

**HOUSE . . . . . No. 4109**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects.

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

1           JUDICIARY

2           Committee for Public Counsel Services

3           0321-1510           \$9,384,188

4           0321-1520           \$2,075,987

5           OFFICE OF THE STATE COMPTROLLER

6           Office of the State Comptroller

7           1599-3384           \$4,090,226

8           EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

9           Group Insurance Commission

10          1108-5200           \$75,800,000

11 Human Resources Division

12 1750-0100 \$250,000

13 EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

14 Department of Transitional Assistance

15 4403-2000 \$93,073

16 4403-2120 \$4,572,466

17 Division of Medical Assistance

18 4000-0500 \$28,439,239

19 EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

20 Highway Department

21 6010-0002 \$579,894

22 6030-7201 \$4,490,922

23 EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

24 Office of the Secretary of Public Safety and Security

25 8910-0000 \$32,000,000

26 SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to

27 provide for an alteration of purpose for current appropriations, and to meet certain requirements

28 of law, the sums set forth in this section are hereby appropriated from the General Fund unless

29 specifically designated otherwise in this section, for the several purposes and subject to the  
30 conditions specified in this section, and subject to the laws regulating the disbursement of public  
31 funds for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts  
32 previously appropriated and made available for the purposes of those items.

33 OFFICE OF THE STATE COMPTROLLER

34 Office of the State Comptroller

35 1599-1030 For court monitor costs in compliance with the terms of the Rolland  
36 settlement agreement, dated June 16, 2008, Civil Action No. 98-30208-KPN, filed in the United  
37 States District Court for the District of Massachusetts in order to provide active services for class  
38 members; provided, that the comptroller, in consultation with the executive office of health and  
39 human services and the department of developmental services, shall determine the annual  
40 spending for court monitor fees; provided further, that not more than \$2,263,000 shall be  
41 expended in fiscal year 2010; and provided further, that the funds provided in this item shall be  
42 available for expenditure through June 30, 2012 \$7,000,000

43 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

44 Office of the Secretary of Administration and Finance

45 1599-1031 For a reserve to meet costs identified by the department of public health  
46 associated with responding to outbreak of the H1N1 virus; provided, that funds may be expended  
47 on staffing costs within the state laboratory and in the bureau of emergency preparedness,  
48 dissemination of public information, antiviral medication for the treatment or prevention of the  
49 H1N1 virus, and purchase of laboratory equipment specific testing for the H1N1 virus; provided

50 further, that the secretary of health and human services shall submit a spending plan to the  
51 executive office for administration and finance before the disbursement of funds from this  
52 reserve; provided further, the department of public health and the executive office for health and  
53 human services shall seek federal reimbursement for any eligible expenditures from this reserve

54 \$2,845,216

55 1599-4282 For a reserve to meet the fiscal year 2009 costs of salary adjustments and  
56 other economic benefits authorized by the collective bargaining agreement between the  
57 commonwealth and the Service Employees International Union (Units 8 and 10), and to meet the  
58 fiscal year 2009 costs of salary adjustments and other economic benefits necessary to provide  
59 equal adjustments and other economic benefits necessary to provide equal adjustments and  
60 benefits to employees employed in confidential positions which otherwise would be covered by  
61 this agreement; provided, that the personnel administrator, with the approval of the secretary of  
62 administration and finance, shall determine these adjustments and benefits for the confidential  
63 employees in accordance with the collective bargaining agreement then in effect which otherwise  
64 would cover these positions; and provided further, that the secretary may transfer from the sum  
65 appropriated in this item to other items of appropriation and allocations thereof for fiscal year  
66 2009 amounts that are necessary to meet these costs where the amounts otherwise available are  
67 insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance  
68 with the house and senate committees on ways and means \$1,931,528

69 SECTION 3. Section 1 of chapter 62 of the General Laws is hereby amended by  
70 inserting after the numeral 72, in line 8, as appearing in the 2006 Official Edition, the following  
71 numeral:- 139C.

72 SECTION 4. Paragraph (1) of subsection (d) of section 2 of said chapter 62, as so  
73 appearing, is hereby amended by adding the following clause:-

74 (P) The deduction described in section 163(e)(5) of the Code to the extent increased by  
75 amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the  
76 American Recovery and Reinvestment Act of 2009.

77 SECTION 5. The definition of “gross income” in section 1 of chapter 63 of the General  
78 Laws, as so appearing, is hereby amended by adding the following sentence:- Gross income  
79 shall be determined without regard to section 108(i) of the Code.

80 SECTION 6. The definition of “net income” in said section 1 of said chapter 63, as so  
81 appearing, is hereby amended by adding the following clause:-

82 (f) the deduction described in section 163(e)(5) of the Code to the extent increased by  
83 amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the  
84 American Recovery and Reinvestment Act of 2009.

85 SECTION 7. Paragraph 3 of section 30 of chapter 63, as so appearing, is hereby  
86 amended by adding the following sentence:- Gross income shall be determined without regard to  
87 section 108(i) of the Code.

88 SECTION 8. Paragraph 4 of said section 30 of said chapter 63, as so appearing, is hereby  
89 amended by adding the following clause:-

90 (vii) the deduction described in section 163(e)(5) of the Code to the extent increased by  
91 amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the  
92 American Recovery and Reinvestment Act of 2009.

93 SECTION 9. Section 52A of said chapter 63 is hereby amended by inserting after the  
94 word “exclusion”, in line 28, as so appearing, the following words:- and without regard to  
95 section 108(i) of the Code.

96 SECTION 10. Paragraph (b) of subsection (1) of said section 52A of said chapter 63, as  
97 so appearing, is hereby amended by adding the following clause:-

98 (vi) the deduction described in section 163(e)(5) of the Code to the extent increased by  
99 amendments to section 163(e)(5)(F) and section 163(i)(1), inserted by section 1232 of the  
100 American Recovery and Reinvestment Act of 2009.

101 SECTION 11. Item 4000-0320 of section 2 of chapter 182 of the acts of 2008 is hereby  
102 amended by inserting after the words "rendered in the current fiscal year" the following words:- ;  
103 provided further, that for the purpose of accommodating discrepancies between the receipt of  
104 retained revenues and related expenditures, the department may incur expenses, and the  
105 comptroller may certify for payment, amounts not to exceed the lower of this authorization or the  
106 most recent revenue estimate as reported in the state accounting system.

107 SECTION 12. Said chapter 182 is hereby further amended by striking out section 84 and  
108 inserting in place thereof the following section:-

109 Section 84. Notwithstanding any general or special law to the contrary, the comptroller  
110 shall, no later than June 30, 2009, transfer the interest earned from the Commonwealth  
111 Stabilization Fund during fiscal year 2009 to the General Fund. If the interest earned by the  
112 Commonwealth Stabilization Fund during fiscal year 2009 is less than \$91,000,000 then the  
113 amount transferred shall be \$91,000,000. The comptroller shall take the overall cash flow needs

114 of the commonwealth into consideration in determining the timing of any transfer of funds  
115 required by this section.

116 SECTION 13. Section 86 of said chapter 182 is hereby amended by striking out the  
117 figure “\$372,000,000” and inserting in place thereof the following figure:- \$352,000,000.

118 SECTION 14. Subsection (b) of section 88 of said chapter 182 is hereby amended by  
119 striking out the second sentence and inserting in place thereof the following sentence:- Not less  
120 than \$1,102,561,456 shall be transferred from the General Fund to the Commonwealth Care  
121 Trust Fund and not less than \$47,996,382 shall be transferred from the Commonwealth Care  
122 Trust Fund to the Health Safety Net Trust Fund.

123 SECTION 15. Section 61 of chapter 302 of the acts of 2008 is hereby repealed.

124 SECTION 16. Notwithstanding federal income tax treatment to the contrary, for purposes  
125 of chapters 62 and 63 of the General Laws, the rules of section 382 of the Internal Revenue Code  
126 shall be applied without regard to the treatment of a change in ownership of a bank or other  
127 corporation provided in Internal Revenue Service Notice 2008-83 or in any federal statutory or  
128 administrative codification, supplement, or implementation of such Notice. For purposes of said  
129 chapters 62 and 63, Internal Revenue Service Notice 2008-83 and any such codification,  
130 supplement, or implementation shall have no force or effect in any taxable year.

131 SECTION 17. Notwithstanding federal income tax treatment to the contrary, for purposes  
132 of chapters 62 and 63 of the General Laws, section 382(n) of the Internal Revenue Code, inserted  
133 by the American Recovery and Reinvestment Act of 2009, shall have no force or effect in any  
134 taxable year.

135 SECTION 18. Notwithstanding any general or special law to the contrary, the  
136 comptroller shall, in consultation with the secretary of administration and finance, transfer not  
137 more than \$2,681,250 from the General Fund to the Division of Energy Resources Credit Trust  
138 Fund, established by subsection (b) of section 13 of chapter 25A of the General Laws.

139 SECTION 19. Notwithstanding any general or special law to the contrary, the  
140 comptroller may, on or before June 30, 2009, transfer not more than \$461,000,000 to the General  
141 Fund from the Commonwealth Stabilization Fund, but the comptroller shall instead transfer a  
142 lesser amount if the secretary of administration and finance so requests in writing. The  
143 comptroller, in consultation with the secretary of administration and finance, may take the  
144 overall cash flow needs of the commonwealth into consideration in determining the timing of  
145 this transfer of funds. The comptroller shall provide a schedule of transfers to the secretary of  
146 administration and finance and to the house and senate committees on ways and means.

147 SECTION 20. Notwithstanding any general or special law to the contrary, the secretary  
148 of health and human services may authorize transfers from items 4000-0430, 4000-0600, 4000-  
149 0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0891, 4000-0895, 4000-0990, 4000-  
150 1400 and 4000-1405 of section 2 of chapter 182 of the acts of 2008 to items 4000-0500 of said  
151 section 2 for the purpose of reducing any deficiency in items 4000-0500, but any such transfer  
152 shall take place not later than August 31, 2009.

153 SECTION 21. Notwithstanding any general or special law to the contrary, the  
154 comptroller shall reduce the chapter 70 portion of the final local aid payment for fiscal year 2009  
155 to be made in June, 2009 by \$412,000,000 if the secretary of administration and finance certifies  
156 in writing to the comptroller, and has provided written notice to the house and senate committees



157 on ways and means, that federal grant funds in the amount of \$412,000,000 have been obligated  
158 or expended so that all school districts will receive the full amount appropriated in section 3 of  
159 chapter 182 of the acts of 2008.

160 SECTION 22. Notwithstanding subsection (c) of section 10 of chapter 152 of the acts of  
161 1997, \$50,000,000 of the balance in the Convention Center Fund, which the state treasurer and  
162 the secretary of administration and finance have determined to exceed the amount necessary to  
163 satisfy the requirement of sufficiency under said subsection (c), shall be transferred to the  
164 General Fund of the commonwealth, not later than June 30, 2009.

165 SECTION 23. Section 3 shall be effective for taxable years ending on or after January 1,  
166 2009.

167 SECTION 24. Sections 5, 7 and 9 shall be effective for discharges in taxable years  
168 ending after December 31, 2008.

169 SECTION 25. Sections 4, 6, 8 and 10 shall apply to obligations issued after August 31,  
170 2008 in taxable years ending after that date.