

HOUSE No. 4125

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 SECTION 1. To provide for supplementing certain items in the general appropriation
2 act and other appropriation acts for fiscal year 2009, the sums set forth in section 2 are hereby
3 appropriated from the General Fund unless specifically designated otherwise in this act or in
4 those appropriation acts, for the several purposes and subject to the conditions specified in this
5 act or in those appropriation acts, and subject to the laws regulating the disbursement of public
6 funds for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts
7 previously appropriated and made available for the purposes of those items.

8 SECTION 2.

9 JUDICIARY

10 Committee for Public Counsel Services

11 0321-1510 \$9,384,188

12 0321-1520 \$2,075,987

13 SECRETARY OF THE COMMONWEALTH

14 Office of the Secretary of the Commonwealth

15 0521-0000 \$44,684

16 OFFICE OF THE STATE COMPTROLLER

17 Office of the State Comptroller

18 1599-3384 \$4,090,226

19 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

20 Human Resources Division

21 1750-0100 \$250,000

22 EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

23 Highway Department

24 6010-0002 \$579,894

25 6030-7201 \$4,490,922

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 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

34 Office of the Secretary of Administration and Finance

35 1599-1031 For a reserve to meet costs identified by the department of public health
36 associated with responding to an outbreak of the H1N1 virus; provided, that funds may be
37 expended on staffing costs within the state laboratory, dissemination of public information,
38 antiviral medication for the treatment or prevention of the H1N1 virus and the purchase of
39 laboratory equipment specific for the testing for the H1N1 virus; provided further, that the
40 secretary of health and human services shall submit a spending plan to the executive office for
41 administration and finance before the disbursement of funds from this reserve; and provided
42 further, that the department of public health and the executive office for health and human
43 services shall seek federal reimbursement for any eligible expenditures from this reserve

44 \$2,845,216

45 1599-1701 For a reserve for the state share of costs identified by the Federal
46 Emergency Management Agency for Emergency Declaration 3296 relating to the December
47 2008 severe winter storm, for the counties of Berkshire, Bristol, Essex, Franklin, Hampden,
48 Hampshire, Middlesex, Suffolk and Worcester; provided, that not less than \$150,000 shall be
49 expended for an emergency assistance safety grant as appearing in item 7007-0900 of section 2
50 of chapter 182 of the acts of 2008 \$6,150,000

51 SECTION 3. Chapter 6 of the General Laws is hereby amended by striking out section
52 116E, as appearing in section 1 of chapter 525 of the acts of 2008, and inserting in place thereof
53 the following section:-

54 Section 116E. (a) The municipal police training committee shall develop and establish
55 within the recruit basic training curriculum a course for regional and municipal police training
56 schools for the training of law enforcement officers in bicycle safety enforcement and develop
57 guidelines for traffic enforcement for bicyclist safety. As used in this section, “law enforcement
58 officer” shall mean an officer of a municipal police department.

59 (b) The course in bicycle safety enforcement shall include, but not be limited to,
60 instruction in the procedures and techniques described below:

61 (1) the rights and duties of bicyclists set forth in chapter 85;

62 (2) patterns and sources of injuries to bicyclists, both those involving and those not
63 involving motor vehicles and the percentage of crashes involving cyclists riding against traffic,
64 riding at night and riding on sidewalks;

65 (3) the most dangerous actions by bicyclists and procedures for citing bicyclists,
66 including minors;

67 (4) common motorist actions causing bicycle crashes;

68 (5) reporting bicyclist crashes; and

69 (6) motorists intentionally endangering bicyclists.

70 (c) All law enforcement recruits shall receive the course in bicycle safety enforcement as
71 part of their required training program.

72 (d) The course of instruction, the learning and performance objectives, the standards for
73 training and the guidelines shall be developed by the municipal police training committee in
74 consultation with the Massachusetts Bicycle Advisory Board and appropriate groups and
75 individuals having an interest and expertise in bicycle safety.

76 (e) The municipal police training committee may include this course of instruction
77 within its in-service training curriculum available to in-service trainees and any other public
78 safety officers.

79 SECTION 4. Section 1 of chapter 62 of the General Laws, as appearing in the 2006
80 Official Edition, is hereby amended by inserting after the numeral 72, in line 8, the following
81 numeral:- 139C.

82 SECTION 5. Paragraph (1) of subsection (d) of section 2 of said chapter 62, as so
83 appearing, is hereby amended by adding the following clause:-

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

87 SECTION 6. The definition of “gross income” in section 1 of chapter 63 of the General
88 Laws, as so appearing, is hereby amended by adding the following sentence:- Gross income shall
89 be determined without regard to section 108(i) of the Code.

90 SECTION 7. The definition of “net income” in said section 1 of said chapter 63, as so
91 appearing, is hereby amended by adding the following clause:-

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

95 SECTION 8. Paragraph 3 of section 30 of said chapter 63, as so appearing, is hereby
96 amended by adding the following sentence:- Gross income shall be determined without regard to
97 section 108(i) of the Code.

98 SECTION 9. Paragraph 4 of said section 30 of said chapter 63, as so appearing, is hereby
99 amended by adding the following clause:-

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

103 SECTION 10. Section 52A of said chapter 63, as so appearing, is hereby amended by
104 inserting after the word “exclusion”, in line 28, the following words:- and without regard to
105 section 108(i) of the Code.

106 SECTION 11. Paragraph (b) of subsection (1) of said section 52A of said chapter 63, as
107 so appearing, is hereby amended by adding the following clause:-

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

111 SECTION 12. Section 11C of chapter 85 of the General Laws is hereby repealed.

112

113 SECTION 13. Chapter 85 of the General Laws, as appearing in the 2006 Official
114 Edition, is hereby amended by inserting after section 11B the following section:-

115 Section 11C. A police officer who observes a traffic law violation committed by a
116 bicyclist may request the offender to state his true name and address. Whoever, upon such
117 request, refuses to state his name and address or whoever states a false name and address or a
118 name and address which is not his name and address in ordinary use, shall be punished by a fine
119 of not less than \$20 nor more than \$50. An offender who refuses to state his true name and
120 address may be arrested without a warrant for such refusal but no person shall be arrested
121 without a warrant for any other traffic law violation committed while operating a bicycle. A
122 police officer shall use the ticketing procedure described in chapter 90C to cite a bicyclist for a
123 traffic law violation but the violation shall not affect the status of the bicyclist's license to
124 operate a motor vehicle nor shall it affect the bicyclist's status in the safe driver insurance plan.
125 When a citation is issued to a bicyclist, it shall be clearly indicated on the ticket that the violator
126 is a bicyclist, and failure to do so shall be a defense to the violation.

127 The parent or guardian of a person under 18 years of age shall not authorize or knowingly
128 permit that person to violate this section. A violation of this section by a person under 18 years
129 of age shall not affect any civil right or liability nor shall the violation be a criminal offense. If
130 the offender is under 16 years of age, the officer may give the notice to the parent or guardian of
131 the offender.

132 All fines collected by a city or town pursuant to this section shall be used by the city or
133 town for the development and implementation of bicycle safety programs.

134 SECTION 14. Section 55 of chapter 61 of the acts of 2007, as amended by section 26 of
135 chapter 302 of the acts of 2008, is hereby amended by striking out the figure “\$1,045,863,158”
136 and inserting in place thereof the following figure:- \$981,863,158.

137 SECTION 15. Said section 55 of said chapter 61, as amended by section 27 of said
138 chapter 302, is hereby further amended by striking out the figure “\$113,600,000” and inserting in
139 place thereof the following figure:- \$49,600,000.

140 SECTION 16. Said section 55 of said chapter 61, as amended by section 28 of said
141 chapter 302, is hereby amended by striking out, in the second sentence, the words “provided, that
142 \$64,000,000 shall be paid for a certain public-service hospital operated by the Boston Medical
143 Center Corporation; and”.

144 SECTION 17. Item 4000-0320 of section 2 of chapter 182 of the acts of 2008 is hereby
145 amended by inserting after the words "rendered in the current fiscal year" the following words:- ;
146 provided further, that for the purpose of accommodating discrepancies between the receipt of
147 retained revenues and related expenditures, the department may incur expenses, and the
148 comptroller may certify for payment, amounts not to exceed the lower of this authorization or the
149 most recent revenue estimate as reported in the state accounting system.

150 SECTION 18. Section 86 of said chapter 182 is hereby amended by striking out the
151 figure “\$372,000,000” and inserting in place thereof the following figure:- \$352,000,000.

152 SECTION 19. Section 61 of chapter 302 of the acts of 2008 is hereby amended by
153 striking out the figure “\$100,000,000” and inserting in place thereof the following figure:-
154 \$34,000,000

155 SECTION 20. Notwithstanding any general or special law to the contrary, the
156 comptroller shall, in consultation with the secretary of administration and finance and the
157 secretary of health and human services, transfer \$64,000,000 from the Commonwealth Care
158 Trust Fund, established in section 2000 of chapter 29 of the General Laws, to the General
159 Fund.

160 SECTION 21. Notwithstanding federal income tax treatment to the contrary, for purposes
161 of chapters 62 and 63 of the General Laws, the rules of section 382 of the Internal Revenue Code
162 shall be applied without regard to the treatment of a change in ownership of a bank or other
163 corporation provided in Internal Revenue Service Notice 2008-83 or in any federal statutory or
164 administrative codification, supplement or implementation of such Notice. For purposes of said
165 chapters 62 and 63, Internal Revenue Service Notice 2008-83 and any such codification,
166 supplement or implementation shall have no force or effect in any taxable year.

167 SECTION 22. Notwithstanding federal income tax treatment to the contrary, for purposes
168 of chapters 62 and 63 of the General Laws, section 382(n) of the Internal Revenue Code, inserted
169 by the American Recovery and Reinvestment Act of 2009, shall have no force or effect in any
170 taxable year.

171 SECTION 23. Notwithstanding any general or special law to the contrary, the
172 comptroller shall, in consultation with the secretary of administration and finance, transfer not

173 more than \$2,681,250 from the General Fund to the Department of Energy Resources Credit
174 Trust Fund, established by subsection (b) of section 13 of chapter 25A of the General Laws.

175 SECTION 24. Notwithstanding any general or special law to the contrary, the
176 comptroller shall reduce the chapter 70 portion of the final local aid payment for fiscal year 2009
177 to be made in June 2009 by \$412,000,000 if the secretary of administration and finance certifies
178 in writing to the comptroller, and has provided 10 days written notice to the house and senate
179 committees on ways and means, that federal grant funds in the amount of \$412,000,000 have
180 been obligated or expended so that all school districts will receive the full amount appropriated
181 in section 3 of chapter 182 of the acts of 2008.

182 SECTION 25. Notwithstanding subsection (c) of section 10 of chapter 152 of the acts of
183 1997, \$65,000,000 of the balance in the Convention Center Fund, which the state treasurer and
184 the secretary of administration and finance have determined to exceed the amount necessary to
185 satisfy the requirement of sufficiency under said subsection (c), shall be transferred to the
186 General Fund of the commonwealth, not later than June 30, 2009.

187 SECTION 26. Section 4 shall be effective for taxable years ending on or after January 1,
188 2009.

189 SECTION 27. Sections 6, 8 and 10 shall be effective for discharges in taxable years
190 ending after December 31, 2008.

191 SECTION 28. Sections 5, 7, 9 and 11 shall apply to obligations issued after August 31,
192 2008 in taxable years ending after that date.

193 SECTION 29. Section 13 shall take effect on January 1, 2011.