charges to reflect its share of any such aid. No expenditure shall cause the fund to be in
3725 deficit at the end of the fiscal year.

3726 Section 2JJ. There shall be established and set up on the books of the commonwealth a
3727 separate fund to be known as the Child Care Quality Fund. There shall be credited to said Fund
3728 revenues received from the sale of Invest in Children distinctive registration plates issued under
3729 subsection (b) of section 2E of chapter 90. Amounts credited to said fund shall be available for
3730 expenditure by the commissioner of early education and care for providing grants to not for
3731 profit child care organizations for the purpose of improving child care services including, but not
3732 limited to, teacher training, training and education of consumers and parents, the purchase of
3733 educational curricula and materials, specialized training for bilingual and bicultural providers

3734 and consumers and technical assistance for acquiring accreditation by the National Association
3735 for the Education of Young Children.

3736 Section 2QQ. There shall be established and set up on the books of the commonwealth a
3737 separate fund, to be known as the Drinking Water Revolving Fund, consisting of amounts
3738 credited to the fund under chapter 29C. The fund shall be administered under said chapter 29C
3739 by the board of trustees of the water pollution abatement trust created under that chapter and
3740 shall be held in trust exclusively for the purposes and the beneficiaries described in that chapter.
3741 The state treasurer shall be treasurer and custodian of the fund and shall have the custody of its
3742 moneys and securities.

3743 Section 2RR. (a) There is hereby established and set up on the books of the
3744 commonwealth a separate fund to be known as the Workforce Training Fund, in this section
3745 called the Fund. There shall be credited to the Fund the workforce training contributions required
3746 by section 14L of chapter 151A. The director of the department of career services may contract
3747 with the Commonwealth Corporation to administer the fund. For the purpose of accommodating
3748 discrepancies between the receipt of revenues and related expenditures, the director of career
3749 services may incur obligations and the comptroller may certify payment amounts not to exceed
3750 the most recent revenue estimate submitted by the department and approved by the comptroller;
3751 provided, however, that the fund shall be in balance by the close of each fiscal year.

3752 (b) Subject to appropriation, the director of the department of career services shall make
3753 expenditures from the Fund for the following purposes:

3754 (1) To provide grants to employers, employer groups, labor organizations and training
3755 providers for projects to provide education and training to existing employees and newly hired
3756 workers. In determining who shall receive grants, the director shall consider the following
3757 criteria:

3758 (i) whether the project will increase the skills of low-wage, low-skilled workers;

3759 (ii) whether the project will create or preserve jobs at wages sufficient to support a
3760 family;

3761 (iii) whether the project will have a positive economic impact on a region with
3762 high levels of unemployment or a high concentration of low-skilled workers;

3763 (iv) whether the employer has made a commitment to provide significant private
3764 investment in training during the duration of the grant and after the grant has expired;

3765 (v) whether the project will supplement, rather than replace, private investments
3766 in training;

3767 (vi) whether the employer is a small business that lacks the capacity to provide
3768 adequate training without such assistance;

3769 (vii) whether the project will provide residents of the commonwealth with training
3770 for jobs that could otherwise be filled only by residents of other nations; and

3771 (viii) whether the project is consistent with the workforce development blueprint
3772 prepared by the regional employment board.

3773 (ix) whether the employer has recently or plans to locate its business in the
3774 commonwealth and employ residents of the commonwealth who will benefit from training,
3775 provided that said employer shall not receive funds until said employer has located its business
3776 in the commonwealth.

3777 Such grants shall be for amounts not to exceed \$250,000 and shall be for a term not to
3778 exceed 2 years.

3779 (2) To provide technical assistance to increase training opportunities available to
3780 employees. The director may provide this direct technical assistance by using existing
3781 institutions such as regional employment boards, community colleges, labor organizations,
3782 administrative entities for service delivery areas under the federal Job Training Partnership Act,
3783 and other entities that have expertise in providing technical assistance regarding employee
3784 training or with employees of the executive office workforce development or of the
3785 Commonwealth Corporation. Such expenditures shall not exceed \$3,000,000 each year and the
3786 director shall demonstrate that each dollar expended generates not less than \$5 in private
3787 investment in job training.

3788 (d) Not later than September 1 of each year, the director shall file a report in writing with
3789 the joint committee on labor and workforce development and the house and senate committees
3790 on ways and means concerning the grants made in the fiscal year ending on the preceding June
3791 30, together with such recommendations and additional information as the director considers
3792 appropriate.

3793 (e) Documentary materials or data made or received by an employee of the department of
3794 career services, or previously by the department of workforce development or the
3795 Commonwealth Corporation, to the extent that such materials or data consist of trade secrets or
3796 commercial or financial information regarding the operation of a business conducted by an
3797 applicant for a grant from the fund established by this section, shall not be public records and
3798 shall not be subject to section 10 of chapter 66.

3799 (f) The director, in consultation with the secretary of labor and workforce development
3800 and the secretary of housing and economic development, shall adopt regulations to carry out this
3801 section, including the criteria paragraph (1) of subsection (b). The regulations shall provide for a
3802 rolling applications process and shall allow employers with plans to locate in the commonwealth
3803 and employ commonwealth residents to apply for grants. The director may contract with a
3804 private organization to carry out some or all of the director's duties provided in this section.

3805 The board may require a match or co-investment from participating organizations;
3806 provided, however, that in determining the amount of any match, the board shall establish
3807 different requirements for organizations based on the size of the organization, its profit or not-
3808 for-profit status and financial capacity.

3809 (h) The director shall, in accordance with section 328 of chapter 127 of the acts of 1999,
3810 prepare a performance evaluation of the workforce training grants awarded under this section.
3811 The evaluation shall assess the effectiveness of each grant awarded in terms of the: (1)
3812 development of employee skills; (2) increase in employee wages; (3) improvement in employee
3813 retention rates; (4) improvement of employee productivity; (5) impact on employer's business;
3814 and (6) impact on regional economy, including reduction of regional unemployment levels. As a
3815 condition of receiving a grant under this section, the director shall require employers to provide,
3816 within a time frame following the end of the grant period as established by the director, such

3817 information and data determined by the director to be necessary to complete the performance
3818 evaluation.

3819 (i) The director shall make no grant under this section to any person or entity from the
3820 Fund, nor shall any technical assistance be provided by the department out of the proceeds of the
3821 Fund, to any person or entity unless the person or entity applies for and receives a certificate of
3822 tax in good standing with the department of revenue with respect to all tax types for which it
3823 should be registered and for which it is obligated to file reports or returns. A certified copy of the
3824 certificate shall be presented to the director before the issuance of any grant under this section
3825 and before the department provides any technical assistance to any person or entity.

3826 (j) There is hereby established a board to be known as the Workforce Training Fund
3827 Advisory Board, consisting of 9 members, who shall be citizens of the commonwealth, to be
3828 appointed by the governor. Of the 9 members: 3 members shall be persons representing
3829 businesses or employers; 3 shall be persons representing employees or employees of labor
3830 organizations, 2 of whom shall be selected from a list of 5 recommended by the President of the
3831 Massachusetts AFL-CIO; and 3 shall be persons representative of the public, 2 of whom shall
3832 have expertise or experience in workforce training and 1 of whom shall represent a non-profit
3833 workforce training provider. The governor shall designate as chairman of the advisory board 1 of
3834 the members appointed as representative of the public. Members shall serve for a term of 6 years.
3835 Of the members originally appointed, 1 employer representative and 1 employee representative
3836 shall serve for a term of 4 years, and 1 employer representative and 1 employee representative
3837 shall serve for a term of 6 years; and thereafter, as their terms expire, the governor shall appoint
3838 members for terms of 6 years. Vacancies shall be filled by appointment by the governor for the
3839 remainder of the unexpired term. All members shall serve until the qualification of their
3840 respective successors. Members shall serve without compensation. The advisory board shall
3841 advise the director of the department of career services on the administration of the workforce
3842 training fund grant program including, but not limited to, reviewing and making
3843 recommendations on grant requirements and selection criteria and reviewing grant applications
3844 and making recommendations relative to grant awards. The advisory board shall, from time to
3845 time, submit recommendations to the legislature on any legislative changes it deems necessary
3846 for the successful operation of the program.

3847 (k) To provide technical assistance to increase training opportunities available to
3848 employees. The director may provide this direct technical assistance by using existing
3849 institutions such as local workforce investment boards, community colleges, labor organizations,
3850 administrative entities for service delivery areas under the federal Workforce Investment Act, or
3851 its successor statute, and other entities that have expertise in providing technical assistance
3852 regarding employee training or with employees of the executive office of labor and workforce
3853 development or of the Commonwealth Corporation. Such expenditures shall not exceed
3854 \$3,000,000 each year and the director shall demonstrate that each dollar expended generates not
3855 less than \$5 in private investment in job training. Of the \$3,000,000, not less than \$75,000 shall
3856 be provided annually to the Workforce Investment Board Association to support the activities of
3857 business, labor, education, youth councils and community members in leading regional
3858 workforce development systems; each of the 16 workforce investment boards shall receive
3859 \$75,000 annually; and each of the 16 workforce investment boards shall receive \$20,000
3860 annually for youth councils.

3861 Section 2TT. There is hereby established and set up on the books of the commonwealth a
3862 separate fund to be known as the Liability Management and Reduction Fund. The fund shall
3863 provide: (1) insurance coverage to state agencies by charging premiums to such agencies for the
3864 payment of judgments and settlements and the commonwealth's investigation and litigation costs
3865 in connection with tort claims under chapter 258; (2) services to reduce the number and size of
3866 claims against agencies including, but not limited to, risk reduction training programs and
3867 incentive payments of not more than \$1,000 for effective risk reduction suggestions; and (3) such
3868 other services and activities as the comptroller shall determine are desirable to create financial
3869 and other incentives for agencies to reduce the commonwealth's tort and other monetary liability,
3870 including litigation costs. The fund shall consist of premiums charged to agencies, any amounts
3871 appropriated for the purposes of the fund and interest income from investments made by the state
3872 treasurer of amounts in the fund. Monies in the fund shall be expended by the comptroller under
3873 section 16 of chapter 7A, without further appropriation, for the purposes of the fund.

3874 The comptroller shall submit not later than December 31 of each year to the house and
3875 senate committees on ways and means, the secretary of administration and finance and the
3876 attorney general a report of the activities of the fund. The report shall include a financial

3877 statement which accounts for the revenues, expenditures and changes in fund balance for the
3878 preceding fiscal year. The comptroller shall also submit to said committees and officials, not
3879 later than October 1 of each fiscal year, a financial plan presenting all expected and proposed
3880 revenues and other financial sources, expenditures and other financial uses, net gain or loss from
3881 operations and changes in fund balance. All such reports shall also specify the number and duties
3882 of employees of the fund, if any, the amount of any direct appropriation requested or expected
3883 and any other information relevant to the achievement of the purposes of the fund. The
3884 comptroller may at any time recommend in such reports statutory changes necessary to expand
3885 the scope of said section 16 of said chapter 7A and this section in order to cover claims other
3886 than those asserted under chapter 258.

3887 Section 2ZZ. (a) There is hereby established and set up on the books of the
3888 commonwealth a separate nonlapsing, revolving fund to be known as the Catastrophic Illness in
3889 Children Relief Fund, in this section called the fund. The fund shall be administered by The
3890 Catastrophic Illness in Children Relief Fund commission established in chapter 111K and shall
3891 be credited with monies received under sections 6, 9 and 10 of said chapter 111K.

3892 (b) The state treasurer, ex officio, shall be the custodian of the fund and shall receive,
3893 deposit and invest all monies transmitted to the treasurer under this section and shall credit
3894 interest and earnings on the fund to said fund.

3895 (c) The state treasurer shall adopt rules and regulations under chapter 30A on procedures
3896 for the collection of the fee established under section 9 of said chapter 111K.

3897 Section 2AAA. There shall be established and set up on the books of the commonwealth
3898 a separate fund to be known as the Health Insurance Portability and Accountability Act Fund.
3899 The fund shall provide agencies under the executive office of health and human services with
3900 funding to meet the costs of compliance with the federal Health Insurance Portability and
3901 Accountability Act of 1996, HIPAA. There shall be credited to said fund revenues from federal
3902 reimbursements from Title XIX and Title XXI of the Social Security Act attributable to funds
3903 spent for HIPAA compliance and any other federal reimbursements, grants, premiums, gifts or
3904 other contributions received for HIPAA compliance. Amounts credited to the fund shall be held

3905 as an expendable trust and shall not be subject to further appropriation. No expenditure made
3906 from the fund shall cause the fund to be in deficit at the close of any fiscal year.

3907 The secretary of health and human services may allocate amounts in said fund to agencies
3908 within said executive office to meet the costs of compliance with HIPAA if the amounts
3909 otherwise available are insufficient for such purpose, in accordance with an allocation plan to be
3910 filed in advance with the secretary of administration and finance and the house and senate
3911 committees on ways and means. The secretary of health and human services shall also file a
3912 quarterly report with the house and senate committees on ways and means containing detailed
3913 information on each agency under the executive office of health and human services including,
3914 but not limited to, the following: (a) year-to-date expenditures from said fund and estimated
3915 year-end expenditures; (b) the status of HIPAA compliance; (c) steps necessary to attain full
3916 compliance with HIPAA and the estimated associated costs; and (d) year-to-date revenues
3917 credited to said fund and estimated year-end receipts.

3918 Section 2DDD. There shall be established and set up on the books of the commonwealth,
3919 a separate fund to be known as the Department of Fire Services Hazardous Materials Emergency
3920 Mitigation Response Recovery Trust Fund, consisting of any monies appropriated to the fund by
3921 the general court, any monies recovered under chapter 21K, any monies received from fines and
3922 any income derived from the investment of monies transferred, appropriated or recovered by the
3923 fund, not to exceed \$250,000 in any fiscal year. Amounts credited to the fund shall be available
3924 for expenditure, without prior appropriation, by the state fire marshal, as head of the department
3925 of fire services, who shall act as trustee, solely for the mitigation of hazardous materials
3926 emergency response incidents throughout the commonwealth and the reimbursement of all other
3927 reasonable related costs to hazardous materials mitigation emergency response member
3928 departments, cities and towns responding to said incidents or for other reasonable expenditures
3929 necessary to implement said chapter 21K. The department of fire services may incur expenses
3930 and the comptroller may certify amounts for payment in anticipation of expected receipts.
3931 Monies deposited in the trust fund that are unexpended at the end of the fiscal year, provided that
3932 said monies do not exceed \$250,000, shall not revert to the General Fund and any funds in
3933 excess of \$250,000 shall revert to the General Fund and be made available for appropriation. No

3934 expenditures from said fund shall be authorized that would cause said fund to be deficient at the
3935 end of any fiscal year.

3936 Section 2FFF. There is hereby established and set up on the books of the commonwealth
3937 an expendable trust to be known as the Dam Safety Trust. There shall be credited to the trust all
3938 receipts and revenues generated through agreements executed between the department of
3939 conservation and recreation and public or private entities for dam safety purposes, and all fines,
3940 costs, expenses, and interest imposed under sections 44 to 48A, inclusive, of chapter 253. The
3941 amounts credited to the trust shall be available for expenditure subject to appropriation, by the
3942 department of conservation and recreation up to an amount of \$250,000 each fiscal year for the
3943 costs associated with the operations of the office of dam safety within the department, but such
3944 expenditures shall be solely for the purposes stated in this section and no funds shall be
3945 transferred from the trust to any other fund. The comptroller may assess the trust for fringe and
3946 overhead costs under section 5D and section 6B. If the amount credited to the trust exceeds
3947 \$250,000, the excess amount shall be deposited into the General Fund. No expenditure made
3948 from the fund shall cause the fund to become deficient at any point during the fiscal year.

3949 Section 2GGG. Notwithstanding any general or special law to the contrary, the executive
3950 office of health and human services and the department of public health shall deposit all monies
3951 collected as civil monetary penalties from nursing homes participating in the Medicaid program
3952 authorized by Title XIX of the Social Security Act into a separate expendable trust fund which
3953 shall be designated and known as the Commonwealth of Massachusetts Civil Monetary Penalties
3954 Fund. Monies collected as civil monetary penalties from nursing homes shall include both
3955 monies collected from Medicaid-only facilities, known as nursing facilities, and the
3956 commonwealth portion of funds collected from dually participating facilities, known as skilled
3957 nursing facilities or nursing facilities, for noncompliance with sections 1919(b), 1919(c) and
3958 1919(d) of the Social Security Act and monies collected from individuals pursuant to sections
3959 1919(b)(3)(B)(ii)(I), 1919(b)(3)(B)(ii)(II) and 1919(g)(2)(A)(i) of the Social Security Act. The
3960 department may expend monies from this fund without further appropriation in accordance with
3961 this section. The department shall administer the fund in accordance with law including, without
3962 limitation, section 1919(h)(2)(A)(ii) of the Social Security Act. The department shall expend
3963 monies in the fund for measures to protect the health and property of nursing home residents in

3964 nursing home facilities found by the department or the secretary of health and human services to
3965 be deficient including, without limitation, the following: (i) nursing facility staff training and
3966 education; (ii) technical assistance for troubled facilities; (iii) dissemination of best practice
3967 models for quality of care issues, such as malnutrition and dehydration; (iv) state operation of
3968 facilities pending correction of deficiencies or closure; (v) reimbursement of facility residents for
3969 lost personal funds or property; and (vi) costs of relocating residents from 1 facility to another.
3970 No expenditure shall cause the fund to be in deficit at the end of the fiscal year.

3971 Section 2HHH. There shall be set up on the books of the commonwealth a separate fund
3972 to be known as the Open Space Acquisition Revolving Fund. There shall be credited to the fund
3973 all revenues or other financing sources directed to the fund by appropriation, any income derived
3974 from the investing of all amounts credited to the fund and the monies from the repayment of
3975 loans from the fund. Monies credited to the fund may be expended by the department of
3976 conservation and recreation, without further appropriation, for loans to cities and towns for the
3977 acquisition of open space under section 3E of chapter 21.

3978 Section 2III. There shall be established and set up on the books of the commonwealth a
3979 separate fund to be known as the Agricultural Resolve and Security Fund, the funds of which
3980 shall be expended to foster agriculture, as defined in section 1A of chapter 128, in the
3981 commonwealth and for furthering other purposes of the department of agricultural resources as
3982 set forth in any general or special law including, but not limited to, agricultural education,
3983 support for sustainable agriculture and pollution prevention, agricultural integrated pest
3984 management programs, agricultural land preservation, control of animal diseases and emergency
3985 preparedness.

3986 The Agricultural Resolve and Security Fund may receive monies from: (1) gifts, grants
3987 and donations from public or private sources; (2) federal reimbursements and grants-in-aid; and
3988 (3) any interest earned from the fund. The state treasurer shall receive, deposit and invest funds
3989 held in such a manner as to ensure the highest interest rate available consistent with the safety of
3990 the fund. The books and records of the fund shall be subject to an annual audit by the state
3991 auditor. The department may expend such funds, subject to appropriation, and no expenditure
3992 from the fund shall cause it to be in deficiency at the close of a fiscal year. The commissioner
3993 agricultural resources shall report annually to the house and senate committees on ways and

3994 means and the joint committee on environment, natural resources and agriculture on income
3995 received into the fund and the sources of that income, any expenditure from the fund and their
3996 purposes and fund balances.

3997 Section 2JJJ. (a) There shall be established on the books of the commonwealth a separate
3998 fund to be known as the Registers Technological Fund for the benefit of the registers of deeds
3999 under the control of the state secretary. This fund shall consist of the amounts specified in and
4000 collected under section 31 of chapter 9. The state treasurer shall deposit these amounts into the
4001 fund, which shall be expended solely for the purposes of automation, modernization, operation
4002 and technological improvements at the registries of deeds. The state secretary for the benefit of
4003 the registers under the secretary's control, shall submit a spending plan to the clerks of the house
4004 of representatives and senate, who shall refer the plan to the house and senate committees on
4005 ways and means and house and senate committees on post audit and oversight. In preparing the
4006 plan, the secretary shall consult with the commonwealth's chief information officer and require
4007 that the projects and purchases funded through disbursements in this section shall be consistent
4008 with the enterprise information technology strategy, plan and information technology standards
4009 adopted by the chief information officer. All such monies shall be used to purchase information
4010 technology systems that are interoperable with other like systems that are used or will be used by
4011 all registries. The plan shall include, but not be limited to, the cost and description of all
4012 intangible, personal and real property to be purchased or services to be received and any and all
4013 personnel changes for the automation, modernization, operation and technological
4014 improvements. If the general court takes no final action relative to the plan within 30 days after
4015 the date on which the plan is first referred to those committees, the state treasurer shall disburse
4016 the funds according to the plan.

4017 (b) In conjunction with the preparation of the commonwealth' comprehensive annual
4018 financial report, the comptroller shall prepare and issue an annual report detailing the revenue
4019 and expenditure of the fund.

4020 Section 2KKK. (a) There shall be established on the books of the commonwealth a
4021 separate fund for the counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth and Nantucket,
4022 to be known as the County Registers Technological Fund, for the benefit of the registers of deeds
4023 under the control of the governments of those counties. The fund shall consist of the amounts

4024 specified in and collected under section 41 of chapter 36. The state treasurer shall deposit these
4025 amounts into the fund, which shall be expended, subject to section 40 of said chapter 36, solely
4026 for the purposes of automation, modernization, operation and technological improvements at the
4027 registries of deeds. Each such register shall submit a spending plan to the clerks of the house of
4028 representatives and senate, who shall refer the plan to the house and senate committees on ways
4029 and means and house and senate committees on post audit and oversight. In preparing the plan,
4030 the register shall consult with the commonwealth's chief information officer and the state
4031 secretary and require that the projects and purchases funded through disbursements in this
4032 section shall be consistent with the enterprise information technology strategy, plan information
4033 and technology standards adopted by the chief information officer. All such monies shall be used
4034 to purchase information technology systems that are interoperable with other like systems that
4035 are used or will be used by all registries. The plan shall include, but not be limited to, the cost
4036 and description of all intangible, personal and real property to be purchased or services to be
4037 received for the automation, modernization, operation and technological improvements. If the
4038 general court takes no final action relative to the plan within 30 days after the date on which the
4039 plan is first referred to those committees, the state treasurer shall disburse the funds according to
4040 the plan.

4041 (b) In conjunction with the preparation of the commonwealth' comprehensive annual
4042 financial report, the comptroller shall prepare and issue an annual report detailing the revenue
4043 and expenditure of the fund.

4044 Section 2LLL. There is hereby established and set up on the books of the commonwealth
4045 a separate fund to be known as the Firearms Fingerprint Identity Verification Trust Fund.
4046 Amounts credited to such fund shall be available, without further appropriation, to the
4047 department of state police to finance fingerprint identification verifications with the fingerprint
4048 records maintained by the Federal Bureau of Investigations or any other federal agency for the
4049 verification of firearms license applicant identities. \$25 of the fee assessed under sections 122,
4050 122B, 129B, 131, 131A, 131F, and 131H of chapter 140 shall be deposited into the fund. The
4051 funds shall be utilized for the sole purpose of making payments charged to the department by the
4052 Federal Bureau of Investigations or other entity for fingerprint identification verification.

4053 Section 2MMM. (a) There is hereby established and set up on the books of the
4054 commonwealth a separate fund to be known as the Massachusetts Science, Technology
4055 Engineering, and Mathematics Grant Fund, hereinafter referred to as the Pipeline Fund, to which
4056 shall be credited any appropriations, bond proceeds or other monies authorized by the general
4057 court and specifically designated to be credited to that fund, and any additional funds designated
4058 by the corporation for deposit into the Pipeline Fund, including any pension funds, federal grants
4059 or loans, or private donations made available to the commissioner of higher education for deposit
4060 into the fund. The board of higher education shall hold the Pipeline Fund in an account or
4061 accounts separate from other funds or accounts. Amounts credited to the Pipeline Fund shall be
4062 used by the chancellor of higher education, in consultation with the Massachusetts Development
4063 Finance Agency, the Massachusetts Technology Park Corporation and the Robert H. Goddard
4064 Council on Science, Technology Engineering, and Mathematics Education, established under
4065 section 4A of chapter 15A, in this section, referred to as “the council”.

4066 (b) The public purpose of the Pipeline Fund shall be to increase the number of students
4067 who participate in programs that support careers in fields related to science, technology,
4068 engineering and mathematics. In furtherance of this public purpose, and in a manner consistent
4069 with the recommendations of the council, the commissioner of higher education, in consultation
4070 with the commissioner of education and the president of the University of Massachusetts, shall
4071 employ the Pipeline Fund through grants and other disbursements and activities that are
4072 calculated to increase the number of qualified science, technology, engineering and mathematics
4073 teachers and to improve the science, technology, engineering and mathematics educational
4074 offerings available in public and private schools. The grants and other disbursements and
4075 activities may involve, without limitation, the University of Massachusetts, state universities and
4076 community colleges, business and industry partnerships, workforce investment boards, private
4077 colleges and universities, and public and private school districts to further the purposes of the
4078 Pipeline Fund. The grants and other disbursements and activities may support, without
4079 limitation: (i) the development and use of innovative curricula, courses and programs in science,
4080 technology, engineering and mathematics for new teachers and in-service teachers that provide
4081 appropriate science, technology, engineering and mathematics content, and instruction in
4082 innovative ways to teach science, technology, engineering and mathematics including, but not
4083 limited to, the use of hands on, experimental learning and e-learning, that are consistent with the

4084 Massachusetts standards and curriculum frameworks established under sections 1D and 1E of
4085 chapter 69; (ii) the development of a science, technology, engineering and mathematics network
4086 to create, implement, share and make broadly and publicly available the best practices and
4087 innovative programs relative to science, technology, engineering and mathematics instruction
4088 and expanding and maintaining student interest in science, technology, engineering and
4089 mathematics studies and careers; (iii) effective ways to teach science, technology, engineering
4090 and mathematics; (iv) give priority to grants that provide effective course and curricula for in-
4091 service teachers in low income schools or school districts; and (v) summer programs for high
4092 school students, with appropriate stipends, that would allow interested and motivated students to
4093 intern in private or nonprofit corporations or in public programs that are in a position to further
4094 their interest, knowledge and experience in these fields; provided, that priority for the summer
4095 programs shall be given to students in groups that are presently underrepresented in these fields
4096 including, but not limited to, persons of color, women, and those whose native language is not
4097 English; provided further, that not more than 20 per cent of the fund shall be awarded to any 1
4098 single institution and not more than 5 per cent of the fund shall be expended under clause (v).

4099 (c) There shall be under Commonwealth Medicine at the University of Massachusetts
4100 medical school and the department of education's office for mathematics, science and technology
4101 engineering, the Massachusetts Academy for Life Sciences. The Massachusetts Academy for
4102 Life Sciences, subject to appropriation from the Pipeline Fund, shall establish a program which
4103 shall consist of mobile science labs with 1 mobile lab assigned and designated for each of the
4104 following 5 regions: western Massachusetts, central Massachusetts, metropolitan Boston,
4105 northeastern Massachusetts and southeastern Massachusetts. The mission of the Massachusetts
4106 Academy for Life Sciences shall be to encourage students to consider careers in life sciences and
4107 healthcare by participating in enhanced science courses through the use of the mobilelabs.

4108 (d) The board of higher education shall, in consultation with the council, promulgate
4109 policies, rules and regulations for the administration and implementation of subsections (a) and
4110 (b). The chancellor of higher education shall file any policies, rules and regulations with the joint
4111 committee on education, the joint committee on higher education, the joint committee on
4112 economic development and emerging technologies and the joint committee on labor and

4113 workforce development for review and comment at least 30 days before the effective date of the
4114 policies, rules or regulations.

4115 (e) The chancellor of higher education shall file a quarterly report with the house and
4116 senate committees on ways and means, the joint committee on economic development and
4117 emerging technologies, the joint committee on labor and workforce development, the joint
4118 committee on education and the joint committee on higher education on the following: (i) a list
4119 of grant recipients, (ii) the associated grant amounts, (iii) the amounts of non-state funding
4120 leveraged as a result of the grants, (iv) the purposes of the grants, (v) an annual statement of cash
4121 inflows and outflows detailing the sources and uses of funds, (vi) a forecast of future payments
4122 based on current binding obligations, and (vii) a detailed breakdown of the purposes and
4123 amounts of administrative costs charged to the fund.

4124 Section 2NNN. There shall be established and set up on the books of the commonwealth
4125 a separate fund to be known as the Roche Community Rink Fund. There shall be credited to such
4126 fund revenues generated from fees, fines, leases, gifts, grants, interest earned on any monies
4127 within this fund or any other revenue sources at the Roche Community Rink, formerly the Bryant
4128 Rink, in the West Roxbury section of the city of Boston. Revenues credited to the fund shall be
4129 used, not subject to appropriation, for operational costs, capital improvements, equipment and
4130 maintenance of said rink, including the costs of personnel, but no expenditure shall be made
4131 from the fund that shall cause the fund to be in deficit at the close of a fiscal year.

4132 Section 2000. There is hereby established and set up on the books of the commonwealth
4133 a separate fund to be known as the Commonwealth Care Trust Fund. The secretary of
4134 administration and finance shall be the trustee of the fund and shall expend money in the fund for
4135 the purposes described herein.

4136 There shall be credited to the trust fund: (a) all contributions collected under section 188
4137 of chapter 149; (b) all revenue from surcharges imposed under section 18B of chapter 118G; (c)
4138 any transfers from the Health Safety Net Trust Fund established in section 36 of said chapter
4139 118G; (d) revenues deposited from penalties collected under chapter 111M; and (e) any revenue
4140 from appropriations or other monies authorized by the general court and specifically designated
4141 to be credited to the fund. Amounts credited to the fund shall be expended without further

4142 appropriation for programs administered by the commonwealth health insurance connector
4143 authority pursuant to chapter 176Q that are designed to increase health coverage for residents of
4144 the commonwealth. Money from the fund may be transferred to the Health Safety Net Trust
4145 Fund or any successor fund, as necessary to provide payments to acute hospitals and community
4146 health centers for reimbursable health services. Not later than January 1, the comptroller shall
4147 report an update of revenues for the current fiscal year and prepare estimates of revenues to be
4148 credited to the fund in the subsequent fiscal year. The comptroller shall file this report with the
4149 secretary of administration and finance, the secretary of health and human services, the joint
4150 committee on health care financing and the house and senate committees on ways and means.
4151 Monies remaining in the fund at the end of a fiscal year shall not revert to the General Fund;
4152 provided, however, that the comptroller shall report the amount remaining in the fund at the end
4153 of each fiscal year to the house and senate committees on ways and means.

4154 Section 2PPP. There is hereby established and set up on the books of the commonwealth
4155 a separate fund to be known as the Essential Community Provider Trust Fund, in this section
4156 called the trust fund. There shall be credited to the trust fund: (a) any funds that may be
4157 appropriated or transferred for deposit into the trust fund; and (b) any income derived from
4158 investment of amounts credited to the trust fund. In conjunction with the preparation of the
4159 commonwealth's annual financial report, the comptroller shall prepare and issue an annual report
4160 detailing the revenues and expenditures of the trust fund. The comptroller shall certify payments,
4161 including payments during the accounts payable period, in anticipation of revenues, including
4162 receivables due and collectibles during the months of July and August, from the trust fund for the
4163 purpose of making authorized expenditures. The health safety net office shall administer the trust
4164 fund and disburse funds from the trust fund to pay acute hospitals and community health centers
4165 under clause (6) of subsection (b) of section 35 of chapter 118G and any further regulations
4166 promulgated by the office.

4167 Section 2QQQ. There shall be established on the books of the commonwealth the
4168 Medical Assistance Trust Fund, which shall be administered by the secretary of health and
4169 human services. Funds from the trust fund may be expended for supplemental Medicaid
4170 payments to qualifying providers under an approved state plan or federal waiver. Amounts
4171 credited to the trust fund shall not be subject to further appropriation.

4172 Section 2RRR. There is hereby established and set up on the books of the commonwealth
4173 a separate fund to be known as the Department of Developmental Services Trust Fund, in this
4174 section called the trust fund, administered by the secretary of health and human services. There
4175 shall be credited to the trust fund: (a) any receipts from the assessment collected under section 27
4176 of chapter 118G, including transfers by the department of developmental services of amounts
4177 sufficient to pay the assessment for public facilities; (b) any federal financial participation
4178 received by the commonwealth as a result of expenditures funded by such assessments; and (c)
4179 any interest thereon. The secretary may authorize expenditures of amounts from such trust fund
4180 without further appropriation. The comptroller shall transfer to the trust fund no later than the
4181 first business day of each quarter, the amounts indicated by the department of developmental
4182 services to provide the appropriate payment adjustments for operating the intermediate care
4183 facilities for persons with an developmental disability and the community residences serving
4184 individuals with an developmental disability. The comptroller shall establish procedures
4185 necessary to effectuate this section, including procedures for the proper transfer, accounting and
4186 expenditures of funds. The comptroller may make payments in anticipation of receipts and shall
4187 establish procedures for reconciling overpayments and underpayments from the trust fund. The
4188 secretary shall report semi-annually to the house and senate committees on ways and means on
4189 the revenue and expenditure activity within the trust fund.

4190 Section 2SSS. There is hereby established and set up on the books of the commonwealth
4191 a separate fund to be known as the Educational Rewards Grant Program Fund, hereinafter
4192 referred to as the fund. The fund shall provide, without further appropriation, grants to students
4193 in accredited post-secondary certificate or vocational technology programs or associate degree
4194 programs in targeted high-demand occupations. The department of career services and the board
4195 of higher education in consultation with the Massachusetts Workforce Board Association, the
4196 state workforce investment board, the reach higher initiative and the workforce accountability
4197 task force established under section 11 of chapter 23H shall determine the eligible high demand
4198 occupations. If a Bachelor's degree program is needed for a profession in critical demand, it may
4199 be added to the eligible programs. Of the appropriation for grants, up to 1/3 may be used for
4200 students enrolled as full-time students and at least 2/3 of the total grant amount shall be reserved
4201 for students enrolled 1/2 time or less. Grant recipients shall be limited to dislocated workers or
4202 those with incomes at or below 200 per cent of the federal poverty level or other standards or

4203 criteria as may be established by the department and the board in consultation with the workforce
4204 accountability task force established under section 11 of chapter 23H. Grants from the program
4205 fund shall be a maximum of \$3,000 and shall be used to fund tuition, fees and books; provided,
4206 however, that up to 30 per cent of the grant amount may be applied to fund living expenses. The
4207 grant program shall serve as a last resort, after other federal and state grants have been
4208 exhausted. The department of career services and the board of higher education shall jointly
4209 administer the grant program.

4210 Section 2TTT. (a) There is hereby established and set up on the books of the
4211 commonwealth a separate fund known as the CITI Fund for the continuation of the
4212 Commonwealth Information Technology Initiative, or CITI, statewide. The University of
4213 Massachusetts shall hold the CITI Fund in an account or accounts separate from other funds or
4214 accounts. Amounts credited to the CITI Fund shall be used by the President of the University of
4215 Massachusetts or the president's designee, under subsection (b) and in consultation with the
4216 advisory board established in subsection (d).

4217 (b) The public purpose of the CITI Fund shall be to provide funding for a collaborative
4218 approach to information technology education through a series of open competitions for grants to
4219 K-20 educational institutions in the areas of: (1) educator development - to ensure that K-20
4220 faculty in all public higher education institutions and elementary and secondary schools have the
4221 skills to teach courses that meet industry' current and future information technology needs; (2)
4222 curriculum enhancement - to update existing courses and programs of computer science,
4223 management information systems and computer engineering in public higher education and to
4224 update academic discipline courses to facilitate the acquisition of knowledge through the
4225 understanding and application of information technology in the K-12 level; (3) IT across the
4226 curriculum - to implement the integration of information technology education into all aspects of
4227 non-technical disciplines and areas of study; and (4) regional cooperation - create
4228 geographically-based alliances among schools and industry to leverage faculty, courses and other
4229 resources for information technology education.

4230 (c) The president of the University of Massachusetts shall, not later than July 1, annually
4231 report to the house and senate committees on ways and means, the joint committee on economic
4232 development and emerging technologies, the joint committee on labor and workforce

4233 development, the joint committee on education and the joint committee on higher education. The
4234 report shall include: (i) a list of grant recipients; (ii) the associated grant amounts; (iii) the
4235 amounts of nonstate funding leveraged as a result of the grants, including in-kind and other non-
4236 cash contributions; (iv) the purposes of the grants; (v) an annual statement of cash inflows and
4237 outflows detailing the sources and uses of funds; (vi) a forecast of future payments based on
4238 current binding obligations; and (vii) a detailed breakdown of the purposes and amounts of
4239 administrative costs charged to the fund.

4240 (d) There shall be an advisory board for the CITI Fund which shall consist of 12
4241 members: 8 of whom shall be appointed by the governor, of which at least 2 shall be employed
4242 by a public institution of higher education in the commonwealth, at least 2 shall be employed at a
4243 public school for grades K-12 and at least 2 shall be employed by a corporation based in the
4244 commonwealth. One member shall be appointed by the speaker of the house, 1 member shall be
4245 appointed by the minority leader of the house of representatives, 1 member shall be appointed by
4246 the president of the senate and 1 member shall be appointed by the minority leader of the senate.
4247 The advisory board shall meet at least quarterly or when called by the president of the University
4248 of Massachusetts.

4249 Section 2UUU. (a) There is hereby established and set up on the books of the
4250 commonwealth a separate fund to be known as the Massachusetts Board of Higher Education
4251 Scholar-Internship Match Fund, hereinafter referred to as the Scholar-Internship Match Fund.
4252 The board of higher education shall hold the Scholar-Internship Match fund in an account
4253 separate from other funds or accounts. Amounts credited to the Scholarship-Internship Match
4254 Fund shall be used, without further appropriation, by the commissioner of higher education or
4255 the commissioner's designee, under this section and in consultation with participating industry
4256 and public higher education institutions. An amount not to exceed \$100,000 shall be spent each
4257 year to promote the existence of the Scholar-Internship Match Fund with the goal of attracting
4258 and maximizing industry participation.

4259 (b) The public purpose of the Scholar-Internship Match Fund shall be to provide a match
4260 for industry scholarships given to Massachusetts students going on to study for a post-secondary
4261 degrees at Massachusetts public higher education institutions. The amount to be matched through

4262 the Scholar-Internship Match Fund shall not exceed \$5,000 per student, contingent upon
4263 receiving a corresponding industry scholarship or internship of up to the same amount.

4264 (c) The commissioner of higher education shall, not later than July 1, annually report to
4265 the house and senate committees on ways and means, the joint committee on economic
4266 development and emerging technologies, the joint committee on labor and workforce
4267 development, the joint committee on education and the joint committee on higher education. The
4268 report shall include: (i) a list of matching scholarship recipients; (ii) the associated match
4269 amount; (iii) the amounts of non-state funding as a result of the match; (iv) the purposes of the
4270 match; (v) whether there was an internship associated with the industry match; (vi) an annual
4271 statement of cash inflows and outflows detailing the sources and uses of funds; (vii) a forecast of
4272 future payments based on current binding obligations; and (viii) a detailed account of the
4273 purposes and amount of administrative costs charged to the fund. The chancellor shall include in
4274 annual report a detailed 5 year legislative review of the Scholar-Internship Match Fund for
4275 consideration for recapitalization.

4276 Section 2VVV. (a) There shall be established and set up on the books of the
4277 commonwealth a separate fund to be known as the international education and foreign language
4278 grant program fund, hereinafter referred to as the international education fund, to which shall be
4279 credited any appropriations, bond proceeds or other monies authorized by the general court and
4280 specifically designated to be credited thereto and additional funds designated for deposit to the
4281 international education fund, including any pension funds, federal grants or loans, or private
4282 donations made available to the commissioner of education for such purpose. The commissioner
4283 of education shall hold the international education fund in an account or accounts separate from
4284 other funds or accounts. Amounts credited to the international education fund shall be used by
4285 the commissioner of education, in consultation with the chairman of the board of higher
4286 education, and the global education advisory council to carry out the purposes of subsection (b).

4287 (b) The public purpose of the international education fund shall be to increase the number
4288 of Massachusetts students, teachers, administrators and education policymakers participating in
4289 international studies, international exchange programs, and other activities that advance cultural
4290 awareness and promote mutual understanding and respect for citizens of other countries. In
4291 furtherance of this public purpose and in consultation with the chairman of the board of higher

4292 education and the global education advisory council, the commissioner of education shall
4293 employ the international education fund in support of programs and activities that advance
4294 cultural awareness, including the awarding of grants to local or regional school districts that use
4295 the funds to support international education programs and promote the study of foreign
4296 languages, including programs that establish foreign language and two-way bi-lingual education
4297 classes, teacher training and curriculum development to encourage students, teachers,
4298 administrators and educational policy makers to participate in international studies, international
4299 exchange programs and other activities.

4300 Section 2WWW. (a) There is hereby established and set up on the books of the
4301 commonwealth a separate fund to be known as the Workforce Competitiveness Trust Fund,
4302 hereinafter called the fund. The fund shall be administered by the department of career services
4303 which shall contract with the Commonwealth Corporation to administer the fund. The objectives
4304 of the fund shall include, but shall not be limited to, the following: supporting, in conjunction
4305 with other private, public and philanthropic resources, the development and implementation of
4306 employer and worker responsive programs to enhance worker skills, incomes, productivity and
4307 retention and to increase the quality and competitiveness of Massachusetts firms; training and
4308 helping the unemployed find suitable employment; improving employment opportunities for
4309 low-income individuals and low wage workers; improving wages to a level sufficient to support
4310 a family or to place individuals on a career path leading to such employment and wages; training
4311 vulnerable youths to master basic academic skills, including the attainment of a high school
4312 degree and encouraging students to advance educationally and receive post-secondary degrees at
4313 colleges or post-secondary vocational schools or beyond; developing occupational skills and
4314 becoming employed in jobs that have career potential; and training older workers for new
4315 occupations. The department shall utilize these projects to improve the workforce development
4316 system by integrating employer and worker needs more fully into program design and delivery.
4317 The department shall support, through grants, partnership programs and planning, grant
4318 applications from the following eligible applicants to provide an integrated continuum of
4319 education and training: employers and employer associations; local workforce investment
4320 boards; labor organizations; community-based organizations, including adult basic education
4321 providers; institutions of higher education; vocational education institutions; one-stop career
4322 centers; local workforce development entities; and nonprofit education, training or other service

4323 providers. The fund shall leverage employer, public, philanthropic and other contributions and
4324 shall be available as a state match for federal funds that meet the requirements of the fund. The
4325 fund shall be an expendable trust fund and not subject to appropriation. Grants from the fund
4326 shall be offered on a competitive basis for a maximum of 3 years and shall not exceed \$500,000.

4327 (b) The director of career services shall appoint an advisory committee to represent
4328 significant constituencies and beneficiaries of the fund including, but not limited to, high growth
4329 or critical industries; the workforce development system; public education; adult basic education;
4330 the department of transitional assistance; public higher education; labor; community-based
4331 organizations and nonprofit education, training or other service providers; and advocates of
4332 customer populations, including representatives of education, training and the one-stop career
4333 center provider coalitions, including a minimum of 2 labor representatives selected by the
4334 President of the Massachusetts AFL-CIO and 2 representatives of the Massachusetts Workforce
4335 Board Association. The director shall serve as chair of the committee. The committee shall
4336 supply constituent focused labor market information, review general programmatic parameters
4337 and guidelines, assist with the identification of issues and barriers to the fund's efficiency and
4338 effectiveness and the dissemination of relevant information about the fund and support the
4339 general oversight of the fund's implementation. The committee shall meet from time to time, but
4340 not less frequently than quarterly.

4341 (c) The Commonwealth Corporation shall be the administrator of the fund and shall
4342 maintain the fund as a separate fund and shall cause it to be audited by an independent
4343 accountant on an annual basis in accordance with generally-accepted accounting principles.

4344 (d) There shall be credited to the fund any revenue from appropriations or other monies
4345 authorized by the general court and specifically designated to be credited to the fund, and any
4346 gifts, grants, private contributions, investment income earned on the fund's assets and all other
4347 sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General
4348 Fund.

4349 (e) Partnership programs may include costs for support services including, but not limited
4350 to, transportation and childcare, to eliminate barriers to participation in the training program. For

4351 any unionized employer participating as a partner in a grant application, the impacted union shall
4352 be an active participant in the design and implementation of the grant.

4353 (f) A competitive grant program shall be established that provides support to partnerships
4354 and eligible applicants as described above, and that leverages applicant co-investment of at least
4355 30 per cent of the grant amount from employers, philanthropic and public or private
4356 organizations. The period of grant operations may be up to 3 years in duration. Grants may be
4357 targeted to specific populations, such as educationally or economically disadvantaged youth,
4358 low-income, low-skilled and low-wage workers, disabled citizens or industries that are deemed
4359 to be of critical consequence to the commonwealth. Special grant programs and funding
4360 allocations shall be determined by the committee and shall be distributed by a regionally-based
4361 competitive bid process, which shall require the defining of economic regions based on labor
4362 market factors as determined by the committee. Each municipality shall be accounted for in a
4363 designated region. A formula for regional distribution shall be created and competition for
4364 formula grant funds shall occur within each identified region and shall be subject to the rules and
4365 regulations established by the committee in consultation with regional partners. Respondents to
4366 the local competitions shall notify, in writing, the region's workforce investment board of their
4367 intent to respond to the request for proposals. A planning grant may be offered to define
4368 employer needs; to make necessary curriculum and other programmatic improvements to align
4369 with employer and worker needs; to determine the feasibility of a proposed workforce
4370 development intervention; to plan for and coordinate strong partnerships among stakeholders; to
4371 identify educational and skill needs of workers and program participants; to link training
4372 initiatives with employer-based career ladders; and to develop case management and additional
4373 support services that would address barriers to participation.

4374 (g) A portion of the grant fund shall be used to support the current and future labor force
4375 needs of the healthcare industry. This portion of the fund shall support projects that address
4376 barriers and gaps in the healthcare workforce development pipeline. Small planning and needs
4377 assessment grants may be offered. A project grant program shall be designed by Commonwealth
4378 Corporation in consultation with a Healthcare subcommittee of the fund committee, which shall
4379 include, at a minimum, appointments made by the following organizations: the Massachusetts
4380 Hospital Association; the Massachusetts Extended Care Federation; the Home and Health Care

4381 Association of Massachusetts; the Massachusetts Workforce Board Association; and the
4382 Massachusetts AFL-CIO, as well as representatives of the other mandatory advisory committee
4383 constituencies.

4384 (h) A portion of the grant fund shall be used to support the current and future labor force
4385 needs of the travel and tourism industry. This portion of the grant fund shall be used to support
4386 the development of career ladder and wage improvement strategies, including employee
4387 ownership and profit-sharing strategies, within the travel and tourism industry. Small planning
4388 and needs assessment grants may be offered. A project grant program shall be designed by
4389 Commonwealth Corporation in consultation with the travel and tourism advisory committee,
4390 which shall include the primary industry associations that represent the industry in the
4391 commonwealth or, in their absence, a cohort of relevant industry employers, as well as
4392 representatives of the other mandatory advisory committee constituencies.

4393 (i) Project grants shall be for a maximum of 3 years, shall be competitively based and
4394 shall not exceed \$500,000. The committee shall determine how to apportion the grant fund
4395 between the healthcare industry, the travel and tourism industry and the general grant program;
4396 provided, however, that not more than 7.5 per cent of the funds appropriated in this subsection
4397 may be expended for the administration of each grant.

4398 (j) The director of career services shall annually, not later than December 31, report to the
4399 secretary of administration and finance, the house and senate committees on ways and means, the
4400 joint committee on community development and small business, the joint committee on
4401 education, the joint committee on economic development and emerging technologies, the joint
4402 committee on labor and workforce development and the joint committee on public health on the
4403 status of grants awarded under this section, including the number of educational and eligible
4404 service providers receiving grants; the number of participants receiving services; the number of
4405 participants placed in employment; the salary and benefits that participants receive after
4406 placement; the cost per participant; and job retention or promotion rates 1 year after training
4407 ends.

4408 (k) The establishment of the Workforce Competitiveness Trust Fund, or any other worker
4409 training fund, shall not be determined to replace, displace or serve as a substitute for the
4410 Workforce Training Fund established in section 2RR.

4411 Section 2XXX. There shall be established and set up on the books of the commonwealth
4412 a separate fund to be known as the District Local Technical Assistance Fund. Amounts credited
4413 to the fund shall be administered by the division of local services within the department of
4414 revenue which shall determine that the funds are used for activities consistent with the purpose
4415 of this section and the Massachusetts management and accounting reporting system. The
4416 amounts shall be used, without further appropriation, solely for the administration and
4417 implementation of this section.

4418 The fund shall be a separate and expendable trust fund administered by the division of
4419 local services within the department of revenue. There shall be credited to the fund, revenue
4420 from appropriations or other monies authorized by the general court and specifically designated
4421 to be credited to the fund and investment income earned on the fund's assets, and all other
4422 sources. Money remaining in the fund at the end of a fiscal year shall not revert to the General
4423 Fund, and shall be allocated to the regional planning agencies the following fiscal year under the
4424 formula established in the third paragraph.

4425 One hundred per cent of the monies deposited in the district local technical assistance
4426 fund, but not more than \$2,800,000 in the aggregate in any fiscal year, shall be used by the
4427 department of housing and community development to provide grants to regional planning
4428 agencies for technical assistance to municipalities and to develop a state-wide permitting model.
4429 The department shall grant each regional planning district created under chapter 40B or by
4430 special act a fixed base allocation of \$150,000, except that the metropolitan area planning
4431 council shall receive a base allocation of \$200,000, the Martha's Vineyard commission shall
4432 receive a full annual allocation of \$100,000, and the Nantucket Planning and Economic
4433 Development Commission shall receive an annual allocation of \$50,000. One-half of the
4434 remainder of the annual disbursement of net cash proceeds to the department of housing and
4435 community development for technical assistance grants under this section shall be allocated
4436 among said entities based on the percentage of the commonwealth's population served by each
4437 entity, with the other half allocated based on the percentage of the commonwealth's communities

4438 served by each entity. Each regional planning agency receiving the funds shall provide matching
4439 resources of not less than 10 per cent, no more than 1/2 of which may be in-kind services, and
4440 shall annually file with the department of housing and community development, the house and
4441 senate committees on ways and means and constituent local governments a report detailing their
4442 expenses and program activities.

4443 Technical assistance services funded by these grants shall be provided at the request of a
4444 municipality in any subject within regional planning expertise, including but not limited to:
4445 zoning and permitting; economic development; land use planning, conservation planning, and
4446 water resources; municipal management; public safety planning and emergency response;
4447 transportation; data management, information technology, geographic information systems,
4448 statistical trends and modeling; and other land use and smart growth issues.

4449 Section 2YYY. There shall be established and set up on the books of the commonwealth
4450 a separate fund, to be known as the Courts Capital Project Fund, in this section referred to as the
4451 fund. The fund shall be credited: (i) the portion of any net cash proceeds from the conveyance,
4452 lease or other disposition of any surplus court facilities vacated and determined to be surplus by
4453 the commissioner of capital asset management and maintenance as a result of or in anticipation
4454 of the construction of new court facilities or the consolidation of court facilities in the cities of
4455 Cambridge, Lowell, Salem and Worcester; (ii) any appropriations; (iii) bond proceeds; or (iv)
4456 other monies authorized by the general court and specifically designated to be credited to the
4457 fund. The comptroller shall disburse amounts in the fund at the direction of the secretary of
4458 administration and finance, without further appropriation, for the purpose of paying costs of, or
4459 paying down any portion of the debt incurred to pay costs related to the acquisition, temporary
4460 leasing or the construction of any replacement court facilities. The inspector general of the
4461 commonwealth shall make an annual oversight inquiry and report on the Capital Courts Project
4462 Fund and its disbursements. Said report shall be provided to the clerks of the house of
4463 representatives and senate, chairs of house and senate committees on ways and means and chairs
4464 of the house and senate committees on bonding, capital expenditures and state assets.

4465 Section 2ZZZ. (a) There shall be established and set up on the books of the
4466 commonwealth a separate fund to be known as the Commonwealth Transportation Fund, which
4467 shall be used exclusively for financing transportation-related purposes. There shall be credited to

4468 the fund all fees received by the registrar of motor vehicles under section 34 of chapter 90, all
4469 receipts paid into the treasury of the commonwealth and directed to be credited to the
4470 Commonwealth Transportation Fund under chapters 64A, 64E, 64F and any other applicable
4471 general or special law and all amounts appropriated into the fund by the general court. The fund
4472 shall be subject to appropriation and shall be used for transportation related expenses of the
4473 executive office of transportation or any successor agency or authority, including to pay or
4474 reimburse the General Fund for payment of debt service on bonds issued by, or otherwise
4475 payable under a lease or other contract assistance agreement by, the commonwealth for
4476 transportation purposes.

4477 (b) Notwithstanding subsection (a), the crediting of receipts from the tax imposed under
4478 chapter 64A to the fund shall not affect the obligations of the commonwealth relating to notes
4479 issued under sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the pledge of
4480 receipts from the portion of the tax per gallon imposed under said chapter 64A equal to 10 cents
4481 per gallon, to secure the payment of such bonds under the circumstances described in the trust
4482 agreements relating to such notes is hereby ratified and confirmed in all respects and shall
4483 remain in full force and effect as long as any such notes issued as of July 1, 2009 remain
4484 outstanding under their terms and secured by funds in the fund.

4485 (c) In addition to those revenues credited to the fund under subsection (a) there shall be
4486 credited to the fund all monies received by the commonwealth equal to .385 percent of the
4487 receipts from sales, as defined by chapter 64H, and .385 per cent of the sales price of purchases,
4488 as defined by chapter 64I, from that portion of the taxes imposed under said chapters 64H and
4489 64I as excises upon the sale and use at retail of tangible property or of services, and upon the
4490 storage, use or other consumption of tangible property, or of services, including interest thereon
4491 or penalties, but not including any portion of the taxes that constitute special receipts within the
4492 meaning of subsection (b 1/2) of section 10 of chapter 152 of the acts of 1997 or within the
4493 meaning of said subsection (b 1/2); provided, however, that if in a fiscal year the amount credited
4494 to the fund under this subsection is less than \$275,000,000, then the comptroller shall transfer an
4495 amount from the General Fund to make up the difference between the amount credited to the
4496 fund and \$275,000,000, not later than September 1 of the following fiscal year.

4497 (d) Not less than the following amounts shall annually be distributed from the fund to the
4498 Massachusetts Bay Transportation Authority and regional transit authorities:

4499 (1) \$160,000,000 to the Massachusetts Bay Transportation Authority or any fund
4500 controlled by the authority in each fiscal year; and

4501 (2) \$15,000,000 to regional transit authorities organized under chapter 161B or
4502 predecessor statutes in each fiscal year.

4503 Section 2AAAA. There shall be established and set up on the books of the
4504 commonwealth a separate fund to be known as the State Athletic Commission Fund, in this
4505 section referred to as the fund, to be administered by the department of public safety. The fund
4506 shall consist of any monies from licensing fees or other fees and fines collected under sections 32
4507 to 35, inclusive, sections 40, 40A and 42 of chapter 147 and section 12 of chapter 265. The
4508 amounts credited to the fund shall be available for expenditure without further appropriation by
4509 the department of public safety up to an amount not to exceed \$200,000 each fiscal year for the
4510 costs of operating and administering the state athletic commission; provided, however, that if the
4511 amount credited to the fund exceeds \$200,000, the excess amount shall be deposited into the
4512 General Fund. For the purposes of accommodating discrepancies between the receipt of retained
4513 revenues and related expenditures, the department may incur expense and the comptroller may
4514 certify for payment amounts not to exceed the lower of this authorization or the most recent
4515 revenue estimate as reported in the state accounting system.

4516 Section 2BBBB. There shall be established and set up on the books of the commonwealth
4517 a separate fund to be known as the Commonwealth Substance Abuse Prevention and Treatment
4518 Fund. The fund shall be credited with all sales tax revenues collected from the sale of alcoholic
4519 beverages under chapter 64H which are not part of the dedicated sales tax revenue amount
4520 described in section 35T or section 35BB of chapter 10. Amounts credited to the fund shall be
4521 expended, subject to appropriation, to support substance abuse treatment and prevention services.

4522 Section 2CCCC. There shall be established and set up on the books of the commonwealth
4523 a separate fund to be known as the Local Aid Stabilization Fund. The fund shall consist of
4524 monies transferred to it from the Gaming Revenue Fund established in section 59 of chapter
4525 23K, all other monies credited or transferred to it from any other fund or source and proceeds

4526 from the investment of such funds. Subject to appropriation, the fund shall be distributed to cities
4527 and towns as a supplement to other sources of local aid distributions, but shall not be subject to
4528 section 5C.

4529 Section 2DDDD. There shall be established and set up on the books of the
4530 commonwealth a separate fund to be known as the Gaming Economic Development Fund. The
4531 fund shall be credited with revenues transferred to it from the Gaming Revenue Fund established
4532 in section 59 of chapter 23K. Amounts credited to the fund shall be expended, subject to
4533 appropriation, to support economic development and job growth including, but not limited to: (1)
4534 workforce training, including transfers to the Workforce Competitiveness Trust Fund established
4535 in section 2WWW of chapter 29; (2) tourism promotion, including regional tourism promotion
4536 agencies and cultural and recreational attraction promotion; (3) summer jobs; (4) the
4537 Massachusetts marketing partnership established in section 13A of chapter 23A; (5) higher
4538 education scholarships; (6) regional economic development initiatives; (7) support for small
4539 businesses, including small business lending; (8) green jobs promotion; (9) science, technology,
4540 engineering and mathematics career pipeline initiatives; and (10) agricultural development
4541 programs, including youth agricultural education.

4542 Section 2EEEE. There shall be established and set up on the books of the commonwealth
4543 a Local Capital Projects Fund. The fund shall be credited with any funds transferred from the
4544 Gaming Revenue Fund established in section 59 of chapter 23K and any monies credited to or
4545 transferred to the fund from any other fund or source.

4546 Section 2FFFF. There shall be established upon the books of the commonwealth a
4547 separate fund to be known as the Health Care Workforce Transformation Fund.

4548 Section 3. Every officer having charge of any state agency which receives a periodic
4549 appropriation from the commonwealth, including all periodic appropriations to be met from
4550 budgeted revenues shall annually, on or before a date set by the secretary of administration and
4551 finance submit to the budget director statements (1) showing in detail the amounts appropriated
4552 for the preceding and the current fiscal years; (2) the interchanges during the preceding fiscal
4553 year between the subsidiary accounts established under section 27; (3) the deficiencies and
4554 surpluses, if any, in appropriations for the latest complete fiscal year and for the current fiscal

4555 year; (4) estimates of the amounts required for the operations of state agencies and programs for
4556 the ensuing fiscal year, with an explanation of any increased appropriations recommended and
4557 with citations of the statutes relating thereto, a statement indicating the priorities assigned to each
4558 program by said officer; and (5) statements showing in detail the revenue of the state agency in
4559 the officer's charge for the latest complete fiscal year, and the revenue and estimated revenue
4560 thereof for the current fiscal year, and the officer's estimated revenue from the same or any
4561 additional sources for the ensuing fiscal year, with the officer's recommendations as to any
4562 changes in the management, practices, rules, regulations or laws governing such state agency
4563 which would cause an increase or decrease in revenue from operations, fees, taxes or other
4564 sources, or which would facilitate the collection thereof; (6) together with such other information
4565 on the expenditures, revenues, activities, output or performance of any such state agency as may
4566 be required by rule or regulation of the secretary of administration and finance, and any other
4567 information, including the priorities assigned to each program by said officer, required at any
4568 time by the budget director. Every such officer shall also submit to the budget director a
4569 statement showing in detail the number of permanent, temporary and part-time positions
4570 authorized for the state agency in the officer's charge, categorized by whether those positions are
4571 funded by appropriation, bond authorizations, federal grants, trust funds or other funding sources
4572 and the volume of work performed in the latest complete fiscal year, and justifying the officer's
4573 request for permanent, temporary and part-time positions in the ensuing fiscal year in relation to
4574 the volume of work expected to be performed by the state agency.

4575 All such statements, recommendations and estimates shall, to the fullest possible extent,
4576 conform with the programs of the state agency as defined by the secretary of administration and
4577 finance, with the advice of the officers responsible for the administration thereof and the officer
4578 making the submission to the budget director. The estimates submitted shall not include any
4579 estimate for any new or special purpose or object not authorized by statute.

4580 Before any such statements, estimates, recommendations or other information relating to
4581 a state agency shall be so submitted, each state agency shall submit such statements, estimates,
4582 recommendations and other information to the secretary having charge of such state agency, if
4583 any, who shall review the same and make such additions, deletions and modifications as such
4584 secretary deems appropriate; provided, however, that prior to making any such additions,

4585 deletions or modifications, such secretary shall conduct public hearings, for which the secretary
4586 shall give at least 5 days public notice, on all items for which the secretary shall submit a
4587 recommendation for appropriations to the governor.

4588 Section 3A. Any officer having charge of any state agency which receives a periodic
4589 appropriation from the commonwealth, or any officer of a state authority, shall upon the request
4590 of any standing committee of the house or senate, or of any joint standing committee of the
4591 general court, furnish in writing to such committee, in a format prescribed by such committee,
4592 any information requested by such committee that is necessary for the committee to perform its
4593 duties. The information shall include, but not be limited to, historical, current or proposed
4594 operational costs funded through any appropriation, bond authorizations, federal grants, trust
4595 funds or other funding sources, the officer's estimate of the cost of proposed legislation affecting
4596 activities which are or would be under the officer's supervision, estimates of and reasons for any
4597 supplemental funding that is projected to be needed during the fiscal year, estimates of revenue
4598 collections, estimates of proposed changes in fees or taxes, and any other such information as
4599 may be required by the committee. Such estimates shall be provided to such committee within 10
4600 days of the receipt of such a request by the officer. If the officer fails to respond within 10 days,
4601 the matter shall be referred to the house or senate committee on post audit and oversight which
4602 shall, in conjunction with the committee that originally requested the information, determine if
4603 further action is necessary.

4604 Section 3B. The Massachusetts Bay Transportation Authority and the several regional
4605 transit authorities shall annually, on or before September 15, submit to the state budget director,
4606 the joint committee on transportation, the house and senate committees on ways and means and
4607 the Massachusetts Bay Transportation Authority advisory board (1) statements showing planned
4608 expenditures for the current fiscal year and the subsequent fiscal year; provided, however, that
4609 said statements shall detail planned expenditures according to program and to the expenditure
4610 classification plan promulgated by the state comptroller under section 27; and (2) a statement
4611 detailing the number of full time equivalent employees of the authority for the current fiscal year
4612 and an estimate of the number of full time equivalent employees for the subsequent fiscal year.
4613 The state budget director and the state comptroller shall establish such procedures as they deem
4614 necessary to implement and enforce this section.

4615 Section 4. Every officer having charge of any state agency who, in the officer's annual
4616 reports or otherwise, recommends or petitions for the expenditure of money by the
4617 commonwealth from any source of revenue, including expenditures to be met by assessments or
4618 from bond revenues or trust funds, for any purpose not covered by the estimates required to be
4619 submitted under section 3, shall, annually, on or before a date set by the secretary of
4620 administration and finance, submit detailed estimates thereof to the budget director, together with
4621 any other information required by said budget director. Such estimates and other information
4622 relating to such state agency before being submitted to the budget director, shall first be
4623 submitted to the appropriate secretary, if any, on or before a date set by the secretary; said
4624 secretary shall review the same and make such additions, deletions and modifications as the
4625 secretary deems appropriate; provided, however, that prior to making any such additions,
4626 deletions or modifications, said secretary shall conduct public hearings, for which he shall give at
4627 least 5 days public notice, on all items for which the secretary shall submit to the governor a
4628 recommendation for an appropriation of \$1,000,000 or more.

4629 Section 5B. The secretary of administration and finance, with the approval of the
4630 governor, shall on or before October 15 of every year, prepare estimates of budgeted revenues
4631 which in the secretary's judgment will be available for both the current year and for the annual
4632 budget for the ensuing fiscal year. In making such estimates the secretary shall take into account
4633 existing taxes, the probable economic growth within the state, anticipated federal fund receipts,
4634 the anticipated growth in wages and salaries, departmental and other revenue based on existing
4635 laws, the transfers of capital gains income tax revenue required by section 5G and amounts
4636 available to be transferred into budgetary funds. Such estimates shall be delivered to the house
4637 and senate committees on ways and means and shall be made available to the general public in a
4638 conspicuous manner on the commonwealth's official website within 14 days of submission of
4639 such revisions to the governor. The secretary shall accompany any revision of previous estimates
4640 with explanations of any changes in the secretary's estimates for specific sources of revenue.

4641 In estimating revenues available for the current year, the secretary shall include the
4642 amount certified by the comptroller under section 5C as available from the consolidated net
4643 surplus in the operating funds at the close of the preceding fiscal year and not in excess of .5 per
4644 cent of the total state tax revenues in such fiscal year. In estimating revenues to be available for

4645 the annual budget for the ensuing fiscal year, the secretary shall include an amount of any
4646 anticipated consolidated net surplus in operating funds not in excess of .5 per cent of the
4647 estimated total state tax revenues for the current fiscal year.

4648 The commissioner of revenue shall annually prepare and present with the governor's
4649 proposed budget actual or updated estimates of tax expenditures which occurred during the
4650 preceding fiscal year, based on the best available information, and estimates of tax expenditures
4651 which in his judgment will occur during the current fiscal year and the ensuing fiscal year. Such
4652 estimates of tax expenditures shall be prepared to facilitate a comparison of increases or
4653 decreases from actual or estimated tax expenditures of the preceding fiscal year to the estimates
4654 of tax expenditures for the current fiscal year and to the ensuing fiscal year. Such estimates shall
4655 also compare actual or updated estimates of tax expenditures during the preceding fiscal year,
4656 based on the best available information, to estimates previously presented for that fiscal year by
4657 the commissioner of revenue under this paragraph. The commissioner shall identify and analyze
4658 reasons for updates in estimates or for significant discrepancies identified under the preceding
4659 sentence.

4660 On or before January 15, the secretary of administration and finance shall meet with the
4661 house and senate committees on ways and means and shall jointly develop a consensus tax
4662 revenue forecast for the budget for the ensuing fiscal year which shall be agreed to by the
4663 secretary and said committees. In developing such a consensus tax revenue forecast, the
4664 secretary and said committees, or subcommittees of said committees, may hold joint hearings on
4665 the economy of the commonwealth and its impact on tax revenue forecasts; provided, however,
4666 that in the first year of the term of office of a governor who has not served in the preceding year,
4667 said parties shall agree to the consensus tax revenue forecast not later than January 31 of said
4668 year. Said consensus tax estimate shall be net of the amount necessary to transfer, from the
4669 General Fund to the Commonwealth's Pension Liability Fund, to amortize the unfunded liability
4670 of the system according to the schedule established under paragraph (1) of section 22C of
4671 chapter 32, and of the amounts transferred to the MBTA State and Local Contribution Fund
4672 under section 35T of chapter 10, and to the School Modernization and Reconstruction Trust
4673 Fund under section 35BB of chapter 10. Said consensus tax estimate shall also include an
4674 estimate of taxes collected under chapter 62 for capital gains income, as defined therein, and

4675 shall be net of any transfers of capital gains income tax revenue projected to be required by
4676 section 5G. Said consensus tax revenue forecast shall be included in a joint resolution and placed
4677 before the members of the general court for their consideration. Such joint resolution, if passed
4678 by both branches of the general court, shall establish the maximum amount of tax revenue which
4679 may be considered for the general appropriation act for the ensuing fiscal year.

4680 Section 5C. The comptroller shall annually, on or before October 31, certify to the
4681 secretary of administration and finance the amount of the consolidated net surplus in the
4682 budgetary funds at the close of the preceding fiscal year. The amounts so certified shall be
4683 disposed as follows:

4684 (a) an amount equal to .5 per cent of the total revenue from taxes in the preceding fiscal
4685 year shall be available to be used as revenue for the current fiscal year and .5 per cent of the total
4686 revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund;

4687 (b) any remaining amount of such consolidated net surplus after amounts made available
4688 in clause (a) shall be transferred to the Stabilization Fund; and

4689 (c) all transfers specified in this section shall be made from the undesignated fund
4690 balances in the budgetary funds proportionally from those undesignated fund balances, but no
4691 such transfer shall cause a deficit in any of those funds; provided, however, that prior to
4692 certifying the consolidated net surplus under this section, the comptroller shall, to the extent
4693 possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund
4694 balances from any other fund contributing to the surplus.

4695 Section 5D. The comptroller shall determine, based on procedures established by the
4696 secretary of administration and finance, the amount expended during the fiscal year from each
4697 fund, other than the General Fund, for indirect costs and for the compensation of state personnel.
4698 On the basis of said determination, the comptroller shall charge each fund an amount for indirect
4699 costs and for fringe benefit costs attributable to compensation paid from the other funds, based
4700 on an indirect costs rate and on a fringe benefit rate to be set annually by said secretary. The
4701 amount so charged shall be credited to the General Fund. Upon approval of the secretary, and
4702 subject to regulations established by the secretary, the amount of indirect costs, either in whole

4703 or in part, charged to an account may be waived. The costs of fringe benefits shall be recovered
4704 in cash.

4705 The comptroller shall make charges to recover the commonwealth' indirect costs and the
4706 cost of fringe benefits provided to or on behalf of any person paid compensation by a state
4707 agency, authority or public institution of higher education, or by any entity otherwise directly or
4708 indirectly receiving state funds, from any source other than a direct expenditure of an
4709 appropriation charged to a state fund subject to the preceding paragraph. The comptroller may
4710 establish such systems of periodic charges or billings as the comptroller considers necessary and
4711 appropriate to ensure the recovery of these costs. Any bill rendered for the purpose of recovery
4712 of these costs shall be payable to the comptroller within 30 days after receipt of the bill and all
4713 amounts so paid shall be credited to the General Fund.

4714 Section 5F. Every officer having charge of any state agency which receives a periodic or
4715 other appropriation from the commonwealth, shall annually, on or before a date set by the
4716 secretary of administration and finance submit to the budget director a department financial plan
4717 for the current fiscal year and, at such times as specified by said secretary, revisions to said
4718 department financial plan; provided, however, that said officer shall also submit said financial
4719 plans to the chairmen of the house and senate committees on ways and means.

4720 The department financial plan shall include statements, in a form prescribed by the
4721 budget director, showing in detail: (1) amounts proposed to be expended from each account for
4722 each month in the current fiscal year; (2) amounts projected to be received in each revenue
4723 account, other than revenue from state taxes, federal grants or proceeds of bonds issued by the
4724 commonwealth, for each month in the current fiscal year; and (3) such other information on the
4725 expenditures, revenues, activities, output or performance of the state agency as required by the
4726 budget director.

4727 The budget director shall provide to the treasurer and comptroller information from
4728 department financial plans to develop estimates and projections of monthly, quarterly and annual
4729 cash flow required under section 10B of chapter 10, and to prepare monthly reports of planned
4730 and actual expenditure and planned and actual revenue for each major state program, department
4731 and executive or other constitutional office.

4732 Section 5G. After each quarter, the department of revenue shall certify to the state
4733 comptroller the amount of tax revenues estimated to have been collected during the preceding
4734 quarter from capital gains income. If the department of revenue certifies that the amount of tax
4735 revenues estimated to have been collected from capital gains income exceeds the product of
4736 \$1,000,000,000 and allowable growth in a fiscal year, the comptroller shall transfer quarterly any
4737 such amount to the Commonwealth Stabilization Fund established by section 2H.

4738 This transfer shall be made before the certification of the consolidated net surplus for the
4739 previous fiscal year under section 5C. The department of revenue shall report by November 30 to
4740 the state comptroller, the executive office for administration and finance and the house and
4741 senate committees on ways and means tax revenues estimated to have been collected during the
4742 preceding fiscal year from capital gains income. The comptroller shall not make adjustment to
4743 amounts previously transferred if the capital gains revenue reported on November 30 differs
4744 from the amounts estimated during the preceding fiscal year.

4745 Five per cent of any amount transferred to the Commonwealth Stabilization Fund under
4746 this section shall then be transferred from the Commonwealth Stabilization Fund to the State
4747 Retiree Benefits Trust Fund established in section 24 of chapter 32A and 5 per cent of any
4748 amount transferred to the Commonwealth Stabilization Fund under this section shall then be
4749 transferred from the Commonwealth Stabilization Fund to the Commonwealth's Pension
4750 Liability Fund established in section 22 of chapter 32.

4751 Section 5H. Notwithstanding any general or special law to the contrary, the state treasurer
4752 shall report by September 30 to the state comptroller, the executive office for administration and
4753 finance and the house and senate committees on ways and means the value of all property
4754 assumed abandoned, as defined by chapter 200A, in the previous fiscal year; provided, however,
4755 that beginning October 31 and quarterly thereafter the state treasurer shall, within 15 days,
4756 certify to the state comptroller the amount collected in abandoned property revenues for the
4757 previous quarter. The state treasurer shall certify by October 31, the amount of actual receipts of
4758 abandoned property for the previous fiscal year, and beginning in fiscal year 2013, the
4759 comptroller shall transfer 75 per cent of the growth in abandoned property revenue that exceeds
4760 the amount collected during the previous fiscal year to the Commonwealth Stabilization Fund

4761 established by section 2H; provided, however, that said transfer shall be made prior to the
4762 certification of the consolidated net surplus for the previous fiscal year as provided in section 5C.

4763 Section 6. The budget director shall study and review all estimates and requests for
4764 appropriations and other authorizations for expenditures of state funds filed with the budget
4765 director as provided by sections 3 and 4, and shall make such investigations as will enable the
4766 budget director to prepare an operating budget for the governor, setting forth such
4767 recommendations as the governor shall determine. The governor may call upon the comptroller
4768 for information relative to finances and for assistance in the preparation of the operating budget.
4769 The operating budget shall embody all estimates, requests and recommendations for
4770 appropriations, distributions of state revenues and other authorizations for expenditures by the
4771 commonwealth under existing law, other than for capital facility projects and prior-year
4772 appropriations, but including those from retained revenue line-items and those from federal
4773 grants, as submitted by each officer having charge of any state agency which receives a periodic
4774 appropriation from the commonwealth. The budget recommendations of the governor shall not
4775 assume future continuing appropriation of the unspent balances of current or previous
4776 appropriations.

4777 The operating budget shall be set out under section 6D and classified and designated so
4778 as to show separately estimates and recommendations for: (a) expenses for administration,
4779 operation and maintenance; (b) deficiencies or surpluses in appropriations for former years; (c)
4780 interest on the public debt and sinking fund and serial bond requirements; and (d) all requests
4781 and proposals for expenditures for new programs and other undertakings; and shall include in
4782 detail definite recommendations of the governor relative to the amounts which should be
4783 appropriated therefor. The operating budget shall show the estimated state revenue of each state
4784 agency. The operating budget shall indicate the number of positions proposed to be authorized
4785 for each state agency or such other public instrumentality for the ensuing fiscal year, the number
4786 of positions for each state agency in the current and ensuing fiscal years and such other
4787 information as may be held to explain the anticipated results of the proposed appropriations.

4788 Section 6B. (a) The comptroller, in consultation with the secretary of administration and
4789 finance, shall promulgate regulations which shall not be subject to chapter 30A to govern notice

4790 requirements for applications for federal grants by a state agency and the receipt and expenditure
4791 of federal funds. Such requirements shall, at a minimum, include:

4792 (1) reference to the federal statutory authority under which the action is proposed;

4793 (2) a description of the substance of the application; and

4794 (3) a fiscal statement setting forth:

4795 (i) the projected grant budget per year including the number of personnel to be
4796 funded with federal funds;

4797 (ii) the estimated amount of cash match, in-kind match or other monies to be
4798 supplied by the state and any other source from which such match will be required, and a
4799 description of the federal allocation formula and matching requirements including whether the
4800 grant is distributed to the commonwealth on the basis of a federally specified formula or on the
4801 basis of the federal grantor's discretion and a description of the federal constraints placed on the
4802 agency's discretion to use the grant; and

4803 (iii) the duration of the grant, the number of fiscal years the agency has been
4804 receiving assistance and the number of fiscal years in which assistance can be expected to
4805 continue under the program and a statement as to the priority of the program alongside other
4806 state or federally funded programs, including whether the agency would request that all or part of
4807 the program be funded out of the General Fund in the event federal funds are reduced or
4808 discontinued.

4809 To avoid any inconsistency or duplication in review, notices given under this section
4810 shall be coordinated with other notice requirements for project or plan proposals in connection
4811 with federal aid including those required under Circular A-95 of the United States Office of
4812 Management and Budget.

4813 (b) Upon official notification to a state agency from a federal department or agency of
4814 approval of a state plan or application for federal funds, the state agency shall notify the
4815 secretary of administration and finance and the comptroller promptly of the amount, duration,
4816 payment schedule and other attendant financial terms and conditions. Such notification shall be

4817 for the purposes of appropriate recording. The comptroller shall report to the house and senate
4818 committees on ways and means within 15 days after the last day of each quarter of the fiscal year
4819 detailing, by agency, the status of federal funds applied for, received and expended.

4820 (c) Under section 6 the budget director shall include all federal grants received or
4821 anticipated by state agencies as a part of the budget.

4822 (d) No state agency shall establish new, or expand existing programs involving federal or
4823 other non-state monies beyond the scope of those already established, recognized and approved
4824 by the general court, until the program and the projected or actual availability of money is
4825 submitted to the budget director for recommendation to the general court under section 6. No
4826 state agency may make expenditures from any federal grant unless such expenditures are made
4827 under specific appropriations of the general court and allotment thereof, said allotment to be
4828 made by the comptroller upon receipt of federal grant funds.

4829 Under section 2C, all such expenditures shall be charged to the General Federal Grants
4830 Fund. Notwithstanding the amount of the appropriation for a specific federal grant, the amount
4831 so expended from such federal grant shall not exceed the amount actually received and deposited
4832 in the General Federal Grants Fund for such federal grant. To the extent not precluded by the
4833 terms and conditions under which federal monies are made available by the United States
4834 government, a state agency shall use federal grants under any policies or priorities established by
4835 the general court for the activity being assisted.

4836 (e) If federal grant monies become available to the state for expenditure, under subsection
4837 (a), and the availability of such monies could not reasonably have been anticipated and included
4838 in the budget approved by the general court for the fiscal year in question, the treasurer may
4839 accept such monies on behalf of the state and the department head may make expenditures of
4840 such monies as are authorized by federal and state law. Upon application for, and receipt of, such
4841 monies, the department head shall submit to the house and senate committees on ways and
4842 means a statement:

4843 (1) describing the proposed federal expenditures in the same manner as described in the
4844 budget document; and

4845 (2) explaining why the availability of such federal grants and the necessity of their
4846 expenditure could not have been anticipated in time for such expenditures to have been approved
4847 as part of the budget enacted for that particular fiscal year.

4848 (f) Each spending agency in receipt of federal grant monies shall at the commencement of
4849 each fiscal year, and not later than July 31, and any agency which has not previously been in
4850 receipt of a federal grant shall, upon notification of grant approval, authorize the comptroller
4851 upon the comptroller's receipt of notice of a federal grant award to initiate such procedures as are
4852 established by the secretary of administration and finance to transfer from the federal grant
4853 account to the General Fund for the costs of fringe benefits, indirect costs and space use charges
4854 related to each federal grant received by that spending agency. Upon approval by the secretary,
4855 and subject to regulations established by the secretary, the amount of indirect costs, either in
4856 whole or in part, charged to a federal grant may be utilized to comply with federal requirements
4857 for in kind contributions. The costs of fringe benefits shall, in all cases, be recovered in cash. The
4858 comptroller shall not allow expenditures for the payment of salaries to be made from any federal
4859 grant account for which the comptroller has not been authorized to charge the full amount of
4860 fringe benefits to the account. Notwithstanding any general or special law to the contrary, this
4861 paragraph shall apply to all state agencies; provided, however, that any institution of higher
4862 learning shall be exempt from those charges associated with indirect costs, as described in the
4863 following paragraph.

4864 (g) Any portion of a federal grant received by an institution of higher learning which,
4865 according to the conditions of said federal grant, is to be paid for or to cover any overhead
4866 expenses, indirect costs, supporting services or facilities, or for any purpose other than the direct
4867 object of the grant, may be transferred in whole or in part to separate accounts and expended
4868 without appropriation for the support of a computer or computers, of another research grant, or
4869 of publishing programs under the exclusive control of such institution, or for faculty research or
4870 research and scholarly work under the supervision of members of the faculty of such institution.

4871 (h) No individual, corporation or other organization utilizing grants shall be permitted to
4872 occupy or use land, buildings, equipment or facilities of the commonwealth or use the services of
4873 any officer or employee of the commonwealth during his regular working hours unless there is a
4874 written agreement, approved by the secretary, between said individual, corporation or other

4875 organization and said officer or employee, that the commonwealth will be reimbursed for such
4876 occupancy or use; provided, however, that upon recommendation of any department, institution,
4877 board, commission, agency or employee setting forth good and sufficient reasons, this
4878 requirement may be waived in whole or in part by the secretary on a particular project or
4879 projects. All such reimbursements shall be paid into the state treasury. Notice of such waiver
4880 shall be filed with the state auditor.

4881 (i) Federal grants shall not be used to supplement the regular salary or compensation of
4882 any officer or employee of the commonwealth for services performed during the officer or
4883 employee's regular working hours.

4884 (j) The following are excluded from subsections (a), (d) and (e):

4885 (1) federal grant funds coming to institutions of higher education, including research
4886 grants;

4887 (2) research grants to individuals, agencies or institutions not exceeding \$50,000 in
4888 annual amount and not creating new, or expanding existing, programs or commitments of state
4889 resources;

4890 (3) any federal grant funds not exceeding \$5,000 in annual amount; and

4891 (4) federal grant funds made available to the state for costs and damages resulting from
4892 natural disasters, civil disobedience or other occurrences of sufficient severity to have
4893 occasioned the declaration by the governor of a state of emergency.

4894 Section 6C. In addition to information required by section 6 to be included in the budget
4895 submitted by the governor, said budget shall also include the following information:

4896 (a) a description of and the amount of expenditure by state agencies from trust funds and
4897 bond funds anticipated for the subsequent fiscal year; and

4898 (b) a narrative description accompanied by appropriate fiscal statements which shall
4899 reconcile the amounts for state revenues and expenditures for the previous fiscal year as
4900 presented by the budget director in the governor's budget with the amounts of state revenues and
4901 expenditures for the previous fiscal year as presented by the comptroller in the annual financial

4902 report of the commonwealth. Such description shall include a statement concerning the net
4903 consolidated surplus or deficit in the budgetary funds which are subject to direct appropriation.

4904 Section 6D. Each appropriation contained in the general appropriations or any
4905 supplemental appropriations acts shall include the following information: (a) the line-item
4906 number of the appropriation; (b) the purpose of the appropriation and other restrictive language;
4907 and (c) the amount of the appropriation or the maximum expenditure allowed, set out in numeric
4908 figures. No appropriation otherwise set out in any act shall be valid and the comptroller shall not
4909 allow monies to be expended on any appropriation not conforming to the requirements herein
4910 established.

4911 The general appropriations act shall include the following sections: (a) section 1 which
4912 shall include the enacting clause and general appropriation language; (b) section 1B which shall
4913 set forth the budgeted revenues appropriated in the budget according to category (state tax
4914 revenue, federal reimbursements, departmental revenues and budgeted transfers), by department,
4915 and identifying, by department, budgeted revenues that are restricted for the purpose of
4916 supporting retained revenue line-items; (c) section 2 which shall include all direct appropriations
4917 and authorizations to retain revenue; (d) section 2B which shall include all appropriations from
4918 the Intragovernmental Service Fund; (e) section 2C which shall include any authorizations to
4919 continue a prior appropriation; (f) section 2D which shall include all appropriations of federal
4920 grants; and (g) section 2E, which shall set forth appropriations to support transfers to funds other
4921 than budgetary funds.

4922 Supplemental and deficiency appropriations acts shall include, if necessary, the following
4923 sections: (a) section 2 which shall include direct appropriations and authorizations to retain
4924 revenue which do not require changes to the purpose of the appropriation or other restrictive
4925 language; (b) section 2A which shall include direct appropriations and authorizations to retain
4926 revenue which require new language regarding the purpose of the appropriation or other
4927 restrictive language; (c) section 2B which shall include all appropriations from the
4928 Intragovernmental Service Fund; and (d) section 2C which shall include all authorizations to
4929 continue a prior appropriation.

4930 This section shall apply to all appropriations of commonwealth funds, including direct
4931 appropriations, retained revenue authorizations, federal grant appropriations, accounts with prior
4932 appropriations continued and appropriations from the Intragovernmental Service Fund.

4933 Section 6E. The governor shall recommend, the general court shall enact and the
4934 governor shall approve a general appropriation bill which shall constitute a balanced budget for
4935 the commonwealth. No supplementary appropriation bill shall be approved by the governor
4936 which would cause the state budget for any fiscal year not to be balanced.

4937 Section 7H. The governor shall submit to the general court annually within 3 weeks after
4938 the general court convenes in regular session a budget including an operating budget and a
4939 capital facility budget and long range capital facilities development plan. In the first year of the
4940 term of office of a governor who has not served in the preceding year, the governor shall
4941 recommend the budget within 8 weeks after the convening of the general court. The
4942 recommendations contained therein shall, to the fullest possible extent, conform with the
4943 programs of the several offices and departments as defined by the secretary of administration and
4944 finance with the advice of the agency heads or other officers responsible for the administration
4945 thereof and long range capital facilities development plans as defined by the commissioner of
4946 capital asset management and maintenance. The budget shall also include definite
4947 recommendations of the governor for financing the expenditures recommended.

4948 All appropriations based upon the budget to be paid from budgeted revenues shall be
4949 incorporated in a single bill to be designated the general appropriation bill, set out in conformity
4950 with section 6D. With the budget the governor shall submit to the general court statements
4951 detailing and explaining the governor's reasons for recommending any increase in, decrease in,
4952 or deletion from the budgetary recommendations (a) of any department office, commission, or
4953 institution, or other public agency, or in the case of a department, office, commission or
4954 institution within any executive office established by chapters 6A and 7 of the secretary of such
4955 executive office, (b) of the general court, and (c) of the judiciary.

4956 The governor shall also submit such other messages, statements of supplemental data
4957 relative to the budget as the governor deems expedient and, from time to time during the session
4958 of the general court may submit supplemental messages on recommendations relative to

4959 appropriations, revenues and loans. Such statements of supplemental data shall include, at a
4960 minimum, statements of projected health care cost trends, caseload eligibility and enrollment
4961 trends, anticipated debt service costs and future growth in payments to fund the commonwealth's
4962 liability for pensions and the commonwealth's liability for retiree health care over the next 5
4963 fiscal years. Upon submission of the budget to the general court, the governor shall, through the
4964 executive office for administration and finance, make available to the public all material relevant
4965 to said budget, including all supporting documents pertinent thereto. This shall include at least
4966 the electronic or other distribution, at the time of submission of the governor's budget and
4967 subsequently the house and senate ways and means budgets, of (a) copies of these budgets to the
4968 state house library, and to the state office building in Springfield, (b) copies of all reports,
4969 statements, recommendations, or evaluations required by sections 3, 4, 5B, 5D, 6, 7 or any
4970 related reports required by any chapter of the general laws to the state house library. They shall
4971 be placed on public display and made available for reproduction during business hours.

4972 Any information which is required to be filed under this section or section 6, either with
4973 the budget by the governor, or as a part thereof, and which is not contained within the budget as
4974 filed or within accompanying documents filed at the same time, shall be filed by the governor
4975 not later than 14 days following the required filing date; provided, however, that such
4976 information shall be accompanied by a detailed statement explaining the failure to provide the
4977 information at the time the budget was submitted.

4978 If the governor determines from information supplied by the executive office for
4979 administration and finance, from the tax revenue resolution established under section 5B or from
4980 any other competent source that the tax revenues or non-tax revenues supporting the general
4981 appropriation bill have materially decreased, or that appropriations or statutory amendments that
4982 would provide funding to support recommended levels of appropriations have materially
4983 changed from the time the general appropriation bill was originally submitted, the governor shall
4984 submit to the general court by message recommended corrective amendments to the governor's
4985 original budget submission to ensure that total appropriations recommended in the general
4986 appropriation bill do not exceed total revenues supporting said bill. Such message shall be
4987 submitted to the general court within 15 days from the date of such determination.

4988 Section 7I. All requests and recommendations for appropriations or authorizations for
4989 expenditures by the commonwealth, other than those submitted by the governor to the general
4990 court under section 2 of Article LXIII of the Amendments to the Constitution, shall be submitted
4991 by the governor to the general court; shall be classified to show the request of each officer
4992 having charge of an office, department or undertaking, including the priorities assigned to each
4993 program by said officer, the recommendation of the secretary of the executive office within
4994 which such office, department or undertaking shall be, the recommendation of the governor, and
4995 the prior year appropriation, if any; and shall indicate the number, if any, of permanent positions
4996 proposed to be authorized for an office, department or undertaking and the number of persons to
4997 be served or the number of actions to be taken by such office, department or undertaking.
4998 Requests and recommendations as they pertain to capital facilities projects shall be studied by the
4999 commissioner of capital asset management and maintenance under chapter 7C.

5000 Section 7L. A law making an appropriation for expenses of the commonwealth shall not
5001 contain provisions on any other subject matter. As used in this section, expenses of the
5002 commonwealth shall include expenses of the executive, legislative and judicial departments,
5003 interest, payments on the public debt, local aid, and other items of expense authorized or required
5004 by existing law.

5005 Section 7M. The speaker of the house of representatives and the president of the senate
5006 may transfer funds, as needed, among items of appropriation for the house of representatives and
5007 the senate, respectively.

5008 Section 7N. The speaker of the house of representatives and the president of the senate,
5009 acting jointly, may transfer funds, as needed, among the items of appropriation for joint
5010 legislative expenses.

5011 Section 7O. The speaker of the house of representatives and the president of the senate,
5012 acting jointly, may transfer funds, as needed, from the items of appropriation for joint legislative
5013 expenses to the items of appropriation for the house of representatives and the senate.

5014 Section 9B. Any monies made available by appropriation to state agencies under the
5015 control of the governor or a secretary, but not including the courts, the office of the governor and
5016 the office of the lieutenant governor, shall be expended only in such amounts as may be allotted

5017 as provided in this section. The secretary of administration and finance shall allot to each such
5018 state agency the amount which it may expend for each month out of the sums made available to
5019 it by appropriation or otherwise, taking into account the programmatic needs of the program
5020 supported by the appropriation and the cash-flow needs of the commonwealth. The initial
5021 allotment shall be the result of dividing the annual sum available for expenditure by 12, unless
5022 the full legislative objective of an appropriation would be accomplished, without amendment, by
5023 a lesser allotment than that required by the formula. The secretary may allot a greater amount
5024 than required by the formula provided, however, that the total amount allotted during the fiscal
5025 year shall not exceed the amount available through appropriation or otherwise. If a greater
5026 allotment is authorized under the preceding sentence, the secretary shall document on the state's
5027 accounting system the reasons why the greater allotment was authorized and why the resulting
5028 expenditure will not exceed the amount available through appropriation or otherwise. Not less
5029 than 15 days prior to the initial allotment of such greater amount from any appropriation for
5030 which a supplemental appropriation will become necessary if current rates of spending continue,
5031 the secretary of administration and finance shall file with the house and senate committees on
5032 ways and means a report containing the following information: (1) the amount of the
5033 appropriation which the secretary proposes to allot; and (2) a detailed corrective action plan to
5034 prevent a deficiency in the account or accounts involved; a request for a supplemental or
5035 deficiency appropriation, if such corrective action plan would not eliminate the deficiency or
5036 would violate the legislative objective of the appropriation; or a statement explaining why
5037 neither a corrective action plan nor a supplemental appropriation is necessary.

5038 If so designated, the secretary of administration and finance shall designate such member
5039 or members of the secretary's office as may be approved by the governor to exercise the
5040 foregoing powers in the absence of said secretary.

5041 Whenever the officer in charge of each such state agency requests a supplemental
5042 allotment, the officer shall submit to the budget director, in such form and at such times as the
5043 budget director shall prescribe, such information as may be required by the secretary of
5044 administration and finance; provided, that before any such information relating to such a state
5045 agency has been so submitted to the budget director, it shall first be submitted to the secretary

5046 having charge of such state agency who shall review the same and make such additions,
5047 deletions and modifications as the secretary deems appropriate.

5048 Section 9C. Whenever, in the opinion of the secretary of administration and finance,
5049 budgeted revenues as determined by the secretary from time to time during any fiscal year under
5050 section 5B will be insufficient to meet all of the expenditures authorized to be made from any
5051 budgetary fund, the secretary shall within 5 days notify in writing the governor and the house
5052 and senate committees on ways and means of the amount of such probable deficiency of revenue
5053 and the governor shall, within 15 days after such notification, reduce allotments under section
5054 9B, and submit in writing a report stating the reason for and effect of such reductions, or submit
5055 to the general court specific proposals to raise additional revenues by a total amount equal to
5056 such deficiency. Any action challenging the legality of an allotment reduction under this section
5057 shall be commenced in the supreme judicial court for Suffolk county.

5058 Whenever the governor reduces allotments under the preceding paragraph, the governor
5059 shall notify the house and senate committees on ways and means in writing 15 days before any
5060 alterations to the original allotment reduction plan. Any alterations to the original allotment
5061 reduction plan that would seek to increase an allotment must provide an equal reduction in other
5062 allotments or propose to raise additional revenues to total the amount of the allotment increase.

5063 As an alternative to the submission of such proposals to raise additional revenues and to
5064 the extent funds are available, the governor may recommend an appropriation equal to such
5065 deficiency from the Commonwealth Stabilization Fund in the manner provided in section 2H.

5066 Section 9D. Whenever it appears probable to any officer having charge of any office,
5067 department or undertaking, that amounts to be received from the federal government or any other
5068 sources for the purposes of such office, department or undertaking will be less than the amounts
5069 previously estimated to be received from such sources, such officer shall immediately notify the
5070 secretary of administration and finance and the house and senate committees on ways and means
5071 of such anticipated decrease in estimated revenue, and the secretary of administration and
5072 finance shall include such decrease in revenue in the secretary's determination of budgeted
5073 revenues under section 5B and the deficiency, if any, reported under the previous section.

5074 Section 9E. Whenever it appears to any officer having charge of any office, department
5075 or undertaking that any appropriation therefor will be insufficient to meet all of the expenditures
5076 required in the current fiscal year by any law, rule, regulation or order not subject to the officer's
5077 control, the officer shall immediately notify the secretary of administration and finance and the
5078 house and senate committees on ways and means of the estimated amount of such additional
5079 requirements, and such amount shall be added by the secretary to any deficiency reported under
5080 section 9C unless, prior to such report, such provisions are changed to make the estimated
5081 additional expenditures unnecessary.

5082 Section 9F. After the close of each monthly accounting period, the comptroller shall
5083 notify the secretary of administration and finance and each officer having charge of an office,
5084 department or undertaking which receives a periodic appropriation, of the amount and per cent of
5085 each such appropriation which had been expended at the close of the preceding month for that
5086 month and for the year-to-date, of the amount available for each such appropriation and of the
5087 amount and per cent of each appropriation, if any, for the same purpose expended during the
5088 corresponding period in the preceding fiscal year.

5089 Section 9G. Sums made available by appropriation or otherwise to offices, departments
5090 or undertakings for studies, plans, designs, construction, acquisition, purchase or repair of capital
5091 facilities, of highway improvement facilities, such as a highway, bridge or tunnel, and of
5092 transportation improvement facilities, such as a mass transportation or other public transit
5093 facility, shall be expended only in such amount as may be allotted for expenditure from time to
5094 time by the secretary of administration and finance or said secretary's approved designee. The
5095 officer in charge of each office, department or undertaking shall submit to the secretary, in such
5096 form and at such times as the secretary shall prescribe, such information as may be required by
5097 the secretary for making such allotments; provided that before any such information relating to
5098 an office, department or undertaking within any of the executive offices established by chapter
5099 6A has been so submitted, it shall first be submitted to the secretary having charge of such
5100 executive office, who shall review the same and make such additions, deletions and
5101 modifications as such secretary deems appropriate.

5102 The secretary of administration and finance shall issue directives governing expenditure
5103 from bond authorizations; such directives shall include, but not be limited to, the following: (1)

5104 such measures as determined by said secretary to be necessary to regulate the rate of expenditure
5105 from any or all bond authorizations, and (2) such measures as determined by said secretary to be
5106 necessary to ensure compliance with such directives, including requiring prior written approval
5107 of said secretary before the award of contract or grants.

5108 Section 12. Appropriations by the general court shall be made for the fiscal year unless
5109 otherwise specifically provided in such appropriation.

5110 Section 12A. Beginning June 1 of any year, obligations may be incurred against
5111 appropriations for items to be delivered or for services to be rendered on or after the beginning of
5112 the next fiscal year; provided, however, that said obligations are in accordance with law and the
5113 amounts of the obligations do not exceed one-twelfth of that appropriation for the current fiscal
5114 year.

5115 Where the allotment of an appropriation is a condition precedent to expenditure,
5116 the obligations shall not exceed the amount allotted for said appropriation; provided, however,
5117 that during June the comptroller may prepare warrants and the state treasurer may advance funds
5118 to the department of transitional assistance to make payments on and after July 1 as authorized
5119 by chapter 658 of the acts of 1967; and provided further that said payments are in accordance
5120 with law and the amounts of said payments do not exceed the amount of the appropriation,
5121 provided, however, that no funds shall be expended until such funds have been appropriated. The
5122 certified copies of the schedules provided for in section 27 shall be filed with the comptroller and
5123 the budget director as of June 1. If the allotment of an appropriation is required by law, such
5124 allotment shall be made as of June 1.

5125 Notwithstanding any general or special law to the contrary, in order to comply with the
5126 Social Security Act, the state treasurer may transfer to the United States Treasury before July
5127 funds necessary to make July 1 Supplemental Security Income payments to commonwealth
5128 benefit recipients.

5129 Section 12B. Notwithstanding any general or special law to the contrary, and in
5130 accordance with generally accepted accounting principles, the fiscal year for the payment of
5131 classified personal services shall be the fiscal year established by clause ninth of section 7 of
5132 chapter 4.

5133 Section 13. Encumbrances outstanding on the records of the comptroller's office at the
5134 close of the fiscal year may be applied to the payment thereof in the 2 months immediately
5135 succeeding such fiscal year.

5136 Section 14. (a) Appropriations for other than ordinary maintenance, unless otherwise
5137 specifically provided in the appropriation, shall be available for expenditure in the 2 fiscal years
5138 following June 30 of the calendar year in which the appropriation is made and any portion of
5139 such appropriation representing encumbrances outstanding on the records of the comptroller's
5140 bureau at the close of such second fiscal year may be applied to the payment thereof any time
5141 thereafter. The unencumbered balance of such appropriation shall revert to the commonwealth at
5142 the close of such second, or other designated, fiscal year; provided, however, that appropriations
5143 for other than ordinary maintenance financed by the sale of bonds and notes, unless otherwise
5144 specifically provided therein, shall be available for expenditure in the 5 fiscal years following
5145 June 30 of the calendar year in which the appropriation is made and any portion of such
5146 appropriation representing encumbrances outstanding on the records of the comptroller's bureau
5147 at the close of such fifth fiscal year may be applied to the payment thereof any time thereafter.
5148 The unencumbered balance shall revert to the commonwealth at the close of such fifth or other
5149 designated fiscal year.

5150 (b) Notwithstanding paragraph (a), the comptroller may create restricted spending
5151 accounts for the management of encumbrances in expiring accounts funded by bonds and notes;
5152 may transfer encumbered funds from said expiring accounts into said restricted accounts; and
5153 may expend said funds following the receipt of duly authorized and properly completed payment
5154 vouchers; provided that nothing in this subsection shall authorize the encumbrance or
5155 expenditure of uncommitted funds in said expiring appropriations accounts.

5156 Section 15. An appropriation shall supersede an earlier one made for the same object.

5157 Section 16. Payments authorized by appropriation acts shall be made from budgeted
5158 revenue, if no other provision is expressly made for such payment.

5159 Section 17. An appropriation act shall not be construed to require a payment to a person
5160 with whom the commonwealth has an unadjusted account. The governor, upon receiving

5161 satisfactory information that money is illegally withheld from the commonwealth by any person,
5162 shall instruct the state treasurer to withhold all payments to such person until the person pays
5163 such account.

5164 Section 18. Except as otherwise provided, no money shall be paid by the commonwealth
5165 without a warrant from the governor drawn in accordance with an appropriation then in effect,
5166 and after the demand or account to be paid has been certified by the comptroller; provided, that
5167 the principal and interest on all public debts shall be paid when due without any warrant and that
5168 no appropriation shall be required for the payment of principal or income of funds held in trust
5169 by the commonwealth, or of sinking funds to meet maturing bonds, or of treasury notes issued
5170 for duly authorized temporary loans, or of corporation and other taxes collected by the
5171 commonwealth for distribution to towns, or for the investment of such funds as the state treasurer
5172 is duly authorized to invest, or for payments authorized by law out of the several prison
5173 industries funds, or for refunds of taxes or penalties or for refunds or payments of interest or
5174 costs lawfully made under chapters 58 to 65A, inclusive; and, provided, further, that the
5175 governor may, without an appropriation, draw the governor's warrant for the payment of the
5176 governor's own salary and the salaries of the justices of the supreme judicial court. No certificate
5177 shall be required from the comptroller for payment of the pay rolls of the members of the council
5178 and general court, or for the traveling and other expenses of members of the general court as
5179 provided in section 9B of chapter 3.

5180 Section 19A. Whenever a general appropriation act provides that transfers shall be made
5181 from a fund, account or receipts, of a specific sum, a percentage of payments, or a sum
5182 equivalent to payments, such transfers of a specific sum shall be made upon the effective date of
5183 such act, and all other such transfers shall be made monthly unless otherwise provided, except
5184 that at the close of a fiscal year, the amount equivalent to payments in a continuing account shall
5185 be construed to mean the amount of such appropriation.

5186 Section 20. No account or demand requiring the certificate of the comptroller or warrant
5187 of the governor shall be paid from an appropriation unless it has been authorized and approved
5188 by the head of the department, office, commission or institution for which it was contracted; nor
5189 shall any appropriation be used for expenses, except gratuities and special allowances by the

5190 general court, unless properly approved vouchers therefor have been filed with the comptroller.
5191 No such voucher shall be submitted by such head nor shall any such approval be given by such
5192 head unless sufficient funds are allotted for such purposes at the time the voucher is submitted or
5193 the approval is given.

5194 Section 20A. No order for, or claim for payment for, extra work or materials, furnishings
5195 or equipment, in addition to an existing contract for the construction or repair of any structure or
5196 of public works of any nature whatsoever or for equipment or furnishings, shall be approved by
5197 any official, board, department or commission on behalf of the commonwealth until 1 week after
5198 notice of intention to act upon such order or claim shall have been filed by him or it with the
5199 comptroller; provided, that, in the case of any such order estimated to involve a cost of less than
5200 \$15,000 and in the case of any such order necessitated by extreme emergency involving the
5201 health or safety of persons or damage to property or to work in progress, notice of the approval
5202 of such order may be filed after the work has been commenced or completed, but such notice
5203 shall be so filed as soon as practicable, with a brief statement as to the character of the extreme
5204 emergency, if any, and in any event such notice shall be filed before final payment is made on
5205 the contract to which the order or claim for extra work or payment relates. The foregoing
5206 requirements shall not apply to change in quantities of work or materials covered at unit prices
5207 by an item or items in any such original contract, nor to work, other than extra work, for which
5208 payment is specifically provided in the contract or specifications. Every notice under this section
5209 shall contain the number or other designation of such contract, together with the title and date
5210 thereof, and a statement of the amount of the accepted bid and of the estimated total cost based
5211 on the bid prices of such contract, and of the total amount of orders or claims previously
5212 approved for payment, and of the character and location of work proposed or included under
5213 each such order or claim, and of the estimated cost or amount under each such order or claim.
5214 Said notices shall be entered by the comptroller upon a docket and shall be open to public
5215 inspection.

5216 No such order or claim shall be split or divided for the purpose of evading any provision
5217 of this section.

5218 Section 20C. Any commercial vendor to whom any state agency of the commonwealth is
5219 liable for late penalty interest under section 29B shall, prior to payment of said interest, submit to

5220 said state agency an invoice for said interest under applicable rules and regulations of the
5221 comptroller.

5222 Section 22. Except as otherwise expressly provided, no greater sum from an
5223 appropriation shall be drawn from the treasury at any one time than is necessary to meet
5224 expenses then incurred.

5225 Section 23. Any officer authorized to expend money in behalf of the commonwealth may
5226 have money advanced to the officer from the treasury for such purposes, in such sums and
5227 subject to such rules and regulations as the comptroller may determine.

5228 The state treasurer shall manage all cash, funds, or investments under the control or
5229 jurisdiction of any state agency, other than nonappropriated funds held by a public institution of
5230 higher education. "State agency" in this section shall mean any department, office, commission,
5231 committee, council, board, division, bureau, institution, office or other agency within the
5232 executive or legislative department, excluding, however, the Massachusetts Bay Transportation
5233 Authority and the Massachusetts Port Authority. Funds shall be deemed to be under the control
5234 of a state agency from the date of the initial deposit into any commonwealth account until the
5235 date a check or draft drawn on a commonwealth account clears the disbursing bank.

5236 The state treasurer shall provide for the funding of checks or drafts drawn by any state
5237 officer, department, institution or other agency which has received proper authority to expend
5238 money on behalf of the commonwealth.

5239 Section 23A. Subject to sections 24 and 25, the comptroller shall provide for payments by
5240 officers receiving advances under this chapter and to section 20 of chapter 18B, to eligible
5241 organizations under contract with the commonwealth to provide social, educational or
5242 rehabilitative services. Said payments shall be made under a schedule to be included in each such
5243 contract, on the basis of projected expenses or services and shall be adjusted monthly and at the
5244 end of each contract, under the submission of a voucher or other claim for payment, to reflect the
5245 actual cost or extent of services rendered.

5246 The comptroller shall establish rules and regulations governing the eligibility of providers
5247 to receive such payments including but not limited to, proper incorporation and recording with

5248 the secretary of state, and compliance with all applicable state and federal laws. Each such
5249 eligible provider shall, at the end of each billing period, submit timely, complete and accurate
5250 documentation prepared under the terms of its contract and with requirements of the comptroller.
5251 Any violation of this paragraph shall result in ineligibility for such payments for 2 years from the
5252 date of disqualification. Prior to reinstatement of eligibility, a provider shall submit proof of
5253 ability to comply with the requirements of this section and with any regulations promulgated
5254 under this section. The comptroller shall promulgate rules and regulations necessary to carry out
5255 this section.

5256 Section 24. Such officers shall certify that the amount is needed for immediate use, and,
5257 as specifically as may be, the purposes for which the expenditure is required. The certificate shall
5258 bear the approval of the officer or department having the supervision of such expenditure and,
5259 when filed with the comptroller, his certificate and the warrant and payment shall follow as in
5260 case of claims against the commonwealth.

5261 Section 25. Such officers shall, within 30 days after receipt of an advance, file with the
5262 comptroller a detailed statement of the amounts expended subsequent to the previous accounting,
5263 approved by the officer or department authorized to supervise such expenditure, with vouchers
5264 therefor if they can be obtained. All advances so made shall be accounted for and vouchers
5265 therefor filed with the comptroller before the close of the fiscal year.

5266 Section 26. Expenses of offices and departments for compensation of officers, members
5267 and employees and for other purposes shall not exceed the appropriations made therefor by the
5268 general court or the allotments made therefor by the governor. No obligation incurred by any
5269 officer or servant of the commonwealth for any purpose in excess of the appropriation or
5270 allotment for such purpose for the office, department or institution which the officer or servant
5271 represents, shall impose any liability upon the commonwealth nor shall any liability be imposed
5272 upon the commonwealth under a subsequent appropriation by any ongoing commitment against a
5273 current year appropriation.

5274 Section 27. Notwithstanding any general or special law to the contrary, no department,
5275 office, commission and institution shall incur an expense, increase a salary or employ a new
5276 clerk, assistant or other subordinate, unless an appropriation by the general court and an

5277 allotment by the secretary of administration and finance, sufficient to cover the expense thereof,
5278 shall have been made. As soon as possible after the general appropriation bill or any other
5279 appropriation bill has the force of law conformably to the constitution, the budget director shall
5280 file with the house and senate committees on ways and means and the comptroller a schedule
5281 identifying the amount of each subsidiary account, if any, within every appropriation that shall
5282 be made available to departments, offices, commission or institutions within the state's central
5283 accounting system.

5284 Section 27B. No state agency, excepting the departments of the attorney general, state
5285 auditor, state secretary and state treasurer, shall initiate any encumbrance or make any
5286 expenditure of funds, whether appropriated or not, for the lease or purchase of data processing or
5287 reproduction equipment or systems unless:

5288 (1) if appropriated funds are to be used, a prior request therefor has been made to the
5289 budget director under sections 3 or 4, and at least 30 days written notification has been given to
5290 the house and senate committees on ways and means;

5291 (2) the officer in charge of the agency has certified that funds are specifically available
5292 for the purpose;

5293 (3) in the case of a department, office, commission, board or institution within any of the
5294 executive offices established by chapters 6A and 7, the secretary having charge of such executive
5295 office has approved in writing the encumbrance or expenditure, and

5296 (4) the secretary of administration and finance has approved in writing said encumbrance
5297 or expenditure.

5298 The secretary of administration and finance shall establish rules and regulations
5299 governing the lease or purchase of data processing or reproduction equipment or systems and the
5300 procedure for requesting approval thereof as required by this section.

5301 The secretary of administration and finance shall notify the house and senate committees
5302 on ways and means and the house and senate committees on post audit and oversight of the
5303 general court of any approval granted by the secretary under this section.

5304 Section 27C. Notwithstanding any special or general law to the contrary:

5305 (a) Any law taking effect on or after January 1, 1981 imposing any direct service or cost
5306 obligation upon any city or town shall be effective in any city or town only if such law is
5307 accepted by vote or by the appropriation of money for such purposes, in the case of a city by the
5308 city council in accordance with its charter, and in the case of a town by a town meeting, unless
5309 the general court, at the same session in which such law is enacted, provides, by general law and
5310 by appropriation, for the assumption by the commonwealth of such cost, exclusive of incidental
5311 local administration expenses and unless the general court provides by appropriation in each
5312 successive year for such assumption.

5313 (b) Any law taking effect on or after January 1, 1981 granting or increasing exemptions
5314 from local taxation shall be effective in any city or town only if the general court, at the same
5315 session in which such law is enacted, provides by general law and by appropriation for payment
5316 by the commonwealth to each city and town of any loss of taxes resulting from such exemption.

5317 (c) Any administrative rule or regulation taking effect on or after January 1, 1981 which
5318 shall result in the imposition of additional costs upon any city or town shall not be effective until
5319 the general court has provided by general law and by appropriation for the assumption by the
5320 commonwealth of such cost, exclusive of incidental local administration expenses and unless the
5321 general court provides by appropriation in each successive year for such assumption.

5322 (d) Any city or town, any committee of the general court, and either house of the general
5323 court by a majority vote of its members, may submit written notice to the division of local
5324 mandates, established under section 6 of chapter 11, requesting that the division determine
5325 whether the costs imposed by the commonwealth by any law, rule or regulation subject to this
5326 section have been paid in full by the commonwealth in the preceding year and, if not, the amount
5327 of any deficiency in such payments. The division shall make public its determination within 60
5328 days after such notice.

5329 (e) Any city or town, or any 10 taxable inhabitants of any city or town may in a class
5330 action suit petition the superior court alleging that under subsections (a), (b) and (c) of this
5331 section with respect to a general or special law or rule or regulation of any administrative agency
5332 of the commonwealth under which any city or town is required to expend funds in anticipation of

5333 reimbursement by the commonwealth, the amount necessary for such reimbursement has not
5334 been included in the general or any special appropriation bill for any year. Any city or town, or
5335 any 10 taxable inhabitants of any city or town may in a class action suit petition the superior
5336 court alleging that under subsections (a), (b) and (c) of this section with respect to any general or
5337 special law, or rule or regulation of any administrative agency of the commonwealth which
5338 imposes additional costs on any city or town or which grants or increases exemptions from local
5339 taxation, the amount necessary to reimburse such city or town has not been included in the
5340 general or any special appropriation bill for any year. The determination of the amount of
5341 deficiency provided by the division of local mandates under subsection (d) of this section shall
5342 be prima facie evidence of the amount necessary. The superior court shall determine the amount
5343 of the deficiency, if any, and shall order that said city or town be exempt from such general or
5344 special law, or rule or regulation of any administrative agency until the commonwealth shall
5345 reimburse such city or town the amount of said deficiency or additional costs or shall repeal such
5346 exemption from local taxation.

5347 (f) Any of the parties permitted to submit written notice to the division of local mandates
5348 under subsection (d) of this section may submit written notice to the division requesting that the
5349 division determine the total annual financial effect for a period of not less than 3 years of any
5350 proposed law or rule or regulation of any administrative agency of the commonwealth. The
5351 division shall make public its determination within 60 days of such notice.

5352 (g) Notwithstanding subsection (a), (b) and (c), any city or town shall be allowed to
5353 accept any law, rule or regulation specified by said subsections whether or not such law, rule or
5354 regulation is funded by the commonwealth.

5355 (h) This section shall apply to regional school districts and educational collaboratives
5356 organized under section 4E of chapter 40, to the same extent as it applies to cities and towns. A
5357 regional school district may accept a law, rule or regulation by vote of its school committee and
5358 an educational collaborative by vote of its board of directors.

5359 (i) This section shall not apply to any costs to cities and towns or exemptions to local
5360 taxation resulting from a decision of any court of competent jurisdiction, or to any law, rule or
5361 regulation enacted or promulgated as a direct result of such a decision.

5362 Section 28. The cost of printing and publishing any publication issued by or on behalf of
5363 the commonwealth by any office or department shall be paid from the appropriation for such
5364 office or department.

5365 Section 29. Any subsidiary account set up as prescribed in a schedule referred to in
5366 section 27, on the books of any department, office, commission or institution, receiving an
5367 appropriation from the commonwealth, may be increased or decreased by the interchange with
5368 any other such subsidiary account within the same appropriation account by the officer in charge
5369 of such department, office, commission or institution upon his certification to the budget director
5370 that such interchange is required to incur obligations to meet statutory responsibilities under
5371 general or special law where funds are otherwise not available, unless otherwise provided by
5372 general or special act. For any certification requesting a transfer to a subsidiary account that has
5373 not been established within a schedule prescribed under said section 27, the officer shall include
5374 the reasons for the new subsidiary account. Every such certification shall include a statement of
5375 the details of the necessity of the transfer and of the probable consequences if said interchange
5376 should not be made. An officer making any such certification shall file forthwith a copy thereof
5377 within the central accounting system under policies and procedures adopted by the secretary of
5378 administration and finance.

5379 The comptroller may accept affidavits that expenditures are in accordance with the
5380 purpose of such appropriation or subsidiary accounts and do not exceed the unencumbered
5381 balances of the amounts provided therefor. The comptroller shall refuse to permit a disbursement
5382 or the incurring of an obligation if funds or allotments of funds under an appropriation account or
5383 subsidiary account under an appropriation account, sufficient to cover such disbursement or
5384 obligation are not available and shall immediately give notice of such refusal to the department,
5385 office, commission or institution proposing the expenditure, and, in the case of a department,
5386 office, commission or institution within any of the executive offices established by chapters 6A
5387 and 7 to the secretary having charge of such executive office.

5388 The secretary of administration and finance may establish regulations or policies
5389 governing the interchange of funds under this section.

5390 Section 29A. The secretary of administration and finance shall make, and may from time
5391 to time amend, rules and regulations governing the use of consultants in all departments, offices,
5392 boards, agencies, commissions and institutions. Such rules and regulations shall be open to
5393 public inspection shall not be subject to chapter 30A. No person employed by the commonwealth
5394 as a consultant shall directly or indirectly supervise another temporary or permanent employee of
5395 the commonwealth. Consultant contracts, whether written with organizations or individuals, shall
5396 not be used as substitutes for state positions. The secretary shall submit quarterly to the house
5397 and senate committees on ways and means and the house and senate committees on post audit
5398 and oversight a report which identifies all existing consultant contracts by agency, for all
5399 accounts established or maintained by the comptroller, including but not limited to
5400 appropriations, for federal grants, bond authorizations, revolving accounts, retained revenue line-
5401 items and trust accounts. Said report shall identify each contract, its duration, its maximum dollar
5402 obligation, the name of the contractor and the services performed by the contractor.

5403 Section 29B. The secretary of administration and finance shall make, and may from time
5404 to time amend, rules and regulations governing the procurement and administration of contracts
5405 with organizations providing social, rehabilitative, health or special education services. Such
5406 rules and regulations shall not be subject to chapter 30A. No person employed by an organization
5407 providing social, rehabilitative, health or special education services as defined above shall
5408 directly or indirectly supervise a temporary or permanent employee of the commonwealth. Such
5409 contracts shall not be written or used by any department, office, agency, board, commission or
5410 institution of the commonwealth to procure full or part-time personal services or equipment to be
5411 used by such department, office, agency, board, commission or institution, or any goods or
5412 services not required in the direct provision by the contractor of social, rehabilitative, health, or
5413 special education services to populations being served by the contracting department, office,
5414 agency, board, commission or institution.

5415 Section 29C. Except as otherwise provided for by law, the general court or any agency of
5416 the executive or judicial branches of the government which acquires property or services from a
5417 commercial vendor, including both profit and not for profit corporations, excluding state
5418 employees, recipients of public assistance, cities and towns and other municipal forms of
5419 government, but which does not make full payment by the required payment date for each such

5420 complete and appropriate item of property or service delivered under an applicable purchase
5421 order contract, shall be liable for late penalty interest to said commercial vendor on the amount
5422 which is due under the following provisions:

5423 (a) that the required payment date shall be the date on which payment is due under the
5424 terms of the contract for the provision of said property or services; or, if a specific date on which
5425 payment is due is not established by contract, not more than 45 days after receipt of a properly
5426 authorized, approved and submitted invoice for the amount of payment due, unless the usual and
5427 customary time for payment is longer;

5428 (b) that the late penalty interest provided for under this section shall be computed at a rate
5429 to be set semi-annually by the secretary of administration and finance on January 1 and July 1 of
5430 each year; provided, however, that said rate shall be equal to the discount rate charged on said
5431 dates by the Federal Reserve Bank of Boston;

5432 (c) that this section shall apply to any late penalty interest which may be due under this
5433 section;

5434 (d) that this section shall not apply to the delivery of any property or services made at the
5435 beginning of any fiscal year unless a general appropriation act is in effect for said fiscal year.
5436 Upon the passage of a general appropriation act, a required payment date may be set or the 45
5437 day period as provided in clause (a) may be commenced;

5438 (e) that, within 15 days after the date on which any invoice is received, state agencies
5439 notify any such commercial vendors of any defect or impropriety in such invoice which would
5440 prevent the running of the time period.

5441 Any state agency required to pay interest under this section shall pay any amount
5442 required out of funds appropriated for the administration or operation of the program for which
5443 the interest was incurred.

5444 The secretary of administration and finance shall, not more than 60 days after the
5445 conclusion of each fiscal year, file with the house and senate committees on ways and means a
5446 summary report on any interest penalties made under this section during the preceding fiscal
5447 year. Such report shall include the number, amounts, frequency of interest penalty payments and

5448 reasons such interest payments were made, summarized by state agency and secretariat, where
5449 applicable.

5450 A copy of rules and regulations promulgated under this section, or any amendment or
5451 repeal of any such rules and regulations, shall be filed with the house and senate committees on
5452 ways and means at least 30 days prior to implementation.

5453 Section 29D. Notwithstanding any law to the contrary, the officer having charge of any
5454 state agency may retain the services of 1 or more private persons, companies, associations or
5455 corporations for the purpose of collection of debts owed to the commonwealth, other than those
5456 covered by section 3A of chapter 14, under agreements between the comptroller and said private
5457 persons, companies, associations or corporations. No state agency shall assign the account of any
5458 debtor to a private collection agency until such debtor has been sent a notice, at least 30 days
5459 prior thereto, of the intention of the agency to so assign the collection of such unpaid account of
5460 such debtor.

5461 The comptroller shall from time to time, competitively procure agreements with 1 or
5462 more private persons, companies, associations or corporations for the provision of debt collection
5463 services on behalf of state agencies. No such agreement shall be entered into unless proposals for
5464 the same have been invited by public notice published in the central register under section 20A
5465 of chapter 9, within the COMPASS system, so-called, and in at least 1 newspaper once a week
5466 for at least 2 consecutive weeks and the last publication to be at least 1 week prior to the time
5467 specified for the opening of said proposals. All such proposals shall be opened in public. The
5468 comptroller may reject any or all of such proposals. Any such agreement shall provide, in the
5469 discretion of the comptroller, the manner in which the compensation for such services will be
5470 paid. Under standards established by the comptroller, such compensation may be added to the
5471 amount of the debt and collected as part thereof by the contractor; deducted and retained by the
5472 contractor from the amount of debt collected; or paid by the commonwealth from the amount of
5473 debt collected without further appropriation therefor.

5474 The comptroller shall, as part of the comptroller's annual report under section 12 of
5475 chapter 7A, list all private persons, companies, associations or corporations with whom the
5476 comptroller has agreements for collection services during the fiscal year and the amount of debts

5477 collected by and the compensation paid to each such person, company, association or
5478 corporation.

5479 Section 29E. Notwithstanding any general or special law to the contrary, the comptroller
5480 may enter into contracts or interdepartmental service agreements for the purpose of identifying
5481 and pursuing increased revenue collection, cost avoidance, the maximum reimbursement
5482 opportunities for certain federally assisted and other programs of the commonwealth and any
5483 other reimbursements of overpayments or other revenues. The contractor payments, or oversight
5484 costs or fees related to this section shall be paid from the revenues or reimbursements collected,
5485 or as otherwise considered appropriate by the comptroller, without further appropriation, and the
5486 comptroller shall establish accounts and procedures within the affected departments as the
5487 comptroller considers appropriate and necessary to accomplish the revenue generation purposes
5488 of this section. The comptroller shall notify, in writing, the house and senate committees on ways
5489 and means 60 days before entering into any contract authorized under this section. The
5490 comptroller shall report on said projects as a part of the comptroller's annual report under section
5491 12 of chapter 7A.

5492 Section 29F. (a) As used in this section the following words shall, unless the context
5493 clearly requires otherwise, have the following meanings:-

5494 “Affiliates”, entities which are affiliates of each other when either directly or indirectly
5495 one concern or individual controls or has the power to control another, or when a third party
5496 controls or has the power to control both.

5497 “Commissioner”, the commissioner of the division of capital asset management and
5498 maintenance or the commissioner's designee within such division.

5499 “Contractor”, any person that has furnished or seeks to furnish supplies or services under
5500 a contract with a public agency or with a person under a contract with a public agency.

5501 “Debarment”, an exclusion from public contracting or subcontracting for a reasonable,
5502 specified period of time commensurate with the seriousness of the offense.

5503 “Person”, any natural person, business, partnership, corporation, union, committee, club
5504 or other organization, entity or group of individuals.

5505 “Public agency”, a department, agency, board, commission, authority, activity or
5506 instrumentality of the commonwealth, or of any political subdivision of the commonwealth, or of
5507 2 or more subdivisions of the commonwealth.

5508 “Public contract”, a contract for the furnishing of supplies or services to any public
5509 agency.

5510 “Secretary”, the head of an executive office established under chapter 6A or such head’s
5511 designee within such executive office, or the secretary of administration and finance appointed
5512 under section 4 of chapter 7 or a designee within the executive office.

5513 “Suspension”, the temporary disqualification of a contractor who is suspected upon
5514 adequate evidence of engaging or having engaged in conduct which constitutes grounds for
5515 debarment.

5516 (b) The secretary of administration and finance shall establish and maintain a
5517 consolidated list of contractors to whom public contracts shall not be awarded and from whom
5518 offers, bids or proposals shall not be solicited.

5519 The list shall show at a minimum the following information: (1) the names of those
5520 persons debarred or suspended in alphabetical order with appropriate cross reference where more
5521 than one name is involved in a single debarment or suspension; (2) the basis of authority for each
5522 debarment or suspension, including the secretary or other official who imposed the debarment or
5523 suspension; (3) the extent of restrictions imposed; (4) the termination date of each debarment or
5524 suspension; and (5) in the case of a suspension, the hearing date, if and when set, for debarment
5525 proceedings.

5526 The secretary of administration and finance shall cause the list to be kept current by the
5527 issuance of notices of additions and deletions. The list shall be published on a periodic basis,
5528 together with notices of additions to and deletions from the list, in the goods and services bulletin
5529 and the central register published by the state secretary and in such other publications as the
5530 secretary of administration and finance shall designate. The secretary of administration and
5531 finance shall also forward said list to the inspector general, the attorney general and the state
5532 auditor. A secretary or the commissioner, as the case may be, upon imposing a debarment or

5533 suspension or removing a suspension shall forthwith notify the secretary of administration and
5534 finance of all information required for inclusion on such list.

5535 (c) Debarment may be imposed for the following causes but debarment shall be imposed
5536 in all causes where debarment is required by law:

5537 (1) conviction or final adjudication by a court or administrative agency of competent
5538 jurisdiction of any of the following offenses: (i) a criminal offense incident to obtaining or
5539 attempting to obtain a public or private contract or subcontract, or in the performance of such
5540 contract or subcontract; (ii) a criminal offense involving embezzlement, theft, forgery, bribery,
5541 falsification or destruction of records, receiving stolen property or any other offense indicating a
5542 lack of business integrity or business honesty which seriously and directly affects the contractor's
5543 present responsibility as a public contractor; (iii) a violation of state or federal antitrust laws
5544 arising out of the submission of bids or proposals; (iv) a violation of state or federal laws
5545 regulating campaign contributions; (v) a violation of chapter 268A; (vi) a violation of any state
5546 or federal law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal
5547 pay, child labor, or worker's compensation; (vii) a violation of any state or federal law
5548 prohibiting discrimination in employment; or (viii) repeated or aggravated violation of any state
5549 or federal law regulating labor relations or occupational health or safety; or (ix) repeated or
5550 aggravated violation of any state or federal law protecting the environment; or (x) a violation of
5551 federal law prohibiting the employment of unauthorized aliens; or

5552 (2) substantial evidence, as determined by a secretary or the commissioner, of any of the
5553 following acts: (i) willfully supplying materially false information incident to obtaining or
5554 attempting to obtain or performing any public contract or subcontract; (ii) willful failure to
5555 comply with record-keeping and accounting requirements prescribed by law or regulation; (iii) a
5556 record of failure to perform or of unsatisfactory performance under the terms of 1 or more public
5557 contracts, provided that such failure to perform or unsatisfactory performance has occurred
5558 within a reasonable period of time preceding the determination to debar and provided further that
5559 such failure to perform or unsatisfactory performance was not caused by factors beyond the
5560 contractor's control; (iv) a record of health and safety or environmental violations of a sufficient
5561 frequency and severity so as to evidence a pattern of noncompliance with existing state and
5562 federal laws, or any rules and regulations applicable thereto; (v) any other cause affecting the

5563 responsibility of a contractor which the secretary or the commissioner determines to be of such
5564 serious and compelling nature as to warrant debarment. Notwithstanding any other provision of
5565 this section, any contractor debarred or suspended by any agency of the United States shall by
5566 reason of such debarment or suspension be simultaneously debarred or suspended under this
5567 section, with respect to non-federally aided contracts; the secretary or the commissioner may
5568 determine in writing that special circumstances exist which justify contracting with the affected
5569 contractor. The secretary or the commissioner shall give written notice to the secretary of
5570 administration and finance of any such determination.

5571 (d) No contractor may be suspended unless a secretary or the commissioner has first
5572 informed the contractor by written notice of the proposed suspension mailed by registered or
5573 certified mail to the contractor's last known address, except when the secretary or the
5574 commissioner determines that immediate suspension is necessary to prevent serious harm to the
5575 commonwealth, in which case the suspension shall take effect immediately upon signing by the
5576 secretary or the commissioner of an order of suspension, and notice shall be mailed to the
5577 contractor at the earliest opportunity. The notice shall inform the contractor of the reasons for the
5578 proposed suspension and shall state that the contractor may within 14 days respond in writing
5579 and may in such response request a hearing. The secretary or the commissioner may extend the
5580 period for response at the request of the contractor. The secretary or the commissioner shall
5581 determine whether to impose the suspension or, in the case of an emergency suspension imposed
5582 prior to notice to the contractor, whether to continue the suspension after reviewing the
5583 contractor's response, if any, and making such investigation as the secretary or the commissioner
5584 determines is necessary and appropriate. An indictment, or any information or other filing by a
5585 public agency charging a criminal offense, for any of the offenses listed in paragraph (1) of
5586 subsection (c) shall constitute adequate evidence to support a suspension.

5587 If the contractor requests a hearing, and the suspension is not based on an indictment, the
5588 secretary or the commissioner shall conduct a hearing according to the rules for the conduct of
5589 adjudicatory hearings established by the secretary of administration and finance under chapter
5590 30A. Such hearing shall be initiated within 30 days of the imposition of the suspension, unless
5591 the contractor requests that the hearing be delayed. Officers and employees of the office of the
5592 inspector general and records of said office shall not be subject to subpoena for such hearing, if

5593 in the opinion of the inspector general production of records or testimony would prejudice any
5594 pending investigation by said office.

5595 A suspension shall not exceed 12 months unless a pending administrative or judicial
5596 proceeding in which the contractor is a party may result in a conviction or final adjudication of
5597 an offense listed in paragraph (1) of subsection (c).

5598 (e) No contractor may be debarred under this section unless a secretary or the
5599 commissioner proposing the debarment has first informed the contractor by written notice of the
5600 proposed debarment mailed by registered or certified mail to the contractor's last known address.
5601 The notice shall inform the contractor of the reasons for the debarment and shall state that the
5602 contractor will be afforded an opportunity for a hearing if the contractor so requests within 14
5603 days of receipt of the notice. A hearing requested under this subsection shall be conducted by the
5604 secretary or the commissioner within 60 days of receipt of the request, unless the secretary or the
5605 commissioner grants additional time for the hearing at the request of the contractor. The hearing
5606 shall be conducted according to the rules for the conduct of adjudicatory hearings established by
5607 the secretary of administration and finance under chapter 30A. A debarment shall not be imposed
5608 until (i) 14 days after receipt by the contractor of notice of the proposed debarment if no hearing
5609 is requested, or (ii) the issuance of a written decision by the secretary or the commissioner which
5610 makes specific findings that there is sufficient evidence to support the debarment and that
5611 debarment for the period specified in the decision is required to protect the integrity of the public
5612 contracting process. A contractor shall be notified forthwith of the decision by registered or
5613 certified mail, and of the contractor's right to judicial review in the event that the decision is
5614 adverse to the contractor. If a suspension precedes a debarment, the suspension period shall be
5615 considered in determining the debarment period.

5616 (f) A debarment or suspension may include all known affiliates of a contractor. The
5617 decision to include a known affiliate within the scope of a debarment or suspension shall be
5618 made on a case-by-case basis, after giving due regard to all relevant facts and circumstances. The
5619 offense or act of an individual justifying suspension, or the evidence justifying a suspension, may
5620 be imputed to the entity with which the individual is connected when such offense or act
5621 occurred in connection with the individual's performance of duties for or on behalf of the entity
5622 or with the knowledge, approval, or acquiescence of the entity or 1 or more of its principals. The

5623 entity's acceptance of the benefits derived from the conduct shall be evidence of such knowledge,
5624 approval, or acquiescence. The offense or act of an entity justifying debarment, or the evidence
5625 justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee
5626 or other individual associated with the entity who participated in, knew of, or had reason to know
5627 of the entity's act. An entity or individual shall not be suspended or debarred except under the
5628 procedures in this section, provided that a public agency may reject a bid or proposal from any
5629 contractor when the public agency reasonably determines that such contractor is not responsible
5630 or eligible.

5631 (g) In determining whether to debar a contractor, or the period of a debarment, all
5632 mitigating facts and circumstances shall be taken into consideration. Except as precluded by law,
5633 a debarment may be removed or the period of debarment may be reduced by the secretary or the
5634 commissioner who imposed the debarment or suspension upon the submission of an application
5635 supported by documentary evidence setting forth appropriate grounds for the granting of relief,
5636 such as newly discovered material evidence, reversal of a judgment or conviction, bona fide
5637 change of ownership or management or the elimination of the cause for which the debarment
5638 was imposed.

5639 (h) During the period for which a person has been debarred or suspended, that person
5640 shall not submit or cause to be submitted offers, bids or proposals to any public agency, nor shall
5641 any public agency solicit or consider offers, bids or proposals from, nor execute, renew or extend
5642 any contract with, a debarred or suspended contractor and a contractor shall not contract for
5643 supplies or services from a debarred or suspended subcontractor on any public contract.

5644 (i) The secretary of administration and finance shall by regulation drawn up in
5645 consultation with each secretary and the commissioner provide for, upon the request of any
5646 secretary or the commissioner the timely commencement by, the removal to, or consolidation at
5647 the executive office for administration and finance of debarment or suspension proceedings.
5648 Such regulations also shall provide that the contractor against whom debarment or suspension
5649 proceedings have been initiated may apply to the secretary of administration and finance for
5650 consolidation of such proceedings at the executive office for administration and finance. Such
5651 proceedings shall be conducted by the secretary of administration and finance or the secretary's
5652 designee under this section.

5653 Section 29G. Notwithstanding any general or special law to the contrary, the officer
5654 having charge of a state agency may retain the services of private persons, companies,
5655 associations or corporations for the purpose of recoupment of overcharges to the commonwealth
5656 for utility expenses including, but not limited to, electric, gas, water and sewer expenses, under
5657 agreements between the operational services division within the executive office for
5658 administration and finance and any such private persons, companies, associations or
5659 corporations. The state purchasing agent of the operational services division shall, from time to
5660 time, enter into agreements with private persons, companies, associations or corporations for the
5661 provision of overcharge recoupment services on behalf of state agencies. No such agreement
5662 shall be entered into unless proposals for the same have been invited by public notice published
5663 in such manner as the state purchasing agent shall direct to ensure the widest possible cost-
5664 effective dissemination of the notice, for at least 2 consecutive weeks prior to the time specified
5665 for the opening of said proposals. All such proposals shall be opened in public. Said state
5666 purchasing agent may reject any and all proposals. Any such agreements shall provide, in the
5667 discretion of said state purchasing agent, the manner in which compensation for such services
5668 shall be paid. Under regulations established by said state purchasing agent, such compensation
5669 may be deducted and retained from the recoupment of overcharges or paid by the commonwealth
5670 from existing expenditure accounts without additional appropriation therefrom; provided,
5671 further, that said state purchasing agent shall allow access to such agreements by political
5672 subdivisions of the commonwealth, including but not limited to towns, cities, counties, local
5673 housing authorities and any other instrumentalities. Said state purchasing agent shall report to the
5674 comptroller annually a list of all private persons, companies, associations or corporations with
5675 whom said state purchasing agent has agreements for recoupment of overcharges during the
5676 fiscal year, and the amount of overcharges recouped and the compensation paid to each such
5677 person, company, association, or corporation. Said comptroller shall include and disclose this
5678 information as part of the annual report under section 12 of chapter 7A.

5679 Section 29H. (a) Except as otherwise provided by law, the comptroller may assess late
5680 charge rates, in addition to any other late fees or interest provided by law, against any person,
5681 entity or contractor owing an overdue payment to the commonwealth, or to a city, town housing
5682 or other authority or entity as provided under section 8 of chapter 7A, subject to the following
5683 provisions:-

5684 (1) that the required payment date shall be the date on which payment is due under the
5685 laws, rules or regulations administered by the comptroller or other entity authorized to charge a
5686 late fee or interest; and

5687 (2) that notice of intent to assess and collect late charges through debt collection,
5688 intercept or other legal process shall be provided to the debtor prior to collection.

5689 (b) The comptroller may adopt rules and regulations to implement this section.

5690 (c) The comptroller shall deposit all late fees and interest that the comptroller
5691 collects on behalf of the commonwealth in the revenue account that pertains to the original
5692 accounts receivable, and shall retain and expend all other late charges assessed under this section
5693 without further appropriation, in consultation with the information technology division of the
5694 executive office for administration and finance, for the costs of electronic revenue collection
5695 options, including intercept, that increase revenue and debt collection within the commonwealth.

5696 (d) The comptroller shall include in the annual financial report a summary report
5697 on any late charges collected under this section during the preceding fiscal year. The report shall
5698 include the number, amounts and frequency of late charges collected, summarized by state
5699 agency and secretariat, where applicable.

5700 Section 29I. The comptroller shall develop and implement a payment system and
5701 regulations for interdepartmental fiscal transactions including interdepartmental service
5702 agreements and interdepartmental chargebacks. The chargeback system and regulation shall
5703 require state agencies that purchase legislatively authorized goods or services from approved
5704 chargeback departments to remit fiscal obligations within 30 days of receipt of notice of said
5705 obligation. The comptroller shall submit periodic reports on request to the house and senate
5706 committees on ways and means listing those agencies which do not meet the 30 day payment
5707 schedule. Said report shall also include but not be limited to the identification of the agency
5708 receiving said goods or services and the agency providing said goods or services; provided, that
5709 said identification includes the name of the agency and the item number, the goods or services
5710 provided, and the amount of outstanding obligation. The comptroller may take such action as the
5711 comptroller deems necessary to ensure compliance with the payment obligations under this
5712 section.

5713 Section 29J. Notwithstanding section 50 of chapter 3, or any other general or special law
5714 to the contrary, a state agency or state authority shall not use state funds to pay for an executive
5715 or legislative agent, as defined in section 39 of said chapter 3, unless the executive or legislative
5716 agent is a full-time employee of the state agency or state authority.

5717 Section 29K. (a) Each state authority that receives a total amount of appropriations from
5718 the commonwealth equal to or in excess of \$500,000 in any fiscal year shall, on an annual basis,
5719 conduct an audit of those funds. Each such audit shall be conducted by an independent auditor
5720 and shall be filed with the state auditor for examination, review and comment.

5721 (b) Each state authority shall:

5722 (1) establish an audit committee that shall meet independently of management at least
5723 once per calendar year, retain an independent auditor and hear the results of the annual audit;
5724 provided, however, that a state authority may rely upon an audit required by any other general or
5725 special law in meeting the requirements of this section;

5726 (2) establish a compensation committee that shall: (i) meet independently of management
5727 at least once per calendar year and shall evaluate and establish executive compensation
5728 including, but not limited to, base salary, bonuses, severance, retirement or deferred
5729 compensation packages and policies relative to the accrual and payment of sick and vacation
5730 time, including payouts for unused sick and vacation time; and (ii) analyze and assess
5731 comparable compensation for positions with similar functions and responsibilities at state
5732 agencies and authorities, as well as for-profit and nonprofit private-sector employers; and

5733 (3) prepare an annual financial report which shall disclose operating revenues and
5734 expenses, including the salaries and compensation of its executive director, officers, board
5735 members and senior management, and other highly-compensated employees.

5736 (c) No executive of a state authority shall be compensated for sick, vacation or other
5737 leave time to an extent greater than the leave time granted to a state employee.

5738 (d) No executive of a state authority shall be granted severance pay after removal for
5739 cause and no executive shall be granted severance pay in excess of 3 months' salary if removed
5740 other than for cause.

5741 (e) The commonwealth shall not subsidize the health insurance, pension and other post-
5742 employment benefits of state authority employees and retirees. Each state authority and
5743 independent entity shall be charged the full actuarial value of its liabilities by the public
5744 employee retirement administration commission and the group insurance commission.

5745 (f) The secretary of administration and finance shall adopt regulations to carry out this
5746 section. Audits and financial reports shall be based on generally accepted accounting principles
5747 or generally accepted government auditing standards and shall be considered a public record
5748 under clause Twenty-sixth of section 7 of chapter 4.

5749 (g) Nothing in this section shall be construed to limit the authority of the attorney general,
5750 inspector general, state auditor or other state agency.

5751 Section 30. No officer or board shall insure any property of the commonwealth without
5752 special authority of law.

5753 Section 31. The comptroller, in consultation with the personnel administrator and the
5754 secretary of administration and finance, may establish a centralized payroll system and may
5755 include salaries payable by the commonwealth in that system, for all classified services in any
5756 agency of the commonwealth and for teachers and supervisors employed in any school or college
5757 in any department of the commonwealth and any salary payable by the commonwealth to a
5758 person holding a statutory position.

5759 Such centralized payroll system shall conform to such rules and regulations as the
5760 secretary of administration and finance, with the approval of the state treasurer, the comptroller
5761 and the personnel administrator, may from time to time make. Such rules and regulations shall
5762 not be subject to chapter 30A. Notwithstanding any other general or special law to the contrary,
5763 and under section 148 of chapter 149, to ensure the timely payment of wages and related payroll
5764 charges for work authorized by a spending authority and performed by employees, the
5765 comptroller shall have full authority to mandate the payment of such wages and payroll charges
5766 and prescribe, regulate and direct any spending authority to take the appropriate actions
5767 necessary to properly account for payroll charges, to ensure that payroll accounts are not in
5768 deficit at the close of the fiscal year and any other actions necessary to support sound fiscal
5769 management including appropriation, allotment or other funding limits.

5770 The comptroller shall require certification from each spending authority that each
5771 employee receiving a salary under the warrant is being paid for duties performed directly for the
5772 employing agency and not for duties performed for another state agency or other legal entity.

5773 The state treasurer or other state official authorized to expend money on behalf of the
5774 commonwealth may pay any salary, wages or other compensation to any person in the service of
5775 the commonwealth by means of deposits to employee bank accounts, provided, employees have
5776 expressly authorized said deposits.

5777 The state treasurer or other state official authorized to expend money on behalf of the
5778 commonwealth may pay any retirement benefit due to any retired employee in the state system
5779 or retired teachers in the teachers retirement system by means of deposits to such retired person's
5780 bank account, provided, the retired persons have expressly authorized said deposits.

5781 The comptroller or other state official authorized to expend money on behalf of the
5782 commonwealth may comply with administrative wage garnishments for child support, student
5783 loans, state or federal tax liens, court order bankruptcy orders or other garnishments as
5784 determined by the comptroller which name the commonwealth as employer and mandating
5785 deductions under state or federal law for employees of the commonwealth in amounts not more
5786 than the percentage allowable under state or federal law or a greater amount as authorized by the
5787 employee, provided that the commonwealth shall not use state resources or be compelled to
5788 comply with voluntary private garnishments or trustee process orders. For the purposes of this
5789 section, the term "employee" shall mean "employee" as defined in section 1 of chapter 32.

5790 Section 31A. (a) Upon the death of a state employee who is eligible for vacation under
5791 the rules of the director of personnel and standardization, or judge, justice or any other employee
5792 of the courts of the commonwealth who is eligible for vacation, payment shall be made in an
5793 amount equal to the vacation allowance as earned in the vacation year prior to the employee's
5794 death but which had not been granted, and, in addition, that portion of the vacation allowance
5795 earned in the vacation year during which the employee died, up to the time of the employee's
5796 separation from the payroll; provided, that no monetary or other allowance has already been
5797 made therefor. The bureau of personnel and standardization may, upon request of the appointing

5798 officer of the deceased employee, authorize the payment of such compensation upon the
5799 establishment of a valid claim therefor, in the following order of precedence.

5800 First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the
5801 employee under the state employees' retirement system;

5802 Second: If there be no such designated beneficiary, to the estate of the deceased.

5803 The court administrator of the trial court of the commonwealth may, upon request of the
5804 appointing officer of the deceased employee, authorize the payment of such compensation for the
5805 court system upon the establishment of a valid claim therefor, in the same order of precedence.

5806 (b) Employees who are eligible for vacation under the rules of said personnel
5807 administrator and whose services are terminated by dismissal through no fault or delinquency of
5808 their own, or by retirement, shall be paid or at the option of the employee, entitled to a
5809 contribution to a qualified retirement plan established in the employee's name under section
5810 401(a) of the Internal Revenue Code and under chapter 32 an amount equal to the vacation
5811 allowance as earned in the vacation year prior to such dismissal or retirement which had not been
5812 granted, and, in addition, that portion of the vacation allowance earned in the vacation year
5813 during which such dismissal or retirement occurred, up to the time of separation; provided, that
5814 no monetary or other allowance has already been made therefor.

5815 (c) Employees who are eligible for vacation under the rules of said administrator and
5816 whose services were terminated for reasons other than those defined in subsections (a) or (b)
5817 shall be paid or at the option of the employee, entitled to a contribution to a qualified retirement
5818 plan established in the employee's name under section 401(a) of the Internal Revenue Code and
5819 under chapter 32 an amount equal to the vacation allowance credited but not granted to them as
5820 of the final date of the next preceding vacation year; provided, that no monetary or other
5821 allowance has already been made therefor.

5822 (d) Managers and employees, except employees covered under chapter 150E, currently in
5823 the employment of the commonwealth who retire and who have accrued unused sick-leave
5824 credits shall be paid or at the option of the employee, entitled to a contribution to a qualified
5825 retirement plan established in the employee' name under section 401(a) of the Internal Revenue

5826 Code and under chapter 32 an amount equal to 20 per cent of the value of such credits computed
5827 by multiplying the number of days of sick-leave available times the daily rate of salary
5828 compensation received by the manager or employee at the time of retirement; provided,
5829 however, that such payment for unused sick-leave shall not affect the amount of retirement
5830 allowance available to such manager or employee.

5831 Section 31B. Teachers in institutions of the commonwealth having weekly payrolls, at the
5832 option of the department within which such institutions are established, may be paid weekly.

5833 Section 31C. Any officer or employee of the commonwealth, employed in a non-teaching
5834 position in any school or college within any department of the commonwealth, whose regular
5835 service is rendered between September 1 and June 30, may be granted the vacation leave to
5836 which the officer or employee is entitled either during the period of the officer or employee's
5837 regular service, or after the expiration of said period, as is determined by the employing authority
5838 of such officer and employee. Funds made available by appropriation for the payment of
5839 personal services required in the operation and maintenance of such schools shall be available for
5840 the payment of vacations, which, under the authority of this section, are granted to be taken after
5841 the termination of the period of regular service of an officer or employee subject to this section.

5842 Section 31D. Whenever an officer or employee or former officer or employee of the
5843 commonwealth dies, and the commonwealth owes that officer or employee any sum or sums, by
5844 reason of services rendered or by reason of the terms of the officer or employee's employment,
5845 the comptroller may issue such sums to the beneficiaries designated to the employee under
5846 section 31A. Payments made as provided in this section shall discharge the liability of the
5847 commonwealth to all persons with respect to such sum or sums.

5848 Section 31E. Notwithstanding any general or special law to the contrary, a state
5849 employee, during working hours and at such times as are approved by the employee's supervisor
5850 and under regulations promulgated hereunder, may, without loss of salary, provide voluntary
5851 services at a public elementary, secondary, or vocational-technical school to assist the
5852 improvement of a student's or school's educational program; provided, however, that said
5853 voluntary services do not exceed the equivalent of 1 work day per month. There shall be no

5854 requirement that the employee have a child as a student in the school or school district. Said
5855 services shall not be compensated by a school.

5856 Section 32. Any check issued by the state treasurer or by any agent or agency of the
5857 commonwealth, other than checks issued in payment of obligations of the state board of
5858 retirement, the teachers' retirement board and the MassHealth program, which is not presented
5859 for payment within 1 year after its issue date, shall be payable only at the office of the state
5860 treasurer. Any check issued on behalf of the MassHealth program, which is not presented for
5861 payment within 180 days after its issue date, shall be payable only at the office of the state
5862 treasurer. Annually, on June 30, the comptroller shall transfer to the Unclaimed Property Fund,
5863 established in section 9 of chapter 200A, all funds that are identified by the state treasurer as
5864 funds of the commonwealth that have remained in the unclaimed check fund for not less than 1
5865 year. On such date, the comptroller also shall refund to the unemployment compensation fund
5866 and to each applicable account of monies separately accounted for by the comptroller as other
5867 than commonwealth monies, such amounts which in the opinion of the state treasurer represent
5868 all monies of such unemployment compensation fund or such account which have remained in
5869 the unclaimed check fund for at least one year. All checks issued in payment of obligations of the
5870 state board of retirement and the teachers' retirement board shall be payable only under
5871 subdivision (3) of section 11 of chapter 32.

5872 Section 32A. No wage or salary which is or shall be due from the commonwealth shall be
5873 payable later than 6 years after the same has or shall become due, and the obligation of the
5874 commonwealth to pay such wage or salary or otherwise to pay for the services rendered by the
5875 person to whom the wage or salary is or shall be due shall not be enforceable if the wage or
5876 salary is not claimed within 6 years after the same has or shall become due; provided, however,
5877 that section 32 shall be applicable and controlling in the case of any wage or salary represented
5878 by a check issued by the state treasurer or by any agent or agency of the commonwealth. On June
5879 30 in each year the comptroller shall transfer to the General Fund so much of the balance then in
5880 the unclaimed wage fund as, in the opinion of the state treasurer, shall not be needed for
5881 payments during the ensuing fiscal year from the said unclaimed wage fund. On such date the
5882 comptroller also shall refund to the unemployment compensation fund and to each applicable
5883 account of monies separately accounted for by the comptroller as other than commonwealth

5884 monies, such amount of the said balance as the state treasurer shall advise the comptroller shall
5885 represent all unclaimed wages or salaries from monies of the said fund or such account,
5886 respectively, the payment of which shall have been outlawed under this section during the fiscal
5887 year ending on such date.

5888 Section 34. (a) State officers, departments, institutions and other agencies may, with the
5889 written consent of the state treasurer, deposit a portion of the public monies in their possession in
5890 national banks, federal savings banks and federal savings and loan associations, lawfully doing
5891 business within the commonwealth, and in trust companies, savings banks and cooperative banks
5892 chartered under the laws of the commonwealth. The state treasurer shall publish a list of
5893 qualified banks and shall transmit that list at least once every 6 months to the governor. The state
5894 treasurer shall not include on the list a state-chartered bank having a descriptive rating as
5895 described in clauses (d) or (e) of the sixth paragraph under section 14 of chapter 167 or any
5896 federally insured depository institution having an assigned rating of (C) or (D) under section
5897 807(b)(2) of the Community Reinvestment Act of 1977, 12 U.S.C. 2901 et seq.

5898 (b) A state treasurer who knowingly makes a deposit in violation of subsection (a) shall
5899 be guilty of misconduct and maladministration in the treasurer's office within the meaning of the
5900 constitution, any other officer who knowingly makes a deposit in violation of subsection (a) shall
5901 be guilty of misconduct and maladministration in his office, and a depository institution
5902 knowingly receiving a deposit in violation of subsection (a) shall be disqualified from receiving
5903 such monies for 3 years from the date of the deposit.

5904 (c) All interest received on any deposits under this section shall be paid to the
5905 commonwealth.

5906 Section 35. No bond or security belonging to the commonwealth shall be transferred
5907 except with the written approval of the governor. A note, bond, mortgage or other security which
5908 has been made to the state treasurer by name may be assigned, transferred or discharged by him
5909 or by any successor in office.

5910 Section 36. If the state treasurer is authorized to discharge a mortgage held by the
5911 commonwealth, the state treasurer may assign it instead of discharging it; but such assignment
5912 shall not impose upon the commonwealth any liability, express or implied.

5913 Section 37. Real estate acquired by the commonwealth by foreclosure may, with the
5914 approval of the governor and council, be conveyed by the state treasurer upon payment of the
5915 amount of the mortgage debt with the interest and expenses accrued thereon.

5916 Section 38. With the exception of funds used in connection with a deferred
5917 compensation program for state employees, and funds of the state employees' retirement system
5918 or the teachers' retirement system, all funds over which the commonwealth has exclusive control
5919 shall be invested by the state treasurer as follows:

5920 (a) In the public funds of the United States or of the District of Columbia or of this
5921 commonwealth, or in the legally authorized bonds of any other state of the United States, other
5922 than a territory or dependency of the United States, which has not within the 20 years prior to the
5923 making of such investment defaulted in the payment of any part of either principal or interest of
5924 any legal debt.

5925 (b) In repurchase agreements secured by United States Treasury obligations or United
5926 States Treasury obligations bearing a maturity date not later than 1 year.

5927 (c) In the bonds or notes of a county, city or town of this commonwealth.

5928 (d) In shares of beneficial interest issued by money market funds registered with the
5929 Securities and Exchange Commission under the Investment Company Act of 1940, as amended,
5930 operated under section 270.2a-7 of Title 17 of the Code of Federal Regulations, that have
5931 received the highest possible rating from at least 1 nationally recognized statistical rating
5932 organization. The purchase price of shares of beneficial interest purchased under this section
5933 shall not include a commission charged by the money market funds.

5934 (e) In any other security that qualifies for inclusion in a fund operated under section
5935 270.2a-7 of Title 17 of the Code of Federal Regulations, as amended.

5936 (f) In investment agreements or guaranteed investment contracts rated, or with a financial
5937 institution whose senior long-term debt obligations are rated, or guaranteed by a financial
5938 institution whose senior long-term debt obligations are rated, at the time the agreement or
5939 contract is entered into, in 1 of the 2 highest rating classifications by a nationally recognized

5940 rating service if the agreements or contracts do not exceed 1 year in duration, or, in the case of
5941 bond proceeds, do not exceed 3 years in duration.

5942 (g) In investment agreements with a corporation whose principal business is to enter into
5943 the agreements if: the corporation and the investment agreements of the corporation are each
5944 rated in 1 of the 2 highest rating classifications by a nationally-recognized rating service; the
5945 commonwealth has an option to terminate each agreement in the event that the rating is
5946 downgraded below the 2 highest rating classifications; and the agreements or contracts do not
5947 exceed 1 year in duration, or, in the case of bond proceeds, do not exceed 3 years in duration.

5948 (h) In the promissory notes of an industrial, commercial, finance, banking, railroad or
5949 public utility corporation conducting business in this state when such notes mature not later than
5950 1 year subsequent to their respective dates of issue; provided, however, that, at the time of any
5951 such investment, (1) such corporation has capital stock, premium thereon and surplus of at least
5952 \$25,000,000, (2) the securities of such corporation are eligible for investment by life insurance
5953 companies authorized to do business in the commonwealth, and (3) all outstanding debt
5954 obligations of such corporation which have any rating from 2 or more standard rating services
5955 are rated within the 3 highest classifications established by at least 2 such rating services, or, if
5956 none of the outstanding debt obligations of such corporation has any rating from 2 such rating
5957 services, that such outstanding debt obligations are rated at the time of investment within the 3
5958 highest classifications established by at least 2 such rating services, or the notes of such
5959 corporation at the time of investment are rated prime by the National Credit Office; provided,
5960 further, that the commonwealth' investment in the notes of any 1 company shall not exceed 20
5961 per cent of the capital and surplus of such company.

5962 (i) In bankers acceptances and bills of exchange eligible for purchase by federal reserve
5963 banks and which have been accepted by a bank, a trust company, a private banker or an
5964 investment company, or by a banking corporation which is organized under the laws of the
5965 United States or of any state thereof and which is a member of the federal reserve system.

5966 The state treasurer may purchase with a portion of the State Lottery and Gaming Fund, as
5967 established and defined in section 35 of chapter 10, from insurance companies lawfully doing
5968 business in the commonwealth, annuities payable to the commonwealth to be used for payment

5969 of lottery prizes. Such annuities shall not be subject to section 118 of chapter 175 limiting
5970 payment of annuities to individuals, and shall, to the extent that such annuities are payable to the
5971 commonwealth, be exempt from taxation under section 20 of chapter 63. Contracts for the
5972 purchase of such annuities shall be subject to competitive bidding and shall be awarded to the
5973 lowest responsible bidder. All such bids and contracts shall be public records.

5974 The state treasurer may also purchase with a portion of the State Lottery and Gaming
5975 Fund, bonds, notes, shares in combined investment funds or other interest bearing obligations
5976 under the standards in subdivision (3) of section 23 of chapter 32.

5977 Funds in connection with a deferred compensation program for state employees may be
5978 invested by the treasurer under section 64; provided, however, that such funds, whether or not
5979 invested, shall remain in the sole control of the treasurer, and may be used by the commonwealth
5980 at any time and for any purpose.

5981 The treasurer may lend securities purchased from funds authorized by this section,
5982 provided that at the time of the execution of the loan at least 100 per cent of the market value of
5983 the security lent shall be secured by cash or securities guaranteed by the United States
5984 government or any agency of the United States government. At all times during the term of each
5985 such loan the collateral shall be equal to not less than 95 per cent of the full market value of the
5986 security and said collateral shall not be more than \$100,000 less than the full market value of the
5987 security.

5988 Section 38A. Notwithstanding any general or special law to the contrary, the state
5989 treasurer may establish 1 or more combined investment funds to invest funds of the
5990 commonwealth, trust funds, and funds under the custody of agencies, authorities, commissions,
5991 boards, political subdivisions and other public units within the commonwealth; provided, that the
5992 state treasurer shall adopt appropriate accounting procedures from which the exact interest of
5993 such funds so combined for investment can be determined. The state treasurer may adopt such
5994 rules and regulations as may be necessary to administer this section. The management of any
5995 fund established under this paragraph shall be competitively procured not later than once every 7
5996 years.

5997 The state treasurer may sell to all agencies, authorities, commissions, boards, political
5998 subdivisions and other public units within the commonwealth, participation units in any such
5999 combined investment fund. Such participation units issued by the treasurer are made legal
6000 investments for all the funds under the custody of such agencies, authorities, commissions,
6001 boards, political subdivisions and other public units within the commonwealth. With the advice
6002 of the investment advisory council, the state treasurer shall adopt rules and regulations as may be
6003 necessary to administer this section.

6004 The state treasurer may invest any funds established under this section in only those
6005 instruments permitted within this chapter or chapter 32.

6006 Section 38B. There shall be in the office of the state treasurer a deferred compensation
6007 committee, consisting of 3 members; 1 of whom shall be appointed by the governor, shall
6008 represent the employees who contract with the state treasurer for a deferred compensation
6009 program under section 64 and shall be chairman; 1 of whom shall be appointed by the
6010 commissioner of insurance; and 1 of whom shall be appointed by the state treasurer. Said
6011 committee shall meet from time to time and shall oversee the day to day operation of the
6012 deferred compensation program. The members of said committee shall serve without
6013 compensation, but shall be reimbursed for expenses necessarily incurred in the performance of
6014 their duties.

6015 Section 38C. In connection with or incidental to the acquisition or carrying of any
6016 investment or program of investment or carrying of bonds or notes, the state treasurer, after
6017 consultation with the state finance and governance board established under section 97 of chapter
6018 6, may enter into such contracts as the state treasurer may determine to be necessary or
6019 appropriate to place the investment or obligation of the commonwealth, as represented by the
6020 bonds or notes, investment or program of investment and the contract or contracts, in whole or in
6021 part, on such interest rate or cash flow basis as the treasurer may desire, including without
6022 limitation interest rate swap agreements, insurance agreements, forward payment conversion
6023 agreements, futures, contracts, contracts providing for payments based on levels of, or changes
6024 in, interest rates or stock or other indices, contracts to exchange cash flows or a series of
6025 payments and contracts to hedge payment, rate, spread or similar exposure, including without
6026 limitation interest rate floors or caps, options, puts and calls. Such contracts shall contain such

6027 payment, security, default, remedy and other terms and conditions as the state treasurer, after
6028 consultation with the finance advisory board, may deem appropriate and shall be entered into
6029 with such party or parties as the state treasurer, after consultation with the finance advisory
6030 board, may select, after giving due consideration, where applicable, for the creditworthiness of
6031 the counterparty or counterparties, including any rating by a nationally recognized rating agency
6032 or any other criteria as may be appropriate. Scheduled, periodic payments to be made by the
6033 commonwealth under any such contract in existence on August 1, 2008 or any such contract
6034 related to bonds or notes of the commonwealth which shall be entered into by the state treasurer
6035 after August 1, 2008 shall constitute general obligations of the commonwealth to which the full
6036 faith and credit of the commonwealth shall have been pledged. The state treasurer may expend
6037 amounts received under this section without further appropriation to make payments under this
6038 section or to pay debt service on debt obligations of the commonwealth, including, without
6039 limitation, by funding escrow accounts for the payment of such debt service.

6040 Section 39. When the commonwealth holds any bond, note or certificate of indebtedness
6041 payable to bearer and issued by a county, city, town or district or any domestic corporation, such
6042 county, city, town, district or corporation shall, at the request of the state treasurer, issue in
6043 exchange therefor a bond, note or certificate of the same effect, payable to the commonwealth by
6044 name. The commonwealth shall pay the expense involved in making such exchange. Any county,
6045 city, town, district or corporation neglecting or refusing to comply with this section shall be
6046 punished by a fine of not more than \$50.

6047 Section 40. No deposit required to be made by any corporation in trust with the state
6048 treasurer, or any part thereof, shall consist of a mortgage upon real estate or of a loan upon
6049 personal notes or of notes secured by collateral. The state treasurer may receive, as a part of such
6050 deposit, money or certificates of deposit, or certified checks on any approved state depository,
6051 and may hold the same without interest until it may reasonably be invested in a proper legal
6052 security.

6053 Section 41. The state treasurer shall have the custody and keep a separate account of all
6054 notes, bonds and mortgages belonging to the commonwealth, and shall receive all money
6055 accruing therefrom. All deeds and instruments conveying real estate to the commonwealth shall,
6056 when recorded, be deposited with and safely kept by the state treasurer. Such records shall not

6057 include those pertaining to real property acquired for the use of state agencies, under sections 32,
6058 33 and 39 of chapter 7C.

6059 Section 44. The income or any surplus of funds belonging to or in the custody of the
6060 commonwealth shall, unless otherwise provided, be added to the principal.

6061 Section 45. No securities shall hereafter be purchased for any sinking fund which do not
6062 mature on or prior to the maturity date of the indebtedness on account of which said sinking fund
6063 was established.

6064 Section 46. The state treasurer, instead of selling any securities, belonging to any fund
6065 over which the commonwealth has exclusive control, to meet maturing liabilities, may transfer
6066 them to any other such fund upon terms and conditions approved by the governor and council.

6067 Section 47. The state treasurer may borrow at any time during the fiscal year, in
6068 anticipation of the receipts for that year, such sums of money as may be necessary for the
6069 payment of ordinary demands on the treasury, and other legal obligations, including guaranties,
6070 of the commonwealth, and may issue notes therefor. Money so borrowed and notes so issued
6071 may be at such rates of interest as shall be found necessary. The state treasurer shall repay any
6072 sums borrowed under this section as soon after said receipts are paid as is expedient, but in any
6073 event before the close of the fiscal year in which the same were borrowed.

6074 Notes issued under this section may bear on their face a statement that if principal and
6075 interest thereon are not paid when due said notes will be accepted thereafter at face value plus
6076 accrued interest to the date of such acceptance as payment to that extent of taxes owed by the
6077 bearer to the commonwealth under chapters 62, 62B, 63, or 63B. Notes bearing such legend shall
6078 be accepted in payment of such taxes, including penalty and interest thereon, at face value plus
6079 accrued interest by all persons responsible for collecting taxes but shall otherwise be payable
6080 under their terms as provided in the first paragraph of this section.

6081 Section 48. Bonds issued by the commonwealth shall be signed by the state treasurer or a
6082 deputy treasurer and approved by the governor. Notes issued by the commonwealth shall be
6083 signed by the state treasurer or a deputy treasurer, approved by the governor, and countersigned
6084 by the comptroller or a deputy comptroller or an assistant to the comptroller.

6085 Section 48A. Facsimiles of the signature of the governor on original issues or transfers of
6086 bonds or notes of the commonwealth shall have the same validity and effect as the governor's
6087 written signature, and facsimiles of the seal of the commonwealth may be used on bonds and
6088 notes of the commonwealth and shall have the same validity and effect as though said seal were
6089 impressed thereon. Interest coupons, if any, attached to any bond or note of the commonwealth
6090 may bear the facsimile signature of the state treasurer. If any officer whose signature or a
6091 facsimile of whose signature appears on any notes, bonds or coupons shall cease to be such
6092 officer before the delivery of, and receipt of proceeds from the borrowing evidenced by, such
6093 notes or bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all
6094 purposes as if such officer had remained in office until such delivery and receipt of proceeds.

6095 Section 48B. Any official statement prepared in connection with the sale of any bonds or
6096 notes of the commonwealth and all advertising of such bonds and notes, the interest on which is
6097 excludable from gross income for federal income tax purposes under section 103 of the Internal
6098 Revenue Code (26 USC 103), shall include a reference to the collateral tax consequences which
6099 may result under section 86 of said Code (26 USC 86) to the holders of such bonds or notes who
6100 are recipients of social security benefits.

6101 Section 49. The aggregate principal amount of bonds, if any, of any issue of
6102 commonwealth bonds stated to mature in any year may vary from the aggregate principal amount
6103 of bonds of such issue stated to mature in any other year. The state treasurer may agree at or
6104 prior to the time such issue of bonds is issued with the holders of bonds of such issue or with a
6105 trustee, which shall be a trust company or bank with trust powers doing business in the
6106 commonwealth, for the benefit of such holders to establish a sinking fund for such issue of
6107 bonds, to make deposits into such sinking fund according to a schedule theretofore established
6108 by the state treasurer and to use the monies in such sinking fund only for (a) the payment of
6109 principal of or interest on, or purchase, at a price not to exceed par of, the bonds of such an issue
6110 or (b) the payment of principal of or interest on, or purchase, at a price not to exceed par of, the
6111 bonds of any 1 or more specified maturities of such an issue. The full faith and credit of the
6112 commonwealth is pledged to the making of payments to any such sinking fund. Withdrawals
6113 from any such sinking fund for the payment of principal of or interest on such bonds, or for the
6114 purchase of such bonds as permitted by this paragraph, may be made without further

6115 appropriation or authorization by any officer of the commonwealth. Pending their application for
6116 such purpose, monies in any such sinking fund shall be held by the state treasurer or such trustee
6117 and invested in (i) direct obligations of, or obligations the payment of the principal and interest
6118 of which are unconditionally guaranteed by, the United States of America; (ii) obligations of the
6119 Federal National Mortgage Association, Government National Mortgage Association, Federal
6120 Financing Bank, Federal Intermediate Credit Banks, Federal Bank for Cooperatives, Federal
6121 Land Banks, Federal Home Loan Banks, Farmers Home Administration, Export-Import Bank of
6122 the United States, Student Loan Marketing Association, United States Postal Service, Tennessee
6123 Valley Authority or Federal Home Loan Mortgage Corporation or by any other agency or
6124 corporation which has been or is hereafter created under an act of Congress of the United States
6125 as an agency or instrumentality of the United States of America; (iii) housing authority bonds
6126 issued by public agencies or municipalities and fully secured as to the payment of both principal
6127 and interest by a pledge of annual contributions under an annual contributions contract or
6128 contracts with the United States of America or project notes issued by public agencies or
6129 municipalities and fully secured as to the payment of both principal and interest by a requisition
6130 or payment agreement with the United States of America; (iv) interest-bearing time deposits or
6131 certificates of deposit of banking institutions or trust companies organized under the laws of any
6132 state of the United States or any national banking association, provided that such deposits or
6133 certificates shall be continuously and fully secured by obligations described in clauses (i) to (iii),
6134 inclusive, having a market value, exclusive of accrued interest, at least equal to the aggregate
6135 amount of such deposits and certificates; (v) any of the securities described in clauses (i) to (iii),
6136 inclusive, which are subject to repurchase agreements with any bank or trust company organized
6137 under the laws of any state of the United States or any national banking association; or (vi)
6138 obligations that have been advance refunded or defeased prior to their maturity, that are fully and
6139 irrevocably secured as to principal and interest by moneys or securities described in clauses (i) to
6140 (iii), inclusive, held in trust for the payment thereof, and that are not callable prior to maturity
6141 except at the option of the holder thereof. Securities purchased as an investment of monies
6142 credited to any sinking fund shall be deemed at all times to be a part of such sinking fund.
6143 Notwithstanding any act authorizing all or part of an issue of commonwealth bonds to the effect
6144 that such bonds shall be issued upon the serial payment plan or to the effect that the maturities
6145 thereof shall be so arranged that the amounts payable in the several years of the period of

6146 amortization, other than the final year, shall be as nearly equal as in the opinion of the state
6147 treasurer it is practicable to make them or to any similar effect, this paragraph shall apply to any
6148 issue of commonwealth bonds made after January 1, 1980 unless the act authorizing such issue
6149 expressly states that this paragraph shall not apply to such issue.

6150 Bonds of the commonwealth may be issued as registered bonds or as bearer bonds, with
6151 or without coupons, as the state treasurer may deem best. Such bonds shall bear interest at such
6152 rate or rates, including rates variable from time to time according to an index, banker's loan rate
6153 or otherwise, as the state treasurer, with the approval of the governor, shall fix. This paragraph
6154 shall apply to any bonds issued after January 1, 1982 unless the act authorizing such issue
6155 expressly states that this paragraph shall not apply.

6156 Registered bonds may be uncertificated. Books shall be maintained by or on behalf of the
6157 state treasurer specifying the persons entitled to uncertificated bonds, and the rights represented
6158 thereby shall be registered upon such books. A true copy of the official actions of the
6159 commonwealth relating to such bonds shall be kept by or on behalf of the state treasurer, a copy
6160 of which, verified to be such by an authorized officer, shall be admissible before any court of
6161 record, administrative body or arbitration panel without further authentication.

6162 Bonds or notes of the commonwealth which are subject to the requirement imposed by
6163 Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth that the
6164 governor recommend the term thereof to the general court shall not be issued, and monies to
6165 finance projects authorized to be financed by such bonds or notes shall not be advanced in
6166 anticipation of the issuance thereof, until legislation has been enacted upon such term
6167 recommendation.

6168 Unless otherwise specifically provided, any statute authorizing the state treasurer to issue
6169 and sell bonds of the commonwealth shall authorize the state treasurer to issue and sell such
6170 bonds in such denominations as the state treasurer shall determine to be in the best interests of
6171 the commonwealth, and any requirement that the maturities thereof be so arranged that the
6172 amounts payable in the several years of the period of amortization other than the final year shall
6173 be as nearly equal as in the opinion of the state treasurer it is practicable to make them shall

6174 mean that the amounts so payable shall be as nearly equal considering the denominations of the
6175 bonds issued and sold as in the opinion of the state treasurer it is practicable to make them.

6176 Bonds issued under 2 or more bond authorization acts may be consolidated for the
6177 purpose of sale and issued, sold, printed and delivered as a single bond issue despite the
6178 requirement of any bond authorization act requiring or designating a particular total for bonds
6179 issued under that act. Notwithstanding any requirement of any such act that bonds issued
6180 thereunder shall bear any particular designation, bonds consolidated under this section shall be
6181 designated on their face "Consolidated Loan of" followed by the year of issue and the series
6182 thereof in such year. Notwithstanding this section, the state treasurer shall separately account for
6183 the bonds issued under and the proceeds received from bond sales under the particular
6184 authorizing act. In connection with any such consolidated issue, the state treasurer shall specify
6185 at the time of issuance (i) the amount of proceeds to be allocated to each bond authorization act
6186 or section thereof, in which case allocation of proceeds shall occur at the time of issuance, or (ii)
6187 the various sections of bond authorization acts to which proceeds of the issue may be allocated as
6188 expenditures are made under the authorizations referenced in such sections, in which case
6189 allocation of proceeds shall occur at such later time or times as such expenditures shall occur, or
6190 (iii) any combination of the foregoing. In lieu of allocating proceeds under clause (ii), the state
6191 treasurer may allocate proceeds of the issue to expenditures incurred under 1 or more bond
6192 authorization acts not specified at the time of issuance, including without limitation bond
6193 authorization acts enacted after the time of issuance, so long as the term limitations contained in
6194 the substituted bond authorization acts and the related term recommendations of the governor are
6195 not inconsistent with the term of the consolidated issue.

6196 Notwithstanding any general or special law to the contrary, a provision in any statute
6197 authorizing the state treasurer to issue and sell bonds of the commonwealth providing that such
6198 bonds shall bear interest at such rate as the state treasurer, with the approval of the governor,
6199 shall fix; or a provision of similar import, shall be construed to provide that such bonds shall bear
6200 interest at such rate or rates as the state treasurer, with the approval of the governor, shall fix.

6201 Unless otherwise specifically provided, any act authorizing the state treasurer to issue and
6202 sell bonds of the commonwealth shall authorize the state treasurer, with the approval of the
6203 governor, to issue and sell bonds subject to call for redemption at any time or from time to time,

6204 with or without premium, as the state treasurer determines to be in the best interest of the
6205 commonwealth.

6206 Bonds or notes of the commonwealth may be sold at par, premium or discount and may
6207 be sold as instruments the principal amount of which either remains constant or increases during
6208 the life of the instrument. Whenever bonds or notes are issued under a statute to which this
6209 paragraph applies, the amount issued shall be deemed to be the net proceeds of the issue;
6210 provided that the state treasurer may determine to apply all or a portion of any premium received
6211 on the sale of any such bonds or note, without appropriation, to the costs of issuance thereof or
6212 other financing costs related thereto or to the payment of the principal thereof or sinking fund
6213 installments with respect thereto, in which case the amount of any premium so applied shall not
6214 be included in the amount of the issue. This paragraph shall apply to any bonds or notes issued
6215 after January 1, 1988 unless the act authorizing such issue expressly states that this paragraph
6216 shall not apply.

6217 In connection with the issuance of bonds and notes of the commonwealth which are
6218 intended to qualify for tax exemption under the Internal Revenue Code of 1986, and to induce
6219 the purchase of such bonds and notes, the state treasurer may covenant on behalf of the
6220 commonwealth with the purchasers or with the holders from time to time of such bonds or notes
6221 or with a trustee or trustees for the benefit of such holders with respect to compliance with the
6222 requirements of said Internal Revenue Code relative to such tax exemption, including without
6223 limitation compliance with provisions relating to the use of proceeds by private parties, the
6224 investment of proceeds and the payment of rebate, so-called, to the federal government. Any
6225 such covenant may appear on the bonds or notes or may be included in a separate contract or
6226 trust indenture, a copy of which shall be available for public inspection at the office of the state
6227 treasurer. Any right of a holder of a bond or note in respect of any such covenant may be
6228 enforced as a claim against the commonwealth.

6229 Any act authorizing the state treasurer to issue and sell bonds of the commonwealth shall
6230 also authorize the state treasurer, without any further authorization, to borrow from time to time
6231 on the credit of the commonwealth such sums of money as may be necessary for the purpose of
6232 making payments for the purposes for which such bonds are authorized and to issue and renew,
6233 from time to time, notes of the commonwealth therefor in anticipation, of such bonds, bearing

6234 interest payable at such time and at such rates as shall be fixed by the state treasurer. The notes
6235 shall be issued and may be renewed 1 or more times for such terms not exceeding 3 years, as the
6236 governor may recommend to the general court under Section 3 of Article LXII of the
6237 Amendments to the Constitution of the Commonwealth. This paragraph; (i) shall apply to all
6238 bond authorization acts in effect as of July 1, 1999 and all bond authorization acts validly
6239 enacted after such date, unless any particular act expressly states that this paragraph shall not
6240 apply; and (ii) shall constitute authority to issue notes in anticipation of such bonds in addition to
6241 and not in limitation of any authority to issue notes in anticipation of bonds contained in any
6242 bond authorization act.

6243 If bonds are issued subject to a requirement under federal tax law that the proceeds from
6244 any investment of the proceeds from the sale of the bonds shall be used for capital expenditures
6245 including, without limitation, section 54AA(g)(2) of the Internal Revenue Code of 1986, as
6246 amended, the state treasurer may, without further appropriation or allotment, apply investment
6247 earnings allocable to the proceeds of such bonds to the payment or reimbursement of capital
6248 expenditures for which bonds have been authorized but not yet issued, and the amount of bonds
6249 authorized to be issued for any such expenditures shall be reduced by the amount of investment
6250 earnings so applied. Bonds and notes issued by the commonwealth, their transfer and income
6251 therefrom, including any profit made on the sale thereof, shall at all times be free from taxation
6252 within the commonwealth.

6253 Section 49A. Notwithstanding any other general or special law to the contrary, whenever
6254 the state treasurer is authorized to issue and sell bonds of the commonwealth and the state
6255 treasurer determines to issue and sell all or a portion of such bonds in denominations of less than
6256 \$5,000 (minibonds), the state treasurer may issue and sell such minibonds at public or private
6257 sale, maturing in such amounts and upon such dates, at such interest rate or rates, payable at such
6258 time and in such manner, at par or at discount, in bearer or registered form, and upon such other
6259 terms and conditions, all as the state treasurer shall determine to be in the best interests of the
6260 commonwealth; provided that (1) not more than \$50,000,000 principal amount of minibonds
6261 shall be sold by the state treasurer in any 1 fiscal year; (2) no minibond shall mature more than 5
6262 years after its date; (3) no 1 sale to a purchaser of minibonds shall be in an aggregate principal
6263 amount equal to or greater than \$5,000; and (4) each minibond shall provide that it shall be

6264 redeemed by the commonwealth upon due presentation by an appropriate person on any business
6265 day after 1 year from its date of sale by the state treasurer at such price as the state treasurer shall
6266 determine according to a schedule established with respect to each issue of minibonds prior to
6267 the sale thereof. The state treasurer may adopt regulations with respect to the issuance and sale of
6268 minibonds. A facsimile of the signature of the state treasurer on minibonds shall have the same
6269 validity and effect as the state treasurer's written signature. Sections 45, 49, and 53 of this
6270 chapter shall not apply to the issuance of minibonds.

6271 Section 49B. In addition to any other security provided by laws, bonds and notes of the
6272 commonwealth may, in the discretion of the state treasurer, be secured or supported, in whole or
6273 in part, by insurance or by lines or letters of credit or other credit or liquidity facilities provided
6274 by any bank, trust company or other financial institution.

6275 The state treasurer may enter into agreements with brokers for the placement of any such
6276 commonwealth notes issued as commercial paper.

6277 Section 49C. (a) In issuing bonds of the commonwealth, under the law applicable thereto,
6278 the state treasurer may, under the conditions in this section, set aside and issue portions of said
6279 bonds in such form as shall be appropriate for the purposes of the college opportunity program,
6280 as defined in section 5A of chapter 15C, or for the purposes of such other college savings
6281 programs as may be established under paragraph (f1/2) of section 5 of said chapter 15C.

6282 (b) Before issuing any bonds in a fiscal year for the use of a college savings program, the
6283 state treasurer shall prepare a report establishing the maximum amount of bonds to be issued in
6284 that year for use of such programs. Said report, and any subsequent amendment thereto which
6285 revises said maximum amount, shall include the state treasurer's reasons for determining that it
6286 is prudent for the commonwealth to authorize use of such bonds to the stated extent, in light of
6287 the anticipated future interest and principal payments on such bonds, as compared to the
6288 anticipated interest and principal payments on commonwealth bonds not issued in connection
6289 with such programs, and in light of available financial arrangements to limit or control the
6290 commonwealth's potential costs of meeting its obligations on such bonds, and in light of such
6291 other considerations as the state treasurer shall deem relevant. The state treasurer shall file copies
6292 of said report, and of any amendments thereto, with the Educational Financing Authority, the

6293 secretary of administration and finance, and the house and senate committees on ways and
6294 means.

6295 (c) For the purposes of issuing bonds to support college savings programs, the state
6296 treasurer shall have, in addition to the state treasurer's other powers and duties, the following
6297 additional powers and duties:

6298 (i) To employ financial, marketing, legal and other consultants and advisors for
6299 the purpose of consulting with the commonwealth on the implementation and ongoing
6300 administration of the savings programs and to enter into contracts and agreements necessary in
6301 connection therewith;

6302 (ii) To enter into appropriate agreements or arrangements with banks or other
6303 financial institutions or with other departments or agencies of the commonwealth or other public
6304 entities to provide protection for the commonwealth from risks associated with the variable
6305 interest rate on such bonds, and to provide liquidity for purchasers of such bonds in the event of
6306 extraordinary circumstances which require them to have access to their capital, including but not
6307 limited to interest rate swap agreements, interest rate caps, liquidity facilities, futures
6308 agreements, letters of credit and similar arrangements, including provisions regarding the
6309 custody of commonwealth funds and the maintenance of collateral and other security for the
6310 commonwealth's obligations thereunder;

6311 (iii) To establish procedures to ensure that interest on such bonds is and remains
6312 excludable from the gross income of the owners thereof for federal income tax purposes;

6313 (iv) To establish a schedule of fees and charges, including premiums in
6314 connection with the sale of such bonds, sufficient to provide for the estimated costs of the
6315 program incurred by the commonwealth, including the costs of any agreements or arrangements
6316 entered into under paragraph (ii) and reasonable amounts to allow the commonwealth to self-
6317 insure against possible variations in interest rates on such bonds; provided that the difference in
6318 anticipated future interest and principal payments on such bonds as compared to the anticipated
6319 interest and principal payments on commonwealth bonds not issued in connection with such
6320 programs shall not exceed \$5,000,000 per year. Any such fees or charges shall be received by the
6321 state treasurer impressed with a trust on behalf of the participants in such college savings

6322 programs and shall be deposited in a separate fund. The amounts in said fund, including any
6323 income earned on amounts therein, shall be expended by the state treasurer, without
6324 appropriation, solely for the commonwealth's cost of operating such college savings programs,
6325 including without limitation the costs of agreements or arrangements entered into under
6326 paragraph (ii) and the costs of self-insuring against variations in interest rates on such bonds; and

6327 (v) To take such further actions and establish such further procedures as shall be
6328 appropriate to carry out the purposes of the savings programs.

6329 (d) All bonds, or units of participation therein, issued under this section shall be subject
6330 to the following provisions:

6331 (i) Any payment received by a purchaser of such bonds or units of participation
6332 under this section and chapter 15C and the interest or other income earned in connection
6333 therewith shall be exempt from all taxation by the commonwealth and any of its political
6334 subdivisions, including income, commonwealth, transfer, inheritance, death and personal
6335 property taxes.

6336 (ii) The bonds and units of participation are hereby made securities in which
6337 administrators, guardians, executors, trustees, fiduciaries, and others authorized to invest in
6338 bonds of the commonwealth may properly and legally invest funds and shall be exempt from
6339 qualification and registration under the securities laws of the commonwealth.

6340 (iii) The commonwealth hereby covenants and agrees to take all steps reasonably
6341 necessary to provide that interest on said bonds and units of participation whenever paid or
6342 accrued shall be excluded from the gross income of any person having an interest therein under
6343 the Internal Revenue Code of 1986 as amended from time to time.

6344 (e) Section 53 shall not apply to the sale of any bonds issued in connection with college
6345 savings programs.

6346 Section 50. The state treasurer shall annually in December certify to the budget director
6347 the amount necessary to provide for serial and sinking fund payments with respect to any bonds
6348 or notes of the commonwealth for the fiscal year beginning on July 1 following.

6349 Section 53. Whenever there is to be an issue of bonds or notes of the commonwealth
6350 maturing at a time later than 3 years from their dates, excepting such bonds or notes as are to be
6351 issued for the investment of cash in any of the sinking or other established funds of the
6352 commonwealth, the state treasurer shall solicit bids for the purchase thereof, and shall provide
6353 reasonable notice to the public of such solicitations. The state treasurer may reserve the right to
6354 reject any or all bids. If no bid is accepted, the whole or any part of the loan may be awarded to
6355 any person. Compliance with this section may be waived with respect to an issue of bonds or
6356 notes upon the approval of the state finance and governance board established under section 97
6357 of chapter 6.

6358 Section 53A. The state treasurer may, upon request of the governor, issue and sell
6359 refunding bonds of the commonwealth in an amount to be specified by the governor from time to
6360 time for the purpose of paying, at maturity or upon acceleration or redemption, any bonds of the
6361 commonwealth then outstanding, including the payment of any redemption premium thereon and
6362 any interest accrued or to accrue to the date of maturity, acceleration or redemption of such
6363 bonds; provided, however, that the state treasurer shall not issue any such refunding bonds unless
6364 the state treasurer shall find that the present value, discounted at such rate as the state treasurer
6365 shall deem appropriate, of the principal and interest payments due on the refunding bonds is less
6366 than the present value, discounted at such rate, of the principal and interest payments to be paid,
6367 from the proceeds of such refunding bonds and investment earnings thereon, on the bonds to be
6368 refunded. In addition to and without compliance with the foregoing, the state treasurer may, upon
6369 request of the governor, issue and sell refunding bonds of the commonwealth in an amount to be
6370 specified by the governor from time to time for the purpose of substituting fixed-rate bonds for
6371 variable-rate bonds or 1 form of variable-rate bonds for another. The proceeds of any refunding
6372 bonds authorized by this section may also be used to purchase bonds in lieu of paying such
6373 bonds at maturity or redemption, through a tender offer or otherwise, whereupon the state
6374 treasurer may declare the purchased bonds to be paid in full. Such refunding bonds may be
6375 issued at such time prior to the maturity, acceleration or redemption of the bonds to be refunded
6376 thereby as the state treasurer, with the approval of the governor, may deem advisable. The
6377 issuance of such bonds, the security therefor, the maturities and other details thereof, the rights of
6378 the holders thereof and the rights, duties and obligations of the commonwealth with respect
6379 thereto shall be governed by the provisions of this chapter which relate to the issuance of bonds,

6380 insofar as such provisions may be appropriate therefor. Without limiting the generality of the
6381 foregoing, the provisions of section 49 applicable to sinking funds established with trustees shall
6382 apply to the deposit of refunding bond proceeds with a trustee except that such proceeds shall be
6383 held for the benefit of the holders of the bonds to be refunded thereby. All bonds issued by the
6384 commonwealth as aforesaid shall be designated on their face General Obligation Refunding
6385 Bonds or Special Obligation Refunding Bonds, as appropriate, and shall be issued for such
6386 maximum term of years, not exceeding 30 years, as the governor may recommend to the general
6387 court under Section 3 of Article LXII of the Amendments to the Constitution of the
6388 Commonwealth, provided, however, that the bonds of any particular issue shall mature not later
6389 than 5 years after the date of final maturity of the bonds being refunded by such issue; and
6390 provided, further, that the debt service on such refunding bonds shall be charged to the various
6391 budgeted funds of the commonwealth in proportion to the principal amounts being refunded.

6392 The state treasurer shall file a report with the house and senate committees on ways and
6393 means not later than 30 days after the sale of any refunding bonds issued under this section. Said
6394 report shall include written documentation of compliance with this section, including, but not
6395 limited to, the issue or issues to be refunded, the projected dollar savings and the projected
6396 present value savings.

6397 Section 54. The state treasurer may require each bidder submitting a proposal under
6398 section 53, as a condition precedent to the consideration of such bidder's proposal, to submit a
6399 good faith deposit or otherwise secure such bidder's proposal, in such manner and amount as the
6400 state treasurer shall determine to be appropriate.

6401 Section 55. The state treasurer may annually expend such sums as the general court shall
6402 appropriate for the purpose of providing for and advertising sales of bonds for the direct debt of
6403 the commonwealth and for the purpose of preparing and paying for bond books necessary for
6404 such sales.

6405 Section 56. Funds from a sale of specific bonds or other securities which have reverted at
6406 the close of a fiscal year, under the act authorizing the expenditures to be financed by the sale of
6407 said bonds or other securities, or under section 14 shall first be transferred in the succeeding
6408 fiscal year or years on the books of account of the commonwealth, without appropriation, to the

6409 fund which is liable for the maturities on said bonds or other securities but only in such amount
6410 as is necessary to meet the specific bonds or other securities matured and paid from said fund, if
6411 any, in a fiscal year. When such transfers are no longer required to meet such maturities any
6412 balance of said funds remaining, after setting aside a sufficient amount to cover any such bonds
6413 or other securities which have matured but have not been presented for payment, shall be
6414 transferred, without appropriation, on the books of account of the commonwealth to the fund
6415 from which said bonds or other securities were paid.

6416 Section 58. The state treasurer may, upon terms and regulations prescribed by the
6417 governor and council, issue, in denominations of not less than \$1,000, registered bonds in
6418 exchange for any coupon bonds of the commonwealth, which, with the exception of the coupons,
6419 shall be in conformity with the laws authorizing the issue of such coupon bonds. The state
6420 treasurer shall mutilate and retain the bonds so received in exchange. The comptroller shall
6421 certify such registered bonds; and the comptroller and the state treasurer shall each keep a
6422 register of their dates, numbers and amounts, the names of the persons to whom they were
6423 issued, when they are payable and for what bonds they were issued in exchange. The state
6424 treasurer may also, upon the same terms and regulations, issue in substitution for mutilated,
6425 defaced or endorsed bonds presented to the state treasurer other bonds of like or equivalent
6426 issues.

6427 Section 59. If it appears to the governor and council that any interest-bearing bond of the
6428 commonwealth identified by number and description has, without bad faith upon the part of the
6429 owner, been lost or destroyed, wholly or in part, they shall, under regulations and with
6430 restrictions as to time and retention for security or otherwise prescribed by them, order the state
6431 treasurer to issue a registered duplicate of such bond, payable at the same time, bearing the same
6432 rate of interest as the bond lost or destroyed, and so marked as to show the number and date of
6433 the original bond. If such bond was of a class or series which has been called in for redemption
6434 before the application for a reissue, it shall be paid, with such interest only as would have been
6435 paid if the bond had been presented under such call.

6436 Section 60. The owner of such bond shall surrender so much thereof as may remain, if
6437 any, and shall give to the state treasurer a bond in double the amount of said lost or destroyed
6438 bond and of the interest which would accrue until the principal is due and payable, with a

6439 sufficient surety, a resident of the commonwealth, approved by the governor and council,
6440 conditioned to indemnify and save harmless the commonwealth from any claim on account of
6441 said lost or destroyed bond.

6442 Section 60A. Unless otherwise specifically provided, provisions contained in any act
6443 heretofore or hereafter enacted by a vote, taken by the yeas and nays of 2/3 of each house of the
6444 general court present and voting thereon, and approved by the governor, authorizing the state
6445 treasurer to issue and sell bonds or notes of the commonwealth or authorizing the commonwealth
6446 to borrow money requiring that the principal of and interest on such bonds or notes shall be (i)
6447 paid by or from a particular fund or funds of the commonwealth now existing or hereafter
6448 created, (ii) part of the debt and expenses of a particular district, or (iii) assessed by particular
6449 methods, or other provisions or words of similar import, shall not affect the status of such bonds
6450 and notes as general obligations of the commonwealth to which the full faith and credit of the
6451 commonwealth is pledged for the payment of principal and interest when due. All bonds and
6452 notes executed under this chapter shall be deemed to be general obligations of the
6453 commonwealth to which its full faith and credit is pledged for the payment of principal and
6454 interest when due, unless specifically provided on the face of such bond or note to the contrary.
6455 All bonds or notes of the commonwealth executed under this chapter shall have all of the
6456 qualities and incidents of negotiable instruments under the Uniform Commercial Code.

6457 There is hereby established a direct debt limit for the commonwealth which shall apply to
6458 any direct bonds issued whose issuance would cause the sum of the principal amounts of all
6459 direct bonds issued by the commonwealth and then outstanding to exceed the limit set in this
6460 section; provided, however, that bonds for the payment or redemption of which, either at or prior
6461 to maturity, refunding bonds shall have been issued, shall be excluded in the computation of
6462 outstanding bonds; and provided, further, that the principal amount of bonds issued at a discount
6463 shall be the original net proceeds of such bonds. For the fiscal year starting July 1, 2011, such
6464 limit shall be \$17,070,000,000. For each subsequent fiscal year, the limit shall be the lesser of:
6465 (a) the product of the limit established for the previous fiscal year and 1.05; or (b) the product of
6466 the limit established for the previous fiscal year and the ratio of the value of the implicit price
6467 deflator for state and local government purchases for the preceding fiscal year to such value for
6468 the fiscal year 2 years prior. The calculation described in this paragraph shall be announced by

6469 the treasurer not later than September 30 of any year. The preceding paragraph shall not apply to
6470 direct bonds in excess of the direct debt limit. The treasurer may issue regulations enforcing this
6471 paragraph. Under no circumstances shall this paragraph be interpreted to impair any bond
6472 covenants or other guarantees to bond holders relative to any such bonds or notes issued prior to
6473 July 1, 1990.

6474 Section 60B. (a) In this section, the following words shall, unless the context clearly
6475 requires otherwise, have the following meanings.

6476 "Committee", the capital debt affordability committee established under this section.

6477 "Tax supported debt", direct debt, as further described and limited in the first sentence of
6478 the second paragraph of section 60A; and other forms of debt, including state agency capital
6479 leases supported in whole or part by state tax revenues and debt of the department of
6480 transportation, and other units of commonwealth government which, in the opinion of the
6481 committee, are supported directly or indirectly by state tax revenues; provided that "tax
6482 supported debt", shall include debt issued by the department of transportation under chapter 6C
6483 that is secured by a pledge of future federal aid from any source.

6484 (b) This section applies only to tax supported debt. This section shall not be construed to
6485 affect the authority of the governor to submit any bills under the procedures established in
6486 Article XLII or XLIII of the Amendments to the Constitution, or the authority of the general
6487 court to continue its independent analysis of commonwealth debt affordability or to consider
6488 bills that authorize commonwealth debt or appropriations bills under said Article XLII or XLIII
6489 of the Amendments to the Constitution.

6490 (c) There shall be within the executive office for administration and finance, but not
6491 subject to its supervision or control, a capital debt affordability committee consisting of the
6492 following voting members: the secretary of administration and finance who shall chair the
6493 committee; the treasurer; the comptroller; the secretary of transportation; 1 individual appointed
6494 by the governor who shall be an expert in public finance and who shall be a resident of the
6495 commonwealth and employed by a public or private institution of higher education; and 2
6496 individuals appointed by the treasurer who shall be experts in state public finance, and who shall
6497 be residents of the commonwealth and not employed by state government, either as a state

6498 employee or as an independent contractor. The house and senate chairs and the ranking minority
6499 members of the committees on bonding, capital expenditures and state assets and the committees
6500 on ways and means shall be nonvoting members of the committee. Any voting member may
6501 delegate that member's appointment. Each individual appointed by the secretary or treasurer
6502 shall serve terms established by the appointing authority, but not longer than 4 years. Each
6503 appointed individual may serve a second or subsequent terms, and each appointed individual
6504 may continue to serve after the individual's term expires if desired by the appointing authority.

6505 (d) The chairman shall call meetings of the committee as needed to perform its duties.

6506 (e) The committee shall review on a continuing basis the size and condition of the
6507 commonwealth tax supported debt as well as other debt of any authority of the commonwealth
6508 that is determined to be a component unit of the commonwealth by the comptroller under
6509 subsection (c) of section 12 of chapter 7A. The estimate shall be made available electronically
6510 and prominently displayed on the official website of the commonwealth.

6511 (f) On or before September 10 of each year, the committee shall submit to the governor
6512 and the general court the committee's estimate of the total amount of new commonwealth debt
6513 that prudently may be authorized for the next fiscal year. In making its estimate, the committee
6514 shall consider:

6515 (1) the amount of state bonds that, during the next fiscal year:

6516 (i) will be outstanding; and

6517 (ii) will be authorized but unissued;

6518 (2) the capital program prepared by the secretary of administration and finance;

6519 (3) capital improvement and school construction needs during the next 5 fiscal
6520 years, as projected by the Massachusetts School Building Assistance Authority;

6521 (4) projections of debt service requirements during the next 10 fiscal years;

6522 (5) the criteria that recognized bond rating agencies use to judge the quality of
6523 issues of state bonds;

6524 (6) any other factor that is relevant to:

6525 (i) the ability of the state to meet its projected debt service requirements
6526 for the next 5 fiscal years; or

6527 (ii) the marketability of state bonds;

6528 (7) the effect of authorizations of new state debt on each of the factors in this
6529 subsection;

6530 (8) identification of pertinent debt ratios, such as debt service to General Fund
6531 revenues, debt to personal income, debt to estimated full-value of property, and debt per capita;

6532 (9) A comparison of the debt ratios prepared for paragraph (8) with the
6533 comparable debt ratios for the 5 other states in New England, New York and 5 other states the
6534 committee determines to offer a fair comparison to the commonwealth;

6535 (10) A description of the percentage of the state's outstanding general obligation
6536 bonds constituting fixed rate bonds, variable rate bonds, bonds that have an effective fixed
6537 interest rate through a hedging contract, and bonds that have an effective variable interest rate
6538 through a hedging contract. The report shall also include, for each outstanding hedging contract,
6539 a description of the hedging contract, the outstanding notional amount, the effective date, the
6540 expiration date, the name and ratings of the counterparty, the rate or floating index paid by the
6541 state and the rate or floating index paid by the counterparty, and a summary of the performance
6542 of the state's hedging contracts in comparison to the objectives for which the hedging contracts
6543 were executed; and

6544 (11) the amount of issuances, debt outstanding, and debt service requirement of
6545 other classes of commonwealth tax supported debt as well as other debt of commonwealth units.

6546 (g) The estimate of the committee shall be advisory, and shall not bind the governor or
6547 the general court.

6548 (h) On or before October 15 of each year, after considering the current estimate of the
6549 committee, the governor shall determine:

6550 (1) the total authorizations of new commonwealth debt that the governor
6551 considers advisable for the next fiscal year; and

6552 (2) the preliminary allocation of new commonwealth debt for capital facility
6553 projects.

6554 Section 61. The comptroller or any other person authorized to approve claims for
6555 materials, supplies or other articles furnished to, or for service or labor performed for, the
6556 commonwealth, may, before approving any such claim, require the claimant to certify on oath
6557 that all the articles have been furnished, for which the claim has been made, or that the service or
6558 labor has been performed, and that no commission, discount, bonus, present or reward of any
6559 kind has been received or promised or is expected on account of the same.

6560 Section 63. If a department, commission, board, officer, employee or agent of the
6561 commonwealth is about to expend money or incur obligations purporting to bind the
6562 commonwealth for any purpose or object or in any manner other than that for and in which such
6563 department, commission, board, officer, employee or agent has the legal and constitutional right
6564 and power to expend money or incur obligations, the supreme judicial or superior court may,
6565 upon the petition of not less than 24 taxable inhabitants of the commonwealth, not more than 6 of
6566 whom shall be from any 1 county, determine the same in equity, and may, before the final
6567 determination of the cause, restrain the unlawful exercise or abuse of such right and power.

6568 Section 64. The state treasurer, on behalf of the commonwealth, may contract with an
6569 employee to defer a portion of that employee's compensation and may, for the purposes of
6570 funding a deferred compensation program for the employee, established under the United States
6571 Internal Revenue Code, the "Code", invest the deferred portion of the employee's income in a life
6572 insurance or annuity contract, mutual fund, a bank investment trust, or additional investment
6573 alternatives available under the program. The treasurer, before making the investment, shall
6574 solicit bids from fund managers, investment managers and insurance companies authorized to
6575 conduct business within the commonwealth under chapter 175, mutual fund managers and banks,
6576 which bids shall be sealed, and opened at a time and place designated by the treasurer. A bid
6577 submitted by an insurance company, mutual fund, bank investment trust or other fund manager
6578 or investment manager, to fund the deferred compensation program shall, where applicable,

6579 clearly indicate the interest rate which shall be paid on the deferred funds, the commissions
6580 which will be paid to the salesmen, the load imposed for the purpose of administering the funds,
6581 mortality projections, expected payouts, tax implications for participating employees and other
6582 information as the treasurer may require. Any contract entered into between an employee and the
6583 commonwealth under this section shall include the information in terms the employee can
6584 reasonably be expected to understand.

6585 As used in this section the word "employee" shall have the same meaning as "employee"
6586 in section 1 of chapter 32 and shall include members of the state police temporarily assigned to
6587 and paid by the Massachusetts Department of Transportation, the Massachusetts Port Authority
6588 or any other board, agency, commission or authority to which they may be temporarily assigned
6589 and by which they are paid, and consultants and independent contractors who are natural persons
6590 paid by the commonwealth.

6591 An employee may defer compensation; provided, however, that such deferral shall not
6592 exceed the maximum allowable under the Code, as amended and in effect for the taxable year,
6593 and appropriate regulations under the Code.

6594 Such deferred compensation program shall be in addition to and not a part of the
6595 retirement program or pension system as provided under said chapter 32 and any other benefit
6596 program provided by law for such employee. Any compensation deferred under such a plan shall
6597 continue to be included as regular compensation, as defined in said section 1 of said chapter 32,
6598 for the purpose of computing the retirement and pension benefits earned by any such employee,
6599 but any compensation so deferred shall not be included in the computation of any taxes withheld
6600 on behalf of any such employee.

6601 The state treasurer, on behalf of the commonwealth, shall contract with every person,
6602 who is receiving compensation from the commonwealth for services performed for the
6603 commonwealth and who is not eligible for membership or has exercised an option not to
6604 participate in the state retirement system in chapter 32, to defer a portion of that person's
6605 compensation, and shall invest the deferred portion of that person's income in a deferred
6606 compensation program established under said Code. For persons holding positions which would
6607 have rendered the holder of the position eligible for participation in the commonwealth's deferred

6608 compensation program on November 5, 1990, the state treasurer shall contract for plan years
6609 prior to January 1, 1993, to defer 6 per cent of that person's regular compensation, as defined in
6610 section 1 of chapter 32 for the period subsequent to December 31, 1945, but no greater than the
6611 maximum deferral allowable for that person under said Code for government deferred
6612 compensation programs. For persons holding positions which would not have rendered the
6613 holder of the position eligible for participation in the commonwealth's deferred compensation
6614 program on November 5, 1990, the state treasurer shall contract to defer 7 ½ per cent of that
6615 person's regular compensation, as defined in said section 1 of said chapter 32 for the period
6616 subsequent to December 31, 1945, but no greater than the maximum deferral allowable for that
6617 person under said Code for government deferred compensation programs.

6618 Notwithstanding this section, the state treasurer need not contract with any part-time,
6619 seasonal or temporary employee not required by said Code to participate in a public retirement
6620 system. All contracts formed with part-time, seasonal or temporary employees under the
6621 previous paragraph shall entitle the employee to a single-sum distribution of the employee's
6622 deferrals plus reasonable interest.

6623 Nothing in this section shall be construed to create or grant any rights not previously
6624 enjoyed under chapter 32A or chapter 150E.

6625 Section 64A. The state treasurer of the commonwealth, on behalf of the commonwealth,
6626 may contract with an employee to make contributions for and in the name of such employee,
6627 from amounts otherwise payable to the employee as current compensation, to an Individual
6628 Retirement Account ("IRA") by such employee established under the U.S. Internal Revenue
6629 Code, (the "Code"). The participating employee may invest that portion of his income so
6630 contributed to an IRA in an annuity contract, mutual fund, bank investment trust or other
6631 investment authorized by the Code. Before making such deduction, the treasurer shall be
6632 required to solicit bids from insurance companies authorized to conduct business within the
6633 commonwealth under chapter 175, mutual fund managers, and banks, which bids shall be sealed,
6634 and opened at a time and place designated by the treasurer. Any bid submitted by an insurance
6635 company, mutual fund, or bank investment trust seeking investment of the IRA contribution
6636 shall, where applicable, clearly indicate the interest rate which shall be paid on the invested
6637 funds, any commissions which will be paid to the salesmen, any load imposed for the purpose of

6638 administering the funds, expected payouts, tax implications for participating employees and such
6639 other information as the treasurer may require. Upon the treasurer's determining which provider
6640 offers the product or products most beneficial to the employee in each category for which bids
6641 were solicited, the treasurer may offer such employee the opportunity to establish an IRA with 1
6642 or more such providers. The employee who wishes to invest his IRA funds with any such
6643 provider, or combination of providers, may authorize the treasurer to deduct from amounts
6644 otherwise payable to the employee, at one time or on a periodic basis, amounts to be paid into the
6645 employee's IRA. If the employee so elects, the treasurer shall pay to the providers the amount
6646 designated by the employee, in the name of the employee, to the employee's IRA. Amounts so
6647 paid to the providers for the employee's IRA account shall belong exclusively to the employee.
6648 Except as otherwise provided herein, the treasurer may restrict an employee's right to contract to
6649 have contributions made to an IRA through deductions and payments by the treasurer, to those
6650 providers selected as the result of the competitive bidding process outlined herein, but the
6651 authority conferred upon the treasurer shall not be construed to restrict or limit the right of any
6652 employee to establish one or more IRAs with such banks, insurance companies, or similar
6653 authorized institutions as the employee may choose in any manner other than through an
6654 authorized deduction by the treasurer of a portion of the employees compensation as outlined
6655 herein. Any contract entered into between an employee and the commonwealth under this section
6656 shall include all information in terms the employee can reasonably be expected to understand.

6657 As used in this section the word "employee" shall have the same meaning as "employee"
6658 in section 1 of chapter 32 and shall include members of the state police temporarily assigned to
6659 and paid by the Massachusetts Department of Transportation, the Massachusetts Port Authority
6660 or any other board, agency, commission or authority to which they may be temporarily assigned
6661 and by which they are paid, and consultants and independent contractors who are natural persons
6662 paid by the commonwealth.

6663 An employee may contribute a portion of his compensation to an IRA under the program
6664 outlined herein so long as such contribution, for an employee who is single, is the lesser of
6665 \$2,000 or 100 per cent of the employee's compensation for a taxable year, and, for an employee
6666 who is married, the contribution is the lesser of \$2,250 or 100 per cent of the employee's
6667 compensation for a taxable year. If an employee has any compensation deferred under a deferred

6668 compensation plan for employees of the commonwealth, if one is established by the treasurer
6669 under section 64, then the aggregate amount of such deferred compensation deduction and
6670 amounts contributed to such employee's IRA shall not exceed the limits imposed upon such
6671 combined deduction and contribution by the Code.

6672 Notwithstanding any provisions to the contrary, the treasurer shall not be required to
6673 solicit bids to invest the contributed portion of an employee's income into the employee's IRA
6674 provided: (a) the treasurer is authorized by the employee to pay that portion of the employee's
6675 compensation into the employee's IRA in the same investment products as provided through a
6676 deferred compensation or IRA plan for employees of the commonwealth administered by the
6677 state treasurer, or a deferred compensation plan for employees of the city or town administered
6678 by the treasurer, provided such plan resulted from the solicitation of bids under bidding
6679 requirements comparable to those required under this section; or (b) the treasurer is authorized
6680 by the employee to pay that portion of the employee's compensation into the employee's IRA in
6681 the investment products offered under a deferred compensation plan or an IRA investment option
6682 program developed through a competitive selection process, provided that such plan or program
6683 resulted from the solicitation of bids by a group of any combination of 3 or more city, town,
6684 county or public authority treasurers acting as a "Common Group" for purposes of soliciting such
6685 proposals under bidding requirements comparable to those required under this section.

6686 Such IRA plan shall be in addition to and not a part of the retirement program or pension
6687 system as provided under said chapter 32 and any other benefit program provided by law for
6688 such employee. Any compensation contributed by the employee to his IRA under such a plan
6689 shall continue to be included as regular compensation, as defined in section 1 of said chapter 32,
6690 for the purpose of computing the retirement and pension benefits earned by any such employee,
6691 but any compensation so contributed shall not be included in the computation of federal taxes but
6692 shall be included in the computation of state taxes withheld on behalf of any such employee.

6693 Section 64B. The treasurer or, if there is no treasurer, the chief financial officer by
6694 whatever name that person is called, on behalf of any political subdivision, body politic and
6695 corporate, or public instrumentality created by the commonwealth or any county, city or town or
6696 group thereof by whatever name the body is called, including without limitation, an agency,
6697 authority, board, corporation or district, including also without limitation, any regional school,

6698 police, fire, refuse or sewage district, and hereinafter referred to as a “governmental body,”
6699 which is not otherwise subject to any general or special law authorizing deferred compensation
6700 contracts with its employees, may contract with an employee of such governmental body to defer
6701 a portion of an employee’s compensation and may, for the purposes of funding a deferred
6702 compensation program for said employee, established under the U.S. Internal Revenue Code,
6703 (the “Code”) invest the deferred portion of the employee’s income in a life insurance or annuity
6704 contract, mutual fund or a bank investment trust. The treasurer or chief financial officer shall,
6705 before making any such investment, solicit bids from insurance companies authorized to conduct
6706 business within the commonwealth under chapter 175, mutual fund managers, and banks, which
6707 bids shall be sealed, and opened at a time and place designated by the treasurer or chief financial
6708 officer. Any bid submitted by an insurance company, mutual fund, or bank investment trust to
6709 fund the deferred compensation program shall, where applicable, clearly indicate the interest rate
6710 which shall be paid on the deferred funds, any commissions which will be paid to the salesmen,
6711 any load imposed for the purpose of administering the funds, mortality projections, expected
6712 payouts, tax implications for participating employees and such other information as the treasurer
6713 or chief financial officer may require. Any contract entered into between an employee and the
6714 governmental body under this section shall include all such information in terms the employee
6715 can reasonably be expected to understand.

6716 As used in this section the word “employee” shall have the same meaning as the word
6717 “employee” in section 1 of chapter 32 and shall include consultants and independent contractors
6718 who are natural persons paid by the governmental body.

6719 Notwithstanding any general or special law to the contrary, the treasurer or chief financial
6720 officer shall not be required to solicit bids to invest the deferred portion of an employee’s income
6721 provided: (a) the treasurer or chief financial officer elects to invest such funds in the same
6722 investment products as are provided through the deferred compensation plan for employees of
6723 the commonwealth administered by the state treasurer, provided such plan resulted from the
6724 solicitation of bids under bidding requirements comparable to those required under this section;
6725 or (b) the treasurer or chief financial officer elects to invest such funds in the investment
6726 products offered under a plan developed through a competitive process, provided that such plan
6727 resulted from the solicitation of bids by a group of any combination of 3 or more city, town,

6728 county or public authority treasurers or treasurers or chief financial officers of governmental
6729 bodies covered by this section acting as a “Common Group” for purposes of soliciting such
6730 proposals under bidding requirements comparable to those required under this section.

6731 An employee may defer compensation; provided, however, that such deferral does not
6732 exceed the maximum allowable under the Code, as amended and in effect for the taxable year,
6733 and appropriate regulations under the Code.

6734 Such deferred compensation program shall be in addition to and not a part of any
6735 retirement program or pension system as provided under said chapter 32 and any other benefit
6736 program provided by law for such employee. Any compensation deferred under such a plan shall
6737 continue to be included as regular compensation, as defined in section 1 of said chapter 32, for
6738 the purpose of computing any retirement and pension benefits earned by any such employee, but
6739 any compensation so deferred shall not be included in the computation of any taxes withheld on
6740 behalf of any such employee.

6741 Section 64C. The treasurer or, if there is no treasurer, the chief financial officer, by
6742 whatever name that person is called, of any political subdivision, body politic and corporate, or
6743 public instrumentality created by the commonwealth or by any county, city, or town or group
6744 thereof by whatever name the body is called, including without limitation an agency, board,
6745 authority, corporation or district, including, also without limitation, any regional school, police,
6746 fire, refuse or sewage district, hereinafter referred to as a “governmental body,” which is not
6747 subject to a general or special law authorizing deferred compensation contracts with its
6748 employees, may contract with an employee of that governmental body to make contribution for
6749 and in the name of such employee, from amounts otherwise payable to the employee as current
6750 compensation, to an Individual Retirement Account (“IRA”) by such employee established under
6751 the U.S. Internal Revenue Code, (the “Code”). The participating employee may invest that
6752 portion of the employee’s income so contributed to an IRA in an annuity contract, mutual fund,
6753 bank investment trust or other investment authorized by the Code. Before making such
6754 deduction, the treasurer or chief financial officer shall be required to solicit bids from insurance
6755 companies authorized to conduct business within the commonwealth under chapter 175, mutual
6756 fund managers and banks, which bids shall be sealed and opened at a time and place designated
6757 by the treasurer or chief financial officer. Any bid submitted by an insurance company, mutual

6758 fund or bank investment trust seeking investment of the IRA contribution shall, where
6759 applicable, clearly indicate the interest rate which shall be paid on the invested funds, any
6760 commissions which will be paid to the salesmen, any load imposed for the purpose of
6761 administering the funds, expected payouts, tax implications for participating employees and such
6762 other information as the treasurer or chief financial officer may require. Upon the treasurer's or
6763 chief financial officer's determining which provider offers the product or products most
6764 beneficial to the employee in each category for which bids were solicited, the treasurer or chief
6765 financial officer may offer such employee the opportunity to establish an IRA with 1 or more
6766 such providers. The employee who wishes to invest the employee's IRA funds with such
6767 provider, or combination of providers, may authorize the treasurer or chief financial officer to
6768 deduct from amounts otherwise payable to the employee, at 1 time or on a periodic basis,
6769 amounts to be paid into the employee's IRA. If the employee so elects, the treasurer or chief
6770 financial officer shall pay to the providers the amount designated by the employee, in the name
6771 of the employee, to the employee's IRA. Amounts so paid to the providers for the employee's
6772 IRA account shall belong exclusively to the employee. Except as otherwise provided herein, the
6773 treasurer or chief financial officer may restrict an employee's right to contract to have
6774 contributions made to an IRA through deductions and payments by the treasurer or chief
6775 financial officer, to those providers selected as the result of the competitive bidding process
6776 outlined herein, but the authority conferred upon the treasurer or chief financial officer shall not
6777 be construed to restrict or limit the right of any employee to establish 1 or more IRAs with such
6778 banks, insurance companies, or similar authorized institutions as the employee may choose in
6779 any manner other than through an authorized deduction by the treasurer or chief financial officer
6780 of a portion of the employee's compensation as outlined herein. Any contract entered into
6781 between an employee and the governmental body under this section shall include all information
6782 in terms the employee can reasonably be expected to understand.

6783 As used in this section the word "employee" shall have the same meaning as the word
6784 "employee" in section 1 of chapter 32 and shall also include consultants and independent
6785 contractors who are natural persons paid by the governmental body.

6786 An employee may contribute a portion of the employee's compensation to an IRA under
6787 the program outlined herein so long as such contribution, for an employee who is single, is the

6788 lesser of \$2,000 or 100 per cent of the employee's compensation for a taxable year, and, for an
6789 employee who is married, the contribution is the lesser of \$2,250 or 100 per cent of the
6790 employee's compensation for a taxable year, such dollar amount to be adjusted to reflect any
6791 applicable amendments to the code adopted from time to time. If an employee has any
6792 compensation deferred under a deferred compensation plan for employees of the governmental
6793 body, if one is established by the treasurer or chief financial officer under section 64B, then the
6794 aggregate amount of such deferred compensation deduction and amounts contributed to such
6795 employee's IRA shall not exceed the limits imposed upon such combined deduction and
6796 contribution by the Code.

6797 Notwithstanding any provisions to the contrary, the treasurer or chief financial officer
6798 shall not be required to solicit bids to invest the contributed portion of an employee's income
6799 into the employee's IRA provided: (a) the treasurer or chief financial officer is authorized by the
6800 employee to pay that portion of the employee's compensation into the employee's IRA in the same
6801 investment products as are provided through a deferred compensation or IRA plan for employees
6802 of the commonwealth administered by the state treasurer or a deferred compensation plan for
6803 employees of the governmental body administered by the treasurer or chief financial officer,
6804 provided such plan resulted from the solicitation of bids under bidding requirements comparable
6805 to those required under this section; or (b) the treasurer or chief financial officer is authorized by
6806 the employee to pay that portion of the employee's compensation into the employee's IRA in the
6807 investment products offered under a deferred compensation or IRA plan developed through a
6808 competitive selection process, provided that such plan resulted from the solicitation of bids by a
6809 group of any combination of 3 or more city, town, county or public authority treasurers or
6810 treasurers or chief financial officers of government bodies covered by this section acting as a
6811 "Common Group" for purposes of soliciting such proposals under bidding requirements
6812 comparable to those required under this section.

6813 Such IRA plan shall be in addition to and not a part of any retirement program or pension
6814 system as provided under said chapter 32 and any other benefit program provided by law for
6815 such employee. Any compensation contributed by the employee to the employee's IRA under
6816 such a plan shall continue to be included as regular compensation, as defined in section 1 of said
6817 chapter 32, for the purpose of computing any retirement and pension benefits earned by any such

6818 employee, but any compensation so contributed shall not be included in the computation of
6819 federal taxes but shall be included in the computation of state taxes withheld on behalf of any
6820 such employee.

6821 Section 64D. Any governmental body, as defined in section 64B, may require any person,
6822 who is receiving compensation from the governmental body for services performed and who is
6823 not a member of a retirement system as provided under chapter 32 or any other retirement system
6824 which meets the requirements of Section 3121(b)(7)(F) of the Internal Revenue Code and the
6825 regulations promulgated thereunder, to participate in the deferred compensation program
6826 established with regard to the governmental body, or tax sheltered annuity or any other defined
6827 contribution plan. The treasurer, or if there is no treasurer, the chief financial officer by whatever
6828 name that person is called, on behalf of a governmental body which has accepted this section
6829 shall contract with any person, who is receiving compensation from the governmental body for
6830 services performed for the governmental body and who is not eligible for membership in the
6831 retirement system in said chapter 32 that pertains to the governmental body, to withhold from
6832 that person's compensation at least such amounts as are necessary to provide the minimum level
6833 of benefits required to qualify said deferred compensation program, tax sheltered annuity or
6834 other defined contribution plan as a retirement system for said person as defined under said
6835 Section 3121(b)(7)(F) of said Code and the regulations promulgated thereunder but no greater
6836 than permitted under other provisions of the Internal Revenue Code.

6837 All contracts formed with part-time, seasonal or temporary employees under the first
6838 paragraph shall entitle the employee to a single-sum distribution of the employee's deferral plus
6839 reasonable interest.

6840 A governmental body may accept this section by a majority vote of the selectmen for a
6841 town, the city council for a city, the county council for a county, the district members in a
6842 district, the members of the authority in an authority, and the governing body, by whatever name
6843 and in whatever form composed, in any other political subdivision, body politic and corporate, or
6844 public instrumentality created by the commonwealth.

6845 Any governmental body already requiring, on the effective date of this section,
6846 participation in a public retirement system for persons who are receiving compensation from the

6847 governmental body for services performed and who are not members of a retirement system as
6848 provided under said chapter 32 shall be deemed to have accepted this section without the
6849 requirement of a majority vote of the selectmen for a town, the city council for a city, the county
6850 council for a county, the district members in a district, the members of the authority in an
6851 authority, and the governing body, by whatever name and in whatever form composed, in any
6852 other political subdivision, body politic and corporate, or public instrumentality created by the
6853 commonwealth.

6854 Section 64E. (a) As used in this section, the term "not-for-profit employer" shall include
6855 eligible organizations incorporated under section 501(c) of the Internal Revenue Code, that are
6856 established, organized or chartered under the laws of the commonwealth and doing business in
6857 the commonwealth and employing not more than 20 persons, but shall not include a
6858 governmental employer.

6859 (b) The state treasurer may conduct research regarding the current status of retirement
6860 programs available to not-for-profit employees and the appeal of creating a program for their
6861 benefit.

6862 (c) The treasurer and receiver general, on behalf of the commonwealth, may sponsor a
6863 qualified defined contribution plan within the meaning of section 414(i) of the Internal Revenue
6864 Code, in this section called the Code, that may be adopted by not-for-profit employers for their
6865 employees in accordance with section 401(a) of the Code, regulations provided under that
6866 section and applicable guidance from the Internal Revenue Service. The treasurer shall obtain
6867 approval from the Internal Revenue Service with respect to the plan and shall ensure the
6868 administration of the plan is in compliance with the Code and other applicable federal and state
6869 laws including the Employee Retirement Income Security Act of 1974, in this section called
6870 ERISA.

6871 The plan shall provide for a qualified trust under said section 401(a), with contributions
6872 made to the trust by the not-for-profit employer, the employer's employees, or both. Under the
6873 trust instrument, any part of the corpus or income shall not be used for, or diverted to, purposes
6874 other than the exclusive benefit of employees or their beneficiaries at any time prior to the
6875 satisfaction of all liabilities with respect to employees and their beneficiaries. In order to

6876 participate in the plan, a not-for-profit employer shall execute a participation agreement, agree to
6877 the terms of the plan and operate the plan in compliance with the Code and ERISA. The treasurer
6878 may require that the not-for-profit employer sign a service agreement and use forms and
6879 procedures prescribed by the treasurer. The treasurer may also require that certain employers
6880 seek approval of their plans from the Internal Revenue Service.

6881 (d) The treasurer may contract with practitioners, administrators, investment managers
6882 and other entities, including the pension reserves investment management board, in order to
6883 design, administer and provide investment options under the plan. The treasurer shall, before
6884 making any such contract, solicit bids from companies authorized to conduct business within the
6885 commonwealth, which shall be sealed and opened at a time and place designated by the
6886 treasurer. A submitted bid shall, if applicable, clearly indicate the interest rate which shall be
6887 paid on the deferred funds, any commissions which shall be paid to salespersons, any load
6888 imposed for the purpose of administering the funds, mortality projections, expected payouts, tax
6889 implications for participating employees and such other information as the treasurer may require.
6890 A contract entered into between an employee and the not-for-profit employer under this section
6891 shall include all such information in terms the employee can reasonably be expected to
6892 understand. Upon a determination by the treasurer as to which provider offers the investment
6893 options most beneficial to the employee in each category for which bids were solicited, the
6894 employee may choose the investment option for the employee's account.

6895 Notwithstanding any general or special law to the contrary, the treasurer shall not be
6896 required to solicit bids to invest the contributed portion of an employee's income into the
6897 employee's defined contribution plan account provided: (i) that the treasurer is authorized by the
6898 employee to pay that portion of the employee's compensation into the employee's defined
6899 contribution plan account in the same investment products as provided through a deferred
6900 compensation plan for employees of the commonwealth administered by the treasurer, and (ii)
6901 that such plan resulted from the solicitation of bids in accordance with the requirements under
6902 this section.

6903 (e) There shall be in the office of the treasurer and receiver general a not-for-profit
6904 defined contribution committee. The committee shall consist of the treasurer or a designee, who
6905 shall serve as chairperson, and 4 persons to be appointed by the treasurer, 2 of whom shall have

6906 practical experience in the human services, educational or public and societal benefit sector of
6907 the non-profit community, and 2 of whom shall be currently employed by not-for-profit
6908 corporations. Each member shall be appointed for a term of 3 years, except 1 of whom who is
6909 currently employed by not-for-profit corporations shall be appointed initially for a term of 2
6910 years and all of whom shall be eligible for reappointment. In the case of a vacancy, a successor
6911 shall be appointed for a full term or for the unexpired portion thereof, as the case may be. A
6912 member of the committee shall be eligible for reappointment. The committee shall annually elect
6913 1 of its members to serve as vice-chairperson.

6914 The committee shall meet from time to time and assist the treasurer in the development of
6915 general policy regarding the program and shall provide technical advice and input to the state
6916 treasurer. The members of the committee shall serve without compensation but shall be
6917 reimbursed for necessary expenses incurred in the performance of their duties.

6918 (f) The treasurer may adopt rules and regulations related to this section and do all things
6919 convenient to carry out this section.

6920 Section 65. The secretary having charge of any of the executive offices established by
6921 chapters 6A and 7 may by rule or regulation not inconsistent with the law delegate to 1 officer
6922 within the office of the secretary, in whole or in part, the authority to exercise in the secretary's
6923 name any power, or to discharge in the secretary's name any duty conferred upon such secretary
6924 by sections 27A, 27B, 29, and 29A; sections 24C, 25B, 36 and paragraph (5A) of section 46 of
6925 chapter 30; and section 15, section 15F, section 16A and section 16B of chapter 31.

6926 The secretary of administration and finance shall from time to time make a random
6927 examination of approvals granted and actions taken by such secretary or the secretary's designee
6928 identified in the preceding paragraph, under the aforementioned sections, in order to determine
6929 the extent of compliance with such sections and the rules or regulations established thereunder.
6930 Following any such examination, the secretary of administration and finance may, after
6931 consultation with the secretary, by order transfer from such officer to the secretary of
6932 administration and finance, for such period of time as said secretary deems appropriate, the
6933 authority to give such approvals or to take such actions. Upon making such order, the secretary
6934 of administration and finance shall forthwith file a copy of said order with the budget director,

6935 the comptroller, and the house and senate committees on ways and means, specifying the scope
6936 of the authority so transferred and the duration of said transfer.

6937 Section 66. Any officer or employee who knowingly violates, authorizes or directs
6938 another officer or employee to violate this chapter, or any rule or regulation promulgated under
6939 this chapter, or any other law relating to the incurring of liability or expenditure of public funds,
6940 shall be punished by a fine of not more than \$1,000 or by imprisonment in a jail or house of
6941 correction for not more than 1 year, or both.

6942 Section 71. This chapter shall not be construed to affect the obligation of the state
6943 treasurer to withhold from the receipts, distributions, reimbursements or other assistance payable
6944 to any city, town or other local governmental unit under any reimbursement, grant, assistance or
6945 other local aid program any amount determined under section 10 of chapter 44 A or any amount
6946 certified to the state treasurer as owing to a public instrumentality of the commonwealth under
6947 paragraph (b) of section 10 of chapter 372 of the acts of 1984 or paragraph (d) of section 10 or
6948 section 11 of chapter 29C, or any similar provision relative to local aid intercepts.

6949 SECTION 113. Section 9 of chapter 29C of the General Laws, as appearing in the 2010
6950 Official Edition, is hereby amended by striking out, in line 11, the words “finance advisory
6951 board” and inserting in place thereof the following words:- state finance and governance board
6952 established under section 97 of chapter 6.

6953 SECTION 114. Section 2 of chapter 30A of the General Laws, as amended by section 7
6954 of chapter 142 of the acts of 2011, is hereby amended by striking out the fourth paragraph and
6955 inserting in place thereof the following paragraph:-

6956 A small business impact statement shall be filed with the state secretary on the same day
6957 that the notice is filed and shall accompany the notice. Notwithstanding section 6, the state
6958 secretary shall include the full text of said small business impact statement on the electronic
6959 website of the state secretary; provided, however, that the full text of the small business impact
6960 statement may also be inspected and copied in the office of the state secretary during business
6961 hours.

6962 SECTION 115. Section 3 of chapter 30A of the General Laws, is hereby amended by
6963 striking out the third paragraph, as appearing in section 5 of chapter 36 of the acts of 2012, and
6964 inserting in place thereof the following paragraph:-

6965 A small business impact statement shall be filed with the state secretary on the same day
6966 the notice is filed and shall accompany the notice. Notwithstanding section 6, the state secretary
6967 shall include the full text of said small business impact statement on the electronic website of the
6968 state secretary; provided, however, that the full text of the small business impact statement may
6969 also be inspected and copied in the office of the state secretary during business hours.

6970 SECTION 116. Chapter 58 of the General Laws is hereby amended by striking out
6971 section 18C, as amended by section 25 of chapter 194 of the acts of 2011, and inserting in place
6972 thereof the following section:-

6973 Section 18C.(a) In this section, “budgeted aid” shall mean unrestricted aid to cities and
6974 towns, including proceeds from the state lottery established under chapter 10, payments in lieu of
6975 taxes from the commonwealth to cities and towns and education aid to cities and towns under
6976 chapter 70.

6977 (b) The state treasurer shall, subject to appropriation but not subject to allotment under
6978 section 9B of chapter 29, distribute budgeted aid to cities and towns. The distribution shall be
6979 made in 12 equal payments, on or before the last day of each month.

6980 Notwithstanding clause Forty-first of section 7 of chapter 4 or any other general or
6981 special law to the contrary, the commissioner of revenue or any official responsible for a local
6982 reimbursement or assistance program reported by said commissioner under section 25A shall
6983 use, as appropriate, the most recent city and town population estimates of the United States
6984 Bureau of the Census in calculating distributions or assessments under local reimbursement or
6985 assistance programs. Such distribution programs shall include, but not be limited to, the chapter
6986 70 school aid program, and aid to regional public libraries. Such assessments shall include, but
6987 not be limited to, air pollution control districts, the metropolitan area planning council, the old
6988 colony planning council, the Massachusetts Bay Transportation Authority and any other entity
6989 for which said commissioner is required to give notice under said section 25A.

6990 (c) This section shall not be construed to prohibit the distribution of other state
6991 government payments to cities and towns that are not budgeted aid through 1 or more of the
6992 monthly payments to cities and towns. Nor shall this section be construed to prohibit the
6993 deduction from distributions to satisfy amounts owed to the state by cities and towns under
6994 section 20A or any other general or special law.

6995 SECTION 117. Section 2 of chapter 62F of the General Laws, as appearing in the 2010
6996 Official Edition, is hereby amended by striking out the definitions of “Cumulative net state tax
6997 revenues,” “Cumulative permissible tax revenues,” “Permissible revenue growth rate,” and
6998 “Permissible tax revenue,”.

6999 SECTION 118. Section 6A of said chapter 62F is hereby repealed.

7000 SECTION 119. Section 3B of chapter 70B of the General Laws, as appearing in the 2010
7001 Official Edition, is hereby amended by striking out, in line 13, the words “finance advisory
7002 board” and inserting in place thereof the following words:- state finance and governance board
7003 established under section 97 of chapter 6.

7004 SECTION 120. Chapter 81 of the General Laws is hereby amended by inserting after
7005 section 8A the following 2 sections:-

7006 Section 8B. The commissioner of highways or the commissioner of conservation and
7007 recreation shall require that any person proposing to bid on any work, excepting the construction,
7008 reconstruction, repair or alteration of buildings, to be awarded by the division of highways or by
7009 the department of conservation and recreation, respectively, submit a statement under the
7010 penalties of perjury setting forth the person’s qualifications to perform such work. The
7011 commissioner of highways shall require that any person proposing to bid on any such work to be
7012 awarded by a municipality under section 34 of chapter 90, submit a statement under the penalties
7013 of perjury setting forth the person’s qualifications to perform such work. Such statement shall be
7014 in such detail and form and shall be submitted at such times as such commissioner may prescribe
7015 under rules promulgated by said division or commission, respectively, subject to the
7016 requirements of chapter 30A. Such rules may require such information as may be necessary to
7017 implement this section and may establish a basis for the classification and maximum capacity
7018 rating of bidders which shall determine the class and aggregate amount of work such bidders are

7019 qualified to perform. The statement shall set forth, among other matters that may be prescribed
7020 by the rules, the proposed bidders' financial resources, proposed bidders' current bonding
7021 capacity, proposed bidders' experience, the number and kinds of equipment which proposed
7022 bidder has for use on such work, and the number, size and completion dates of other construction
7023 jobs, whether in this state or another state, which proposed bidder has under contract. The
7024 information contained within such statement, together with other relevant available information
7025 and the proposed bidder's past performance on work of a similar nature, may be considered by
7026 said division or commission in determining whether the proposed bidder is qualified to perform
7027 any specific work for which proposals to bid are invited.

7028 Based on information received and available and on past performance of the proposed
7029 bidder on work of a similar nature, each such commissioner, acting through a prequalification
7030 committee consisting of engineering personnel of said division or commission, respectively, to
7031 be appointed by each such commissioner, shall determine the class and aggregate amount of
7032 work that a proposed bidder is qualified to perform, and shall limit a proposed bidder to such
7033 class and aggregate amount of work as the proposed bidder may be qualified to perform. Said
7034 aggregate amount of work shall not be less than the amount of the bidder's current bonding
7035 capacity, as verified to the commissioner's satisfaction, by a surety company incorporated under
7036 section 105 of chapter 175, or authorized to do business in the commonwealth under section 106
7037 of said chapter 175, and satisfactory to the commissioner; provided, however, that if there is
7038 more than 1 surety company, the surety companies shall be jointly and severally liable. Said
7039 division or commission shall limit the bid proposals to be furnished to a proposed bidder to such
7040 bidders as are determined by its commissioner to have the classification and capacity rating to
7041 perform the work required.

7042 Any such statement filed with either such commissioner by a proposed bidder shall be
7043 confidential, and shall be used only by the division of highways or the department of
7044 conservation and recreation, as the case may be, in determining the qualifications of such
7045 proposed bidder to perform work for said division or commission, or for a municipality under
7046 section 34 of chapter 90. No information contained in such statement shall be imparted to any
7047 other person without the written consent of said bidder.

7048 If any proposed bidder fails to file the statement required by this section, or if, in the
7049 judgment of the commissioner, the proposed bidder is not qualified to carry out the work
7050 required under a contract which is proposed to be awarded, the commissioner shall refuse to
7051 furnish such proposed bidder with bid proposals for such work and shall reject any bid by such
7052 proposed bidder for such work.

7053 Only persons filing the statement required in this section shall be authorized as prime
7054 contractors and then only as to the class and aggregate amount of work which their qualifications
7055 warrant.

7056 Any bidder qualified as authorized in this section shall be promptly notified by the
7057 commissioner.

7058 Any proposed bidder who is aggrieved by any decision or determination of the
7059 prequalification committee or the commissioner which affects the bidder's right to bid may file a
7060 new application for qualification at any time, or within 15 days after receiving notice of such
7061 decision the applicant may request in writing a hearing before an appeal board to reconsider the
7062 bidder's application or qualifications. The appeal board in the division of highways shall consist
7063 of the commissioner, the associate commissioners and the chief engineer of highways, or their
7064 designees, and the appeal board in the department of conservation and recreation shall consist of
7065 the commissioner, the associate commissioners and the director or chief engineer of the division
7066 involved, or their designees.

7067 Any bidder or proposed bidder who so requests shall be granted a hearing by such appeal
7068 board at which the bidder may submit any and all additional information or evidence bearing
7069 upon the bidder's finances, current bonding capacity, experience or other qualifications which
7070 may be relevant thereto. Such hearing shall be held without delay and the board shall promptly
7071 render its decision after taking into consideration all relevant information or evidence submitted
7072 relating to the bidder's qualifications. The appeal board may modify, amend or reverse any
7073 previous decision of the prequalification committee or the commissioner with respect to the
7074 qualification of the applicant or may sustain such previous decision. Such hearing shall be
7075 deemed to be an adjudicatory proceeding, and any bidder or proposed bidder who is aggrieved
7076 by the decision of the appeal board shall have a right to judicial review under said chapter 30A.

7077 The commissioner of highways or the commissioner of conservation and recreation shall
7078 not consider any bid filed with such commissioner by any person for any contract to be awarded
7079 by said division or department, respectively, who has not been qualified as required by the rules
7080 promulgated by said division or department, and any such bid of any unqualified bidder may be
7081 rejected without being opened. No contract shall be awarded to any bidder not qualified to bid on
7082 the contract at the time fixed for receiving bids.

7083 Any person, firm or corporation who knowingly and willfully makes, or causes to be
7084 made, any false or fraudulent statement in any application for qualification filed with such
7085 division or department as required herein shall, upon final conviction, be disqualified from
7086 submitting bids on contracts advertised by the division or commission for 1 year following the
7087 date of said conviction.

7088 This section shall not apply to any proposed bidder the aggregate amount of whose work
7089 with said division of highways or with the department of conservation and recreation, including
7090 the amount of the bidder's proposal, is less than \$50,000.

7091 Section 8C. Any contract for the resurfacing, maintenance, minor reconstruction or minor
7092 repair of any major state highway or numbered route within the city of Boston, between said city
7093 and state highway route 128, of state highway route 3 as far south as the junction of state
7094 highway route 139, on which the average daily traffic exceeds 70,000 vehicles per day, and any
7095 contract for the maintenance, minor reconstruction or minor repair of state highway route 128
7096 between its junction with state highway route 3 in the town of Braintree and its junction with
7097 United States route 1 in the town of Lynnfield, to be awarded by the division of highways, the
7098 department of conservation and recreation or by a municipality under section 34 of chapter 90
7099 shall, unless such contract involves the performance of emergency work as described in this
7100 section, provide that no work shall be performed between the hours of 6:30 and 9:00 a.m. on
7101 lanes inbound to the city of Boston or between the hours of 4:00 and 6:00 p.m. on lanes
7102 outbound from the city of Boston, Monday through Friday, except holidays. No such work,
7103 except emergency work, shall be performed on such a highway or route by a public employee
7104 during such hours. As used in this section emergency work shall include only those projects
7105 immediately necessary to ensure the safety of persons using such highways or routes.

7106 SECTION 121. Section 12 of chapter 161A of the General Laws, as appearing in the
7107 2010 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words “finance
7108 advisory board” and inserting in place thereof the following words:- state finance and
7109 governance board established under section 97 of chapter 6.

7110 SECTION 122. Section 13 of said chapter 161A, as so appearing, is hereby amended by
7111 striking out, in line 24, the words “finance advisory board” and inserting in place thereof the
7112 following words:- state finance and governance board established under section 97 of chapter 6.

7113 SECTION 123. Section 29 of chapter 304 of the acts of 2008 is hereby amended by
7114 striking out the last sentence and inserting in place thereof the following sentence:- For purposes
7115 of this section, the term “derivative financial products” shall mean financial instruments with
7116 values derived from or based upon the value of other assets or on the level of an interest rate
7117 index including, but not limited to, detached call options, interest rate swaps or swaptions, caps,
7118 floors and collars, but not including bond insurance or other credit or liquidity enhancement of
7119 bonds or notes or agreements related to the lending or investment of the proceeds of bonds or
7120 notes.

7121 SECTION 124. There is hereby created a commission called the registry of deeds
7122 modernization and efficiency commission, hereinafter referred to as the commission, for the
7123 purpose of identifying best practices and efficiencies for the registry of deeds.

7124 The commission shall be made up of 14 members: 3 members of the senate, 1 of whom
7125 shall be selected by the minority leader; 3 members of the house of representatives, 1 of whom
7126 shall be selected by the minority leader; the secretary of state or the secretary's designee; 3
7127 elected registers of deeds from geographically diverse areas of the state, who shall be chosen by
7128 the secretary of state; and 4 additional members to be appointed by the governor who shall be
7129 knowledgeable in land surveying, law, record keeping, county government or information and
7130 technology.

7131 The commission shall examine possible efficiencies including, but not limited to, (i)
7132 eliminating duplicitous management, including elected registry positions (ii) expanding the use
7133 of technology at all registries, and (iii) consolidating all registry of deeds under the office of the
7134 secretary of state. The commission shall report its findings and recommendations for legislation,

7135 if any, to the joint committee on election laws, the joint committee on state administration and
7136 regulatory oversight and the senate and house committee on ways and means not later than 1
7137 year after the effective date of this act.

7138 SECTION 125. Notwithstanding any general or special law to the contrary each state
7139 authority as defined by section 1 of chapter 29 of the General Laws shall compile a report on the
7140 salaries and compensation of its executive director, officers, board members, senior management
7141 and other highly-compensated employees, exclusive of the executive director. The report shall
7142 include, but not limited to, base salary, bonuses, severance, retirement or deferred compensation
7143 packages and policies relative to the accrual and payment of sick and vacation time, including
7144 payouts for unused sick and vacation time. Each state authority shall file the report with and the
7145 clerks of the senate and house of representatives, the senate and house committees on ways and
7146 means and the senate and house committees on post audit and oversight not later than July 1,
7147 2013.

7148 SECTION 126. Each executive office shall comply with the requirements of section 4A
7149 of chapter 6A of the General Laws, as inserted by section 21 of this act not later than July 1,
7150 2013. Such compliance shall be documented in reports by each executive office to the house and
7151 senate committees on ways and means, the house and senate committees on post-audit and
7152 oversight and the joint committee on state administration and regulatory oversight not later than
7153 July 1, 2013.

7154 SECTION 127. The state lottery commission shall comply with the requirements of
7155 section 26A of chapter 10 of the General Laws, as inserted by section 102 of this act, not later
7156 than July 1, 2013. Such compliance shall be documented in a report by the state lottery
7157 commission to the house and senate committees on ways and means, the house and senate
7158 committees on post audit and oversight and the joint committee on state administration and
7159 regulatory oversight not later than July 1, 2013.

7160 SECTION 128. Notwithstanding any general or special law to the contrary, the human
7161 resources division shall investigate and report on the feasibility and cost of developing and
7162 implementing a statewide publicly accessible computerized or web-based employment posting
7163 and referral system for all commonwealth employment opportunities, notices and postings

7164 including new positions and vacancies for existing positions, but excluding positions subject to
7165 section 46D of chapter 30, chapter 31 and chapter 150E of the General Laws. The study shall
7166 investigate including all agencies and institutions of the commonwealth in such a system. The
7167 human resources division shall file its findings and recommendations together with drafts of
7168 legislation necessary to implement those recommendations, with the clerks of the house of
7169 representatives and senate, the joint committee on state administration and regulatory oversight,
7170 the joint committee on public service and the house and senate committee on ways and means
7171 not later than July 31, 2013.

7172 SECTION 129. Notwithstanding any general or special law to the contrary, the secretary
7173 of administration and finance, in consultation with the state treasurer, shall study and report on
7174 the feasibility of short-term borrowing by the state treasurer from the Commonwealth
7175 Stabilization Fund, established under section 2H of chapter 29 in order to avoid or minimize the
7176 commonwealth's issuance of revenue anticipation notes.

7177 The study shall include an examination of the interest costs incurred by the
7178 commonwealth by issuing revenue anticipation notes during fiscal years 2007 to 2012, inclusive.
7179 The study shall examine the Stabilization Fund and its investment income during those fiscal
7180 years in order to determine instances when a transfer from the Stabilization Fund could have
7181 resulted in a loss of investment revenue to the fund that was less than the interest costs incurred
7182 by the commonwealth by the issuance of revenue anticipation notes.

7183 The report shall make recommendations concerning: necessary prerequisites to the use of
7184 the Stabilization Fund for short term borrowing; notice requirements; and restrictions on the
7185 amounts borrowed and repayment schedule timelines. The secretary, in consultation with the
7186 treasurer, shall prepare a report of the findings and recommendations and file the same with the
7187 clerks of the senate and house and the senate and house committees on ways and means not later
7188 than January 1, 2013.

7189 SECTION 130. There is hereby established a zero-based budget commission to consider
7190 and make recommendations concerning the feasibility of transitioning to a zero-based budget for
7191 the fiscal year beginning on July 1, 2016.

7192 For purposes of this section, “zero-based budget” shall mean a budget: (i) in which the
7193 appropriations are developed based on the cost-effective achievement of the tasks and goals of a
7194 particular agency or department without regard to prior appropriations, adjusted for inflation or
7195 otherwise; (ii) which has a \$0 dollar amount as its basis; and (iii) which reflects the amount of
7196 funding deemed necessary to achieve the most cost-effective performance of each agency or
7197 department.

7198 The members of the commission shall be the treasurer, or the treasurer’s designee; the
7199 secretary for administration and finance, who shall serve as chair, or the secretary’s designee; the
7200 comptroller, or the comptroller’s designee; the auditor or the auditor’s designee; and 4 members
7201 appointed by the governor with expertise in public finance, 1 of whom shall be chosen from a list
7202 of 3 nominees provided by the Massachusetts Budget and Policy Center; 1 of whom shall be
7203 chosen from a list of 3 nominees provided by the Massachusetts Taxpayer’s Foundation, 1 of
7204 whom shall be chosen from a list of 3 nominees provided by the Pioneer Institute and 1 of whom
7205 shall be chosen from a list of 3 nominees provided by the Massachusetts Institute for a New
7206 Commonwealth.

7207 The commission shall consider and make recommendations regarding any legislative or
7208 administrative changes necessary to require, at a frequency of not less than every 4 years, that the
7209 budget filed by the governor under sections 6, 6C, 6D and 7H of chapter 29 of the general laws
7210 be a zero-based budget.

7211 The commission shall consider section 4A of chapter 6A of the General Laws and make
7212 recommendations concerning the presentation of each appropriation or set of appropriations for
7213 each agency or department so that a zero-based budget would include the strategic plan for
7214 program activities and performance goals of each agency or department for a period not to
7215 exceed 4 years, together with the performance measure of the achievement of those tasks and
7216 goals,

7217 The commission shall prepare a report of the findings and recommendations together
7218 with drafts of legislation necessary to implement those recommendations, and file the report,
7219 findings and recommendations with the clerks of the senate and house not later than February 1,
7220 2013.

7221 SECTION 131. Notwithstanding any general or special law to the contrary, the executive
7222 office for administration and finance, in consultation with the secretary of state, shall investigate
7223 and report on the feasibility and cost of requiring the secretary of administration and finance to
7224 prepare and the secretary of state to print and send, in the manner provided in section 53 of
7225 chapter 54 of the General Laws, a fiscal impact statement for any question to be placed on the
7226 ballot. The fiscal impact statement to be considered shall describe in 100 words or less the fiscal
7227 consequence, for state and local government finances, of an affirmative decision on the ballot
7228 question described. The secretary of administration and finance shall file his findings and
7229 recommendations together with drafts of legislation necessary to implement those
7230 recommendations, with the clerks of the house of representatives and senate, the joint committee
7231 on state administration and regulatory oversight, the joint committee on elections and the house
7232 and senate committee on ways and means not later than July 31, 2013.

7233 SECTION 132. The members of the finance advisory board as of the effective date of this
7234 act shall continue in office as members of the state finance and governance oversight board,
7235 established under section 97 of chapter 6 of the General Laws, until their terms expire and their
7236 successors are qualified.

7237 SECTION 133. The comptroller shall promulgate the schedule of revenue accounts, as
7238 required in section 2 of chapter 29 of the General Laws, as inserted by section 112, not later than
7239 January 1, 2013.

7240 SECTION 134. The state treasurer shall competitively procure any fund established
7241 under section 38A of chapter 29 of the General Laws, as inserted by section 112, not later than
7242 September 30, 2012.

7243 SECTION 135. Sections 97 and 98 shall take effect for the fiscal year ending on June 30,
7244 2012.

7245 SECTION 136. Section 116 shall take effect for the fiscal year starting on July 1, 2013.

7246 SECTION 137. Except as otherwise specified, this act shall take effect on January 1,
7247 2013.