

# **HOUSE . . . . . No. 3770**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, November 19, 2013.

The committee on Ways and Means to whom was referred the Bill financing information technology equipment and related projects (printed in House, No. 3330), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 3770).

For the committee,

BRIAN S. DEMPSEY.

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

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Thirteen**  
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An Act financing information technology equipment and related projects.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to which is forthwith to provide for the capital improvement needs of the commonwealth and deploy affordable and ubiquitous broadband access to the citizens of the commonwealth, 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. To provide for a program of capital information technology improvements  
2 to various state institutions and properties and to fund the Massachusetts Broadband Institute, the  
3 sums set forth in this act, for the several purposes and subject to the conditions specified in this  
4 act, are hereby made available, subject to the laws regulating the disbursement of public funds,  
5 which sums shall be in addition to any other amounts previously appropriated for these purposes;  
6 provided, that the amounts specified in an item or for a particular project may be adjusted in  
7 order to facilitate projects authorized in this act.

8           SECTION 2.

9                           EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

10   *Information Technology Division*

11           1790-2018 For the continued implementation of a second, active data center capable of  
12 maintaining mission critical applications and a supporting network infrastructure, including  
13 salaries and other personnel costs of staff assigned to that project; provided, that the center shall  
14 be connected to the Massachusetts information technology center and shall be used on a daily  
15 basis to support applications providing the commonwealth with the capacity for business

16 continuity and quick recovery in the event of unplanned outages  
17 .....\$9,000,000

18 1790-3001 For costs associated with planning and studies, the preparation of plans and  
19 specifications, purchase, procurement and implementation of information technology-related  
20 equipment and related projects; provided, that not less than \$65,000,000 shall be expended for  
21 upgrades and replacements to agent and terminal hardware, a host system, terminal applications,  
22 and related components at the Massachusetts State Lottery  
23 Commission.....\$300,000,000

24 1790-3002 For costs associated with planning and studies, the preparation of plans and  
25 specifications, purchase, procurement and implementation of information technology-related  
26 equipment and related projects which are eligible for federal reimbursement, including, but not  
27 limited to, projects related to the provision of health care, unemployment insurance and human  
28 services; provided, that any federal reimbursement received by a state agency in connection with  
29 projects funded from this item may be retained by the state agency and expended for the  
30 purposes of the project, without further appropriation, in addition to the amounts appropriated in  
31 this item; and provided further, that any state agency receiving federal reimbursements for a  
32 project funded from this item shall file a quarterly report with the executive office for  
33 administration and finance, the house and senate committees on ways and means, and the house  
34 and senate committees on bonding, capital expenditures, and state assets that details, by project,  
35 an annual estimate of anticipated federal reimbursement to be received on behalf of and  
36 expended for the project, as well as year-to-date actual federal reimbursement received and year-  
37 to-date actual expenditures of the reimbursement, by  
38 project.....\$140,000,000

39 SECTION 2A.

40 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

41 *Information Technology Division*

42 1790-3003 For costs associated with planning and studies, the preparation of plans and  
43 specifications, purchase, procurement and implementation of information technology-related  
44 equipment and related projects; provided, that for projects the secretary of administration and  
45 finance certifies to the comptroller directly or indirectly generate new state revenue or budgetary  
46 savings, the comptroller shall transfer those budgetary savings or revenue to the state treasurer  
47 for payment of debt service related to those projects; provided further, that any federal  
48 reimbursement received by a state agency in connection with projects funded from this item may  
49 be retained by the state agency and expended for the purposes of the project, without further  
50 appropriation, in addition to the amounts appropriated in this item; and provided further, that any  
51 state agency receiving federal reimbursements for a project funded from this item shall file a  
52 quarterly report with the executive office for administration and finance, the house and senate

53 committees on ways and means, and the house and senate committees on bonding, capital  
54 expenditures, and state assets that details, by project, an annual estimate of anticipated federal  
55 reimbursement to be received on behalf of and expended for the project, as well as year-to-date  
56 actual federal reimbursement received and year-to-date actual expenditures of the  
57 reimbursement, by project ..... \$280,000,000

58 SECTION 2B.

59 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

60 *Office of the Secretary*

61 1599-7061 For a reserve to provide funds to the Massachusetts Broadband Incentive  
62 Fund established by section 6C of chapter 40J of the General Laws.....  
63 \$50,000,000

64 1599-7062 For a matching grant program, administered by the department of elementary  
65 and secondary education, to help those public school districts without the access through  
66 broadband, as defined in section 6B of chapter 40J of the General Laws, needed to conduct  
67 Partnership for Assessment of Readiness for College and Careers testing to obtain said access;  
68 provided, that such installation, retrofit or other capital improvement shall conform to the  
69 broadband standard of access established by the department of elementary and secondary  
70 education state educational technology directors association in the 2012 report titled “The  
71 Broadband Imperative: Recommendations to Address K-12 Infrastructure Needs”; provided  
72 further, that the guidelines established by the department of elementary and secondary education  
73 for such testing are satisfied; provided further, that grant amounts to districts shall vary  
74 according to the formula contained in section 10 of chapter 70B of the General Laws; provided  
75 further, that grants shall not be awarded for school buildings that are scheduled for  
76 decommissioning or razing within a period of 10 years from the time of completion of the  
77 broadband installation, retrofit or upgrade; and provided further, that such installations, retrofits  
78 and upgrades occur only on and within publicly owned real property maintained for the benefit  
79 of the school district..... \$38,000,000

80 1599-7063 For costs associated with the planning, preparation of plans and  
81 specifications, purchase, procurement and implementation of information technology related  
82 equipment and related projects for the executive office of health and human services to establish  
83 an integrated confidential data system among all state agencies that interact with individuals with  
84 autism to track diagnosis, treatment, services and outcomes of individuals with  
85 autism..... \$12,000,000

86 SECTION 2C.

87 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

88

*Information Technology Division*

89           1790-3004 For costs associated with planning and studies, the preparation of plans and  
90 specifications, purchase, procurement and implementation of information technology-related  
91 equipment and related projects for the Massachusetts department of transportation  
92 .....\$100,000,000

93           SECTION 3. Chapter 7 of the General Laws is hereby amended by inserting after section  
94 4F 1/2 the following section:-

95           Section 4F ¾. There shall be established and set up a separate account, to be known as  
96 the Commonwealth Federal Grants Management Trust, in this section called the trust. The  
97 secretary of administration and finance shall expend funds in the trust, without further  
98 appropriation, to support the purposes of the federal grants management unit within the office of  
99 commonwealth performance, accountability and transparency, established by subsection (e) of  
100 section 4A. The secretary shall charge all federal grants, an amount determined by the secretary  
101 for these purposes, not exceeding 0.5 per cent per grant.

102           SECTION 4. To meet the expenditures necessary in carrying out section 2, the state  
103 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an  
104 amount to be specified by the governor from time to time, but not exceeding, in the aggregate,  
105 the sum of \$449,000,000. All bonds issued by the commonwealth, under this section, shall be  
106 designated on their face, Information Technology and Innovation Act of 2013, and shall be  
107 issued for such maximum terms of years not exceeding 20 years, as the governor may  
108 recommend to the general court under section 3 of Article LXII of the Amendments to the  
109 Constitution, but all such bonds shall be payable not later than June 30, 2038. All interest and  
110 payments on account of principal of these obligations shall be payable from the General Fund  
111 unless otherwise specified. Bonds and interest thereon issued under the authority of this section,  
112 notwithstanding any other provision of this act, shall be general obligations of the  
113 commonwealth.

114           SECTION 5. To meet the expenditures necessary in carrying out section 2A, the state  
115 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an  
116 amount to be specified by the governor from time to time, but not exceeding, in the aggregate,  
117 the sum of \$280,000,000. All bonds issued by the commonwealth, under this section, shall be  
118 designated on their face, Information Technology and Innovation Act of 2013, and shall be  
119 issued for such maximum terms of years not exceeding 20 years, as the governor may  
120 recommend to the general court under section 3 of Article LXII of the Amendments to the  
121 Constitution, but all such bonds shall be payable not later than June 30, 2038. All interest and  
122 payments on account of principal of these obligations shall be payable from the General Fund  
123 unless otherwise specified. Bonds and interest thereon issued under the authority of this section,

124 notwithstanding any other provision of this act, shall be general obligations of the  
125 commonwealth.

126 SECTION 6. Notwithstanding any general or special law to the contrary, to meet the  
127 expenditures necessary to carry out section 2B, the state treasurer shall, upon request of the  
128 governor, issue and sell bonds of the commonwealth in an amount to be specified by the  
129 governor from time to time, but not exceeding, in the aggregate, \$100,000,000. All bonds issued  
130 by the commonwealth under this section shall be designated on their face, Information  
131 Technology and Innovation Act of 2013, and shall be issued for a maximum term of years, not  
132 exceeding 30 years, as the governor may recommend to the general court under section 3 of  
133 Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later  
134 than June 30, 2048. No authorization shall be expended unless expressly authorized by the  
135 secretary of administration and finance. All interest and payments on account of principal of  
136 these obligations shall be payable from the General Fund. Bonds issued under the authority of  
137 this section shall be general obligations of the commonwealth.

138 SECTION 7. Notwithstanding any general or special law to the contrary, to meet the  
139 expenditures necessary to carry out section 2C, the state treasurer shall, upon request of the  
140 governor, issue and sell bonds of the commonwealth in an amount to be specified by the  
141 governor from time to time, but not exceeding, in the aggregate, \$100,000,000. All bonds issued  
142 by the commonwealth under this section shall be designated on their face, Information  
143 Technology and Innovation Act of 2013, and shall be issued for a maximum term of years, not  
144 exceeding 20 years, as the governor may recommend to the general court under section 3 of  
145 Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later  
146 than June 30, 2038. No authorization shall be expended unless expressly authorized by the  
147 secretary of administration and finance. All interest and payments on account of principal of  
148 these obligations shall be payable from the Commonwealth Transportation Fund. Bonds issued  
149 under the authority of this section shall be general obligations of the commonwealth.

150 SECTION 8. The secretary of administration and finance shall submit a report on the  
151 progress of any projects funded through the authorizations in this act and included in the  
152 governor's 5- year capital investment plan to the clerks of the senate and house of  
153 representatives, the chairs of the senate and house committees on ways and means, and the  
154 senate and house chairs of the committees on bonding, capital expenditures and state assets. The  
155 report shall include, but not be limited to, the previous year planned spending, previous year  
156 spending, current year planned spending, current year spending to date, original estimated total  
157 project cost, project description, purpose, location of the project, type of spending, type of asset  
158 and useful life of the project once completed. The report shall be submitted on June 30 and  
159 December 31 of each year for a period of 8 years after the effective date of this act.

160 SECTION 9. The information technology division, in consultation with the operational  
161 services division, shall require that the procurement of services and equipment funded under

162 items 1790-2018, 1790-3001, 1790-3002, 1790-3003 of section 2A and 1790-3004 of section 2C  
163 shall comply with the procurement policies filed by the state comptroller under section 13 of  
164 chapter 27 of the acts of 2007 to ensure an open and fair competitive process. Executive agencies  
165 that have or seek funding under said items 1790-2018, 1790-3001, 1790-3002, 1790-3003 and  
166 1790-3004 shall submit to the information technology division, at intervals to be determined by  
167 the division, documentation and deliverables necessary to enable it to oversee, ascertain and  
168 evaluate financial and non-financial benefits to be realized by performing the project, impacts to  
169 current and future operating budgets, and project management, status, progress, performance and  
170 expenditures. The information technology division shall specify this documentation and  
171 deliverables, which may include, without limitation, project management plans and  
172 methodology, technology designs and specifications, accountings of amounts expended or to be  
173 expended for all goods and services including, without limitation, hardware, software, consultant  
174 services and personnel, ongoing operating cost impacts, an assessment of whether the project is  
175 within budget and on schedule for completion, an explanation of any deviations in completion  
176 schedules and funding needs from those that were originally established for the projects, project  
177 plans and other document deliverables. The information technology division may make funding  
178 or continued funding for executive department agency projects contingent upon its approval of  
179 these documentation and deliverables.

180 SECTION 10. To provide for the continued availability of certain bond-funded spending  
181 authorizations which otherwise would expire, the balances of the following appropriation items  
182 and any allocations thereof are hereby extended through June 30, 2017, for the purposes of and  
183 subject to the conditions stated for these items in the original authorizations and any amendments  
184 to such authorizations: 1599-7060, 1790-2013, 1790-2016, 1790-2017, and 1790-2500

185 SECTION 11. (a) The secretary of administration and finance shall engage the services of  
186 an independent consultant to study information technology procurements and to make  
187 recommendations regarding responsible and fiscally prudent standards for state information  
188 technology procurements.

189 (b) The consultant shall report its findings to the governor, the clerks of the senate and  
190 house of representatives, the senate and house of representatives committees on ways and means,  
191 the senate and house of representatives committees on bonding, capital expenditures and state  
192 assets by May 1, 2014. There shall be no extension of the date for filing this report. The  
193 consultant's report shall include, but not be limited to: an analysis of best practices for  
194 information technology procurement, including the scoping of projects, hiring outside vendors,  
195 oversight of outside vendors, review and assessment of projects and successful initiation of  
196 operations. In making its recommendations the consultant shall consider among other issues:

197 (i) best practices for information technology procurement among state and federal  
198 governments;

199 (ii) the number of state personnel needed to initiate information technology procurements  
200 and oversee outside vendors, as well as the required salary to attract individuals with information  
201 technology expertise;

202 (iii) appropriate benchmarks for periodic review throughout the completion of  
203 information technology project;

204 (iv) incentives for the on time and on budget completion of projects, as well as penalties  
205 for delays and overages;

206 (v) benefit-funded procurements, in which an outside vendor is paid from the proceeds of  
207 a given information technology project;

208 (vi) performance based pay, in which an outside vendor is scored on the satisfactory  
209 completion of a project and pay is correlated to the vendor's score;

210 (vii) fixed price technical competition, in which the budget for a given project is  
211 determined during scoping and vendors compete over the level of service provided at the  
212 specified budget;

213 (viii) the structure and dynamics of the software and technology industry focused on  
214 government contracts; and

215 (ix) specific reporting requirements necessary to inform executive branch agencies, the  
216 general court and the public of information technology projects, including reports deemed  
217 necessary prior to soliciting bids, during the life of the project and upon the project's completion,  
218 including any changes to the project made prior to project completion.

219 (c) Not later than 60 days after an agency first enters into a new agreement with a private-  
220 sector vendor of \$20,000,000 or more for information technology services funded by this act, the  
221 information technology division and the agency shall file a report with the house of  
222 representatives and senate committees on bonding, capital expenditures and state assets and the  
223 house of representatives and senate committees on ways and means, detailing the procurement  
224 practices followed for that agreement and the degree to which those practices adopted or  
225 deviated from the recommendations of the consultant's report under subsection (b).