

HOUSE No.

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
24 BEACON STREET · BOSTON, MA 02133

KARYN POLITO
LIEUTENANT GOVERNOR

May 18, 2018

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Making Appropriations for Fiscal Year 2018 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

This bill consists of \$54.9 million in supplemental appropriations to fund ratified collective bargaining agreements, and to make available funds for the implementation of recently enacted Criminal Justice Reform legislation, chapter 69 of the acts of 2018.

The spending items recommended in this bill include:

- \$32.6 million to fund certain implementation costs in FY18 and FY19 of the Criminal Justice Reform Act, chapter 69 of the acts of 2018, including newly mandated programs in prisons and jails, new protocols for testing and tracking Sexual Assault Evidence Kits, expanded oversight of forensic laboratories, new responsibilities at the Department of Criminal Justice Information Services, the Parole Board, the trial courts, and district attorneys’ offices. These recommendations replace my April 13 request for a reserve for immediate costs in connection with the Criminal Justice Reform Act;
- \$5.2 million and \$10.8 million respectively for critically needed new State Police and Department of Correction officer classes; and

- \$6.3 million to fund a ratified collective bargaining agreement recently executed with the National Association of Government Employees, the New England Police Benevolent Association, and unions representing sheriff departments; and

The bill also includes proposed statutory changes that are in reaction to the federal Tax Cuts and Jobs Act of 2017 (“TCJA”). These changes clarify the impact of “deemed repatriation,” which under federal law places a one-time tax on pre-2018 foreign profits in tax year 2017, for state tax purposes. The bill further clarifies how two new categories of federal taxable income created by TCJA, Global Intangible Low Taxed Income (“GILTI”) and Foreign Derived Intangible Income (“FDII”), are treated for state tax purposes.

Further, the Department of Revenue would be authorized to create a registration program for remote seller vendors who have had less than \$500,000 in sales in the previous twelve months, but who nevertheless have a physical presence in the state by virtue of their inventory being held within Massachusetts.

Sufficient revenues are estimated to be available to finance these appropriations. Because implementation of legislative changes necessitates funding, I urge you to enact this legislation promptly.

Respectfully submitted,

Charles D. Baker,
Governor

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Trial Court

0339-1001	Commissioner of Probation.....	\$1,124,333
0339-1003	Community Corrections Administration.....	\$1,800,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-4448	Collective Bargaining Contract Costs.....	\$6,300,000
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EXECUTIVE OFFICE OF PUBLIC SAFETY

Office of the Secretary of Public Safety and Security

8000-0600	Executive Office of Public Safety.....	\$2,367,500
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Municipal Police Training Committee

8200-0200	Municipal Police Training Committee.....	\$40,000
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Department of Criminal Justice Information Services

8000-0110	Criminal Justice Information Services.....	\$1,287,500
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Department of State Police

8100-0515	New State Police Class.....	\$5,249,163
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8100-1004	State Police Crime Laboratory.....	\$6,003,750
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Department of Correction

48 offices; and provided further, that the association shall develop a methodology for distribution of
49 the funds..... \$6,562,500

50 EXECUTIVE OFFICE OF PUBLIC SAFETY

51 *Department of Correction*

52 8900-0976 For the expenses of hiring, equipping and training department of
53 correction recruits..... \$10,763,455

54 SECTION 3. Section 1 of chapter 62 of the General Laws, as appearing in the 2016
55 Official Edition, is hereby amended by striking out in line 9 the figure, “530,” and inserting in
56 place thereof the following figures:- 529A, 530, 951, 951A.

57 SECTION 4. Subsection (e) of said section 1 of said chapter 62, as so appearing, is
58 hereby amended by adding the following sentence:- Amounts included in federal gross income
59 pursuant to sections 951 and 951A of the Code shall be treated as dividends under this chapter.

60 SECTION 5. Section 1 of chapter 63 of the General Laws, as so appearing, is hereby
61 amended by inserting in line 184, after the word “section.,” the following new sentence:- For
62 purposes of this definition, amounts included in federal gross income pursuant to sections 951
63 and 951A of the Code shall be treated as dividends received.

64 SECTION 6. Said section 1 of said chapter 63, as so appearing, is hereby further
65 amended by striking out, in line 199, the word “; or”.

66 SECTION 7. Said section 1 of said chapter 63, as so appearing, is hereby further
67 amended by inserting after the number “2009,” in line 203, the following word:- ; or.

68 SECTION 8. Said section 1 of said chapter 63, as so appearing, is hereby further
69 amended by adding to the definition of “Net Income” the following clause:-

70 (g) the deductions allowed by sections 245A, 250, and 965(c) of the Code.

71 SECTION 9. Section 2A of said chapter 63, as so appearing, is hereby amended by
72 adding the following new subsection:-

73 (h) For purposes of this section, dividends that are deemed to be received from an entity,
74 including amounts included in federal gross income pursuant to sections 951 or 951A of the
75 Code, are not considered to be receipts.

76 SECTION 10. Section 30 of said chapter 63, as so appearing, is hereby amended by
77 inserting in line 54, after the word “thirty-eight.”, the following new sentence:- For purposes of
78 this section and subsection (a) of section 38, the term “dividend” shall include but not be limited
79 to amounts included in federal gross income pursuant to sections 951 and 951A of the Code.

80 SECTION 11. Part 4 of said section 30 of said chapter 63, as so appearing, is hereby
81 further amended by adding the following clause:-

82 (viii) the deductions allowed by sections 245A, 250, and 965(c) of the Code.

83 SECTION 12. Section 32B of said chapter 63, as so appearing, is hereby amended by
84 inserting in line 176, after the word “chapter,” the following words:- , taking into account
85 subsection (h) of section 2A,.

86 SECTION 13. Notwithstanding any general or special law to the contrary, the following
87 provisions shall apply to the determination of taxable income under chapter 62.

88 (a) Amounts included in federal gross income by reason of section 965(a) of the
89 Internal Revenue Code, as amended and in effect for the taxable year, shall also be taken into
90 account in the same taxable year in the determination of Massachusetts gross income under
91 chapter 62 of the General Laws.

92 (b) Income taken into account pursuant to clause (a) shall be treated as Part A
93 dividend income.

94 (c) The deduction under subsection 965(c) of the Internal Revenue Code shall not
95 apply for Massachusetts purposes, provided that a taxpayer shall be entitled to a deduction from
96 Part A gross income equal to 60 percent of the amount included in Part A income pursuant to
97 subsections (a) and (b).

98 (d) Any tax liability under said chapter 62 attributable to income taken into account
99 under subsections (a) and(b) shall be due without regard to any election made pursuant to
100 subsection 965(i) of the Internal Revenue Code.

101 (e) This section shall apply to all taxable years in which income is taken into account
102 for federal income tax purposes by reason of section 965(a) of the Internal Revenue Code, as
103 amended and in effect, including but not limited to the taxable year beginning on January 1,
104 2017.

105 (f) The commissioner of revenue may issue regulations or other guidance with regard
106 to the interpretation and administration of this section. Such regulations or guidance may require
107 the reporting of income amounts to taxpayers or the department of revenue to ensure compliance
108 with the provisions of the section.

109 SECTION 14. (a) Notwithstanding any general or special law to the contrary, the
110 commissioner of revenue is authorized to initiate a program of registration and prospective sales
111 and use tax collection from vendors not previously registered whose sales to Massachusetts
112 customers are less than \$500,000 in the prior twelve month period, as determined by the
113 commissioner. Under such program, the commissioner may designate a period ending on or
114 before June 30, 2019, during which vendors that register for collection of sales and use tax under
115 chapters 64H and 64I of the General Laws and that commence filing and payment over of such
116 taxes in good faith will not be held liable for collection or payment of tax under such chapters, or
117 associated interest or penalties, for periods prior to registration.

118 (b) The program shall not apply to:

119 (i) any vendor that had physical presence in the Commonwealth in the 36 calendar
120 months immediately preceding the effective date of this Act; provided that any vendor not
121 otherwise ineligible under subsection (b) who had such presence only through (a) tangible
122 property maintained in the Commonwealth during such prior months by unrelated third party
123 fulfillment providers, or (b) contacts with the commonwealth during such prior months related to
124 remote internet sales made to Massachusetts customers, may participate in the program;

125 (ii) any vendor whose total retail sales to Massachusetts customers through all sales
126 channels in the prior twelve month period, whether or not otherwise taxable under said chapter
127 64H or 64I, reached or exceeded \$500,000;

128 (iii) any vendor that was previously registered for sales and use tax collection in
129 Massachusetts;

130 (iv) any vendor that has collected sales or use taxes from Massachusetts customers
131 and has not paid such amounts over to the commissioner; or

132 (v) any case where the commissioner determines that the vendor has engaged in fraud
133 or willful avoidance of tax.

134 (c) Except as specified in this section, the commissioner is authorized to determine the
135 scope of the prospective registration program and all associated administrative requirements for
136 eligibility. The commissioner may authorize prospective registration and filing for personal
137 income tax and corporate excise for qualifying vendors in the sales and use tax program,
138 provided that any such personal income tax or corporate excise liability derives solely from the
139 sales to which the sales and use tax registration program applies.

140 (d) Nothing in this section shall remove the obligation of a purchaser of tangible personal
141 property or services taxable under chapter 64I to pay over such taxes to the commissioner in any
142 taxable period.

143 (e) Any taxpayer who delivers or discloses a false or fraudulent application, document,
144 return or other statement to the department of revenue in connection with application under this
145 section shall not be eligible for the program and shall be subject to the greater of: (i) the
146 applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed
147 \$10,000 which shall be calculated and assessed according to rules determined by the
148 commissioner and may be subject to de minimis or other exceptions that the commissioner may
149 consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and
150 become part of the tax due.

151 SECTION 15. The salary adjustments and other economic benefits authorized by the
152 following collective bargaining agreements shall be effective for the purposes of section 7 of
153 chapter 150E of the General Laws:

154 (1) Between the Commonwealth of Massachusetts and the National Association of
155 Government Employees, Units 1, 3, and 6; and

156 (2) Between the Commonwealth of Massachusetts and the New England Police
157 Benevolent Association, Unit 4a; and

158 (3) Between the Sheriff of Barnstable County and the National Association of
159 Government Employees, Local 220; and

160 (4) Between the Sheriff of Barnstable County and the Barnstable County Correctional
161 Officers Union; and

162 (5) Between the Sheriff of Barnstable County and the National Correctional Employees
163 Union, Local 122; and

164 (6) Between the Sheriff of Barnstable County and the American Federation of State,
165 County and Municipal Employees, Local 1462; and

166 (7) Between the Sheriff of Barnstable County and the International Brotherhood of
167 Correctional Officers, Local 217; and

168 (8) Between the Sheriff of Berkshire County and the Berkshire County Sheriff's Office
169 Employee Association; and

170 (9) Between the Sheriff of Franklin County and the National Correctional Employees
171 Union, Local 106; and

172 (10) Between the Sheriff of Plymouth County and Association of County Employees; and

173 (11) Between the Sheriff of Plymouth County and the National Correctional Employees
174 Union, Local 301; and

175 (12) Between the Sheriff of Plymouth County and the National Correctional Employees
176 Union, Local 104; and

177 (13) Between the Sheriff of Plymouth County and the Massachusetts Correction Officers
178 Federated Union Bureau of Criminal Investigation; and

179 (14) Between the Sheriff of Suffolk County and the American Federation of State,
180 County and Municipal Employees, Local 419; and

181 (15) Between the Sheriff of Suffolk County and the American Federation of State,
182 County and Municipal Employees, Local 3967; and

183 (16) Between the Sheriff of Worcester County and the National Association of
184 Government Employees, Local R1-255.

185 SECTION 16. Sections 3 and 4 of this Act shall apply to taxable years beginning on or
186 after January 1, 2017.

187 SECTION 17. Sections 5 through 12, inclusive, of this Act shall apply to the last taxable
188 year of a taxpayer commencing before January 1, 2018, and to the taxpayer's subsequent taxable
189 years.